

House Bill 3133

Sponsored by Representative KOMP

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Adjusts methods by which State School Fund distributions are made to school districts for students enrolled in English as second language program.

Declares emergency, effective July 1, 2015.

A BILL FOR AN ACT

1
2 Relating to English as a second language programs; creating new provisions; amending ORS 327.008,
3 327.013 and 329.488; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 327.013 is amended to read:

6 327.013. The State School Fund distributions for school districts include the following grants:

7 (1) General Purpose Grant = Funding Percentage × Target Grant × District extended ADMw.

8 For the purpose of the calculation made under this subsection:

9 (a) The funding percentage shall be calculated by the Superintendent of Public Instruction to
10 distribute as nearly as practicable the total sum of money available for distribution.

11 (b) Target Grant = Statewide Target per ADMw Grant + Teacher Experience Factor. For the
12 purpose of the calculation made under this paragraph:

13 (A) Statewide Target per ADMw Grant = \$4,500.

14 (B) Teacher Experience Factor = \$25 × {District average teacher experience – statewide av-
15 erage teacher experience}. As used in this subparagraph, “average teacher experience” means the
16 average, in years, of teaching experience of licensed teachers as reported to the Department of Ed-
17 ucation.

18 (c) District extended ADMw = ADMw or ADMw of the prior year, whichever is greater. The
19 calculation of the district extended ADMw must be made as provided by ORS 338.155 (1)(b) if a
20 public charter school is located in the school district. For the purpose of this paragraph:

21 (A) Weighted average daily membership or ADMw = average daily membership + an additional
22 amount computed as follows:

23 (i) 1.0 for each student in average daily membership eligible for special education as a child with
24 a disability under ORS 343.035, which may not exceed 11 percent of the district's ADM without re-
25 view and approval by the Department of Education. Children with disabilities eligible for special
26 education in adult local correctional facilities, as defined in ORS 169.005, or adult regional
27 correctional facilities, as defined in ORS 169.620, may not be included in the calculation made under
28 this sub-subparagraph.

29 (ii) [0.5] **0.6** for each student in average daily membership [*eligible for and enrolled in an English*
30 *as a second language program under ORS 336.079.*] **who qualifies for English as a second lan-**
31 **guage program funding as provided in section 5 (2) of this 2015 Act.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (iii) 0.2 for each student in average daily membership enrolled in a union high school district
 2 or in an area of a unified school district where the district is only responsible for educating students
 3 in grades 9 through 12 in that area.

4 (iv) -0.1 for each student in average daily membership enrolled in an elementary district oper-
 5 ating kindergarten through grade six or kindergarten through grade eight or in an area of a unified
 6 school district where the district is only responsible for educating students in kindergarten through
 7 grade eight.

8 (v) 0.25 times the sum of the following:

9 (I) The number of students who are in average daily membership and who are also in poverty
 10 families, as determined by the Department of Education based on rules adopted by the State Board
 11 of Education that incorporate poverty data published by the United States Census Bureau, student
 12 data provided by school districts and other data identified by the board;

13 (II) The number of children in foster homes in the district as determined by the report of the
 14 Department of Human Services to the United States Department of Education, "Annual Statistical
 15 Report on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess
 16 of the Poverty Income Level," or its successor, for October 31 of the year prior to the year of dis-
 17 tribution; and

18 (III) The number of children in the district in state-recognized facilities for neglected and de-
 19 linquent children, based on information from the Department of Human Services for October 31 of
 20 the year prior to the year of distribution.

21 (vi) The amount determined under ORS 327.077 for each remote small elementary school and for
 22 each small high school in the district.

23 (B) All numbers of children used for the computation in this paragraph must reflect any district
 24 consolidations that have occurred since the numbers were compiled.

25 (C) The total additional weight that shall be assigned to any student in average daily member-
 26 ship in a district, exclusive of students described in subparagraph (A)(v) and (vi) of this paragraph,
 27 may not exceed 2.0.

28 (2) High cost disabilities grant = the total amount received by a school district under ORS
 29 327.348 for providing special education and related services to resident pupils with disabilities.

30 (3)(a) Transportation grant equals:

31 (A) 70 percent of approved transportation costs for those school districts ranked below the 80th
 32 percentile under paragraph (b) of this subsection.

33 (B) 80 percent of approved transportation costs for those school districts ranked in or above the
 34 80th percentile but below the 90th percentile under paragraph (b) of this subsection.

35 (C) 90 percent of approved transportation costs for those school districts ranked in or above the
 36 90th percentile under paragraph (b) of this subsection.

37 (b) Each fiscal year, the Department of Education shall rank school districts based on the ap-
 38 proved transportation costs per ADM of each school district, ranking the school district with the
 39 highest approved transportation costs per ADM at the top of the order.

40 (4)(a) Facility Grant = 8 percent of total construction costs of new school buildings.

41 (b) A school district shall receive a Facility Grant in the distribution year that a new school
 42 building is first used.

43 (c) As used in this subsection:

44 (A) "New school building" includes new school buildings, structures added onto existing school
 45 buildings and premanufactured structures added to a school district if those buildings or structures

1 are to be used for instructing students.

2 (B) "Construction costs" does not include costs for land acquisition.

3 **SECTION 2.** ORS 327.008, as amended by section 6, chapter 81, Oregon Laws 2014, is amended
4 to read:

5 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist
6 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education
7 Stability Fund. The State School Fund is continuously appropriated to the Department of Education
8 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,
9 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961 and sections 1 to 3, chapter 735,
10 Oregon Laws 2013, and section 2, chapter 81, Oregon Laws 2014.

11 (2) There shall be apportioned from the State School Fund to each school district a State School
12 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant
13 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-
14 vided in ORS 327.011 and 327.013.

15 (3) There shall be apportioned from the State School Fund to each education service district a
16 State School Fund grant as calculated under ORS 327.019.

17 (4) All figures used in the determination of the distribution of the State School Fund shall be
18 estimates for the same year as the distribution occurs, unless otherwise specified.

19 (5) Numbers of students in average daily membership used in the distribution formula shall be
20 the numbers as of June of the year of distribution.

21 (6) A school district may not use the portion of the State School Fund grant that is attributable
22 to the facility grant for capital construction costs.

23 (7) The total amount of the State School Fund that is distributed as facility grants may not ex-
24 ceed \$20 million in any biennium. If the total amount to be distributed as facility grants exceeds this
25 limitation, the Department of Education shall prorate the amount of funds available for facility
26 grants among those school districts that qualified for a facility grant.

27 (8) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facil-
28 ity Account established in section 5, chapter 81, Oregon Laws 2014, the amount necessary to pay
29 the costs of educational services provided to students admitted to pediatric nursing facilities as
30 provided in section 2, chapter 81, Oregon Laws 2014.

31 **(9) Each fiscal year, the Department of Education shall transfer to the English as a**
32 **Second Language Graduation Account established in section 6 of this 2015 Act the amount**
33 **necessary to make the distributions required in section 5 (4) of this 2015 Act.**

34 [(9)] (10) Each fiscal year, the Department of Education shall transfer the amount of \$18 million
35 from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

36 [(10)(a)] (11)(a) Each biennium, the Department of Education shall transfer \$33 million from the
37 State School Fund to the Network of Quality Teaching and Learning Fund established under ORS
38 342.953.

39 (b) For the purpose of making the transfer under this subsection:

40 (A) The total amount available for all distributions from the State School Fund shall be reduced
41 by \$5 million;

42 (B) The amount distributed to school districts from the State School Fund under this section and
43 ORS 327.013 shall be reduced by \$14 million; and

44 (C) The amount distributed to education service districts from the State School Fund under this
45 section and ORS 327.019 shall be reduced by \$14 million.

1 (c) For each biennium, the amounts identified in paragraph (b)(B) and (C) of this subsection shall
 2 be adjusted by the same percentage by which the amount appropriated to the State School Fund for
 3 that biennium is increased or decreased compared to the preceding biennium, as determined by the
 4 Department of Education after consultation with the Legislative Fiscal Officer.

5 [(11)] (12) Each fiscal year, the Department of Education may expend up to \$550,000 from the
 6 State School Fund for the contract described in ORS 329.488. The amount distributed to education
 7 service districts from the State School Fund under this section and ORS 327.019 shall be reduced
 8 by the amount expended by the department under this subsection.

9 [(12)] (13) Each biennium, the Department of Education may expend up to \$350,000 from the
 10 State School Fund to provide administration of and support for the development of talented and
 11 gifted education under ORS 343.404.

12 [(13)] (14) Each biennium, the Department of Education may expend up to \$150,000 from the
 13 State School Fund for the administration of a program to increase the number of speech-language
 14 pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

15 [(14)] (15) Each fiscal year, the Department of Education shall transfer the amount of \$2.5
 16 million from the State School Fund to the Small School District Supplement Fund established in
 17 section 3, chapter 735, Oregon Laws 2013.

18 **SECTION 3.** ORS 327.008, as amended by section 7, chapter 735, Oregon Laws 2013, and section
 19 7, chapter 81, Oregon Laws 2014, is amended to read:

20 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist
 21 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education
 22 Stability Fund. The State School Fund is continuously appropriated to the Department of Education
 23 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,
 24 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961 and section 2, chapter 81, Oregon
 25 Laws 2014.

26 (2) There shall be apportioned from the State School Fund to each school district a State School
 27 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant
 28 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-
 29 vided in ORS 327.011 and 327.013.

30 (3) There shall be apportioned from the State School Fund to each education service district a
 31 State School Fund grant as calculated under ORS 327.019.

32 (4) All figures used in the determination of the distribution of the State School Fund shall be
 33 estimates for the same year as the distribution occurs, unless otherwise specified.

34 (5) Numbers of students in average daily membership used in the distribution formula shall be
 35 the numbers as of June of the year of distribution.

36 (6) A school district may not use the portion of the State School Fund grant that is attributable
 37 to the facility grant for capital construction costs.

38 (7) The total amount of the State School Fund that is distributed as facility grants may not ex-
 39 ceed \$20 million in any biennium. If the total amount to be distributed as facility grants exceeds this
 40 limitation, the Department of Education shall prorate the amount of funds available for facility
 41 grants among those school districts that qualified for a facility grant.

42 (8) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facil-
 43 ity Account established in section 5, chapter 81, Oregon Laws 2014, the amount necessary to pay
 44 the costs of educational services provided to students admitted to pediatric nursing facilities as
 45 provided in section 2, chapter 81, Oregon Laws 2014.

1 **(9) Each fiscal year, the Department of Education shall transfer to the English as a**
 2 **Second Language Graduation Account established in section 6 of this 2015 Act the amount**
 3 **necessary to make the distributions required in section 5 (4) of this 2015 Act.**

4 [(9)] (10) Each fiscal year, the Department of Education shall transfer the amount of \$18 million
 5 from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

6 [(10)(a)] (11)(a) Each biennium, the Department of Education shall transfer \$33 million from the
 7 State School Fund to the Network of Quality Teaching and Learning Fund established under ORS
 8 342.953.

9 (b) For the purpose of making the transfer under this subsection:

10 (A) The total amount available for all distributions from the State School Fund shall be reduced
 11 by \$5 million;

12 (B) The amount distributed to school districts from the State School Fund under this section and
 13 ORS 327.013 shall be reduced by \$14 million; and

14 (C) The amount distributed to education service districts from the State School Fund under this
 15 section and ORS 327.019 shall be reduced by \$14 million.

16 (c) For each biennium, the amounts identified in paragraph (b)(B) and (C) of this subsection shall
 17 be adjusted by the same percentage by which the amount appropriated to the State School Fund for
 18 that biennium is increased or decreased compared to the preceding biennium, as determined by the
 19 Department of Education after consultation with the Legislative Fiscal Officer.

20 [(11)] (12) Each fiscal year, the Department of Education may expend up to \$550,000 from the
 21 State School Fund for the contract described in ORS 329.488. The amount distributed to education
 22 service districts from the State School Fund under this section and ORS 327.019 shall be reduced
 23 by the amount expended by the department under this subsection.

24 [(12)] (13) Each biennium, the Department of Education may expend up to \$350,000 from the
 25 State School Fund to provide administration of and support for the development of talented and
 26 gifted education under ORS 343.404.

27 [(13)] (14) Each biennium, the Department of Education may expend up to \$150,000 from the
 28 State School Fund for the administration of a program to increase the number of speech-language
 29 pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

30 **SECTION 4. Section 5 of this 2015 Act is added to and made a part of ORS 327.006 to**
 31 **327.133.**

32 **SECTION 5. (1) Funding for students enrolled in English as a second language programs**
 33 **shall be distributed as provided in this section.**

34 **(2) For purposes of State School Fund distributions made under ORS 327.013 (1)(c)(A)(ii),**
 35 **a student qualifies for English as a second language program funding if:**

36 **(a) The student is eligible for and enrolled in an English as a second language program**
 37 **under ORS 336.079 and the student:**

38 **(A) Has been enrolled in the program for no more than seven years total, if the student**
 39 **began the program with low language proficiency, as determined according to standards**
 40 **adopted by the State Board of Education based on the results of an assessment identified by**
 41 **the State Board of Education by rule; or**

42 **(B) Has been enrolled in the program for no more than four years total, if the student**
 43 **began the program with moderate language proficiency, as determined according to stan-**
 44 **dards adopted by the State Board of Education based on the results of an assessment iden-**
 45 **tified by the State Board of Education by rule.**

1 (b) The student had been eligible for and enrolled in an English as a second language
 2 program under ORS 336.079, the student no longer is enrolled in the program and, had the
 3 student continued to be enrolled in the program, the student:

4 (A) Would have been enrolled in the program for no more than seven years total, if the
 5 student began the program with low language proficiency, as determined according to stan-
 6 dards adopted by the State Board of Education based on the results of an assessment iden-
 7 tified by the State Board of Education by rule; or

8 (B) Would have been enrolled in the program for no more than four years total, if the
 9 student began the program with moderate language proficiency, as determined according to
 10 standards adopted by the State Board of Education based on the results of an assessment
 11 identified by the State Board of Education by rule.

12 (3) A school district that receives distributions as provided in subsection (2) of this sec-
 13 tion must expend at least 90 percent of the moneys received on English as a second language
 14 programs and related services.

15 (4) In addition to distributions made as provided in subsection (2) of this section, the
 16 Department of Education shall provide grants to school districts in the amount of \$250 for
 17 each student who:

18 (a) Receives a high school diploma from the school district; and

19 (b) Had been eligible for and enrolled in an English as a second language program under
 20 ORS 336.079 during any grade from kindergarten through grade 12.

21 **SECTION 6.** The English as a Second Language Graduation Account is established in the
 22 State Treasury, separate and distinct from the General Fund. Interest earned by the English
 23 as a Second Language Graduation Account shall be credited to the account. Moneys in the
 24 English as a Second Language Graduation Account are continuously appropriated to the
 25 Department of Education for the purpose of making distributions as provided in section 5 (4)
 26 of this 2015 Act.

27 **SECTION 7.** Section 5 of this 2015 Act and the amendments to ORS 327.008 and 327.013
 28 by sections 1 to 3 of this 2015 Act apply to State School Fund distributions commencing with
 29 the 2015-2016 distributions.

30 **SECTION 8.** ORS 329.488, as amended by section 10, chapter 81, Oregon Laws 2014, is amended
 31 to read:

32 329.488. (1) The Department of Education shall contract with a nonprofit entity to administer a
 33 nationally normed assessment, in collaboration with the department, to all students in grade 10 who
 34 are enrolled in a public school. The purpose of the assessment is to predict the success of students
 35 on, and provide practice for students taking, college entrance exams.

36 (2) The department shall base the selection of the contractor under subsection (1) of this section
 37 on all of the following criteria:

38 (a) The contractor must be able to provide to the department statewide data containing the re-
 39 sults of the assessment;

40 (b) The contractor shall provide an assessment that:

41 (A) Identifies students with high potential to excel in advanced placement (AP) or other honors
 42 courses based on a research-based correlation of scores on the grade 10 assessment to advanced
 43 placement examinations;

44 (B) Examines students in mathematics, reading and writing; and

45 (C) Provides results that can be used by Oregon's higher education institutions to recruit stu-

1 dents to attend college;

2 (c) The contractor must be able to supply schools with an item-by-item analysis of student per-
3 formance on the assessment; and

4 (d) The contractor must be able to make available to each student taking the assessment a free
5 career assessment and online exploration of colleges and career opportunities.

6 (3)(a) In lieu of using the contractor selected by the department under subsection (1) of this
7 section, a school district may apply to the department for a waiver to allow the district to enter into
8 a contract with a different nonprofit entity for the purpose of administering a nationally normed
9 assessment to all students in grade 10 who are enrolled in the public schools operated by the dis-
10 trict. The department shall grant the waiver if:

11 (A) The district had entered into a contract with the entity for the 2007-2008 school year to
12 administer a grade 10 assessment;

13 (B) The entity, in coordination with the district, administered a grade 10 assessment during the
14 2007-2008 school year;

15 (C) For the most recent school year in which the entity administered a grade 10 assessment, the
16 entity met the criteria set forth in subsection (2) of this section as in effect for the school year in
17 which the entity administered the assessment; and

18 (D) The entity plans to meet the criteria set forth in subsection (2) of this section as in effect
19 for the school year for which the school district seeks a waiver.

20 (b) A waiver granted by the department under this subsection:

21 (A) Is valid for one school year; and

22 (B) May be renewed each school year.

23 (c) The department shall reimburse a school district for the cost of assessments allowed under
24 this subsection from funds available to the department under ORS 327.008 [(11)] (12).

25 (4) Notwithstanding subsections (1) and (3) of this section:

26 (a) The department may, under rules adopted by the State Board of Education, waive the as-
27 sessment for specific groups of students; and

28 (b) Upon request from a student who is enrolled in a public school operated by a school district
29 or the parent or guardian of the student, the school district shall waive the assessment for the stu-
30 dent.

31 **SECTION 9. This 2015 Act being necessary for the immediate preservation of the public**
32 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
33 **July 1, 2015.**

34