

# House Bill 3499

Sponsored by Representative GALLEGOS, Senator ROBLAN, Representative KOMP; Representatives HUFFMAN, VEGA PEDERSON, WHISNANT

## 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**.

Directs Department of Education to convene advisory group related to English language learner programs.

Requires school districts to make annual report to Department of Education related to English language learner programs.

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

Declares emergency, effective July 1, 2015.

## A BILL FOR AN ACT

1  
2 Relating to English language learner programs; creating new provisions; amending ORS 327.013,  
3 327.345, 329.157, 336.079, 342.950 and 344.257; and declaring an emergency.

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

5 **SECTION 1. (1) The Department of Education shall convene an advisory group that con-**  
6 **sists of school district board members, educators, parents and community stakeholders**  
7 **identified by the Superintendent of Public Instruction.**

8 **(2) The advisory group shall:**

9 **(a) Develop uniform budget coding requirements and uniform reporting requirements to**  
10 **provide budget transparency for the spending of moneys received by school districts as pro-**  
11 **vided by ORS 327.013 (1)(c)(A)(ii) for students in average daily membership eligible for and**  
12 **enrolled in an English language learner program under ORS 336.079.**

13 **(b) Identify information necessary to determine if a school district has low-performing**  
14 **outcomes for students who are eligible for and enrolled in an English language learner pro-**  
15 **gram under ORS 336.079.**

16 **(c) Identify technical assistance that the department may provide if a school district is**  
17 **determined to have low-performing outcomes and identify funding restrictions that the Su-**  
18 **perintendent of Public Instruction may impose on the school district.**

19 **(d) Identify methods to provide ongoing support to students of the school district who**  
20 **no longer are eligible for or enrolled in an English language learner program under ORS**  
21 **336.079.**

22 **(3) The State Board of Education shall consider the work of the advisory group under**  
23 **subsection (2) of this section when the board adopts rules related to English language learner**  
24 **programs under ORS 336.079.**

25 **(4) The State Board of Education shall adopt rules described in subsection (3) of this**  
26 **section no later than July 1, 2016.**

27 **SECTION 2. ORS 336.079 is amended to read:**

28 **336.079. (1) Specific courses to teach speaking, reading and writing of the English language shall**

**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 be provided at kindergarten and each grade level to *[those children]* **students** who are unable to  
 2 *[profit]* **benefit** from classes taught in English. *[Such]* **The** courses shall be taught *[to such a level*  
 3 *in school as may be required until children are able to profit from classes conducted in English.]* **at**  
 4 **school until the students are able to benefit from classes conducted in English.**

5 **(2)(a) Each school district shall annually submit to the Department of Education a report**  
 6 **on:**

7 **(A) The spending of moneys received by the school district as provided by ORS 327.013**  
 8 **(1)(c)(A)(ii) for students eligible for and enrolled in an English language learner program**  
 9 **under this section.**

10 **(B) The outcomes for students eligible for and enrolled in an English language learner**  
 11 **program under this section for the purpose of determining whether the school district has**  
 12 **low-performing outcomes.**

13 **(b) The State Board of Education shall adopt by rule the form and content of the report**  
 14 **described in paragraph (a) of this subsection.**

15 **(3) The Department of Education annually shall post on the department’s website the**  
 16 **information received as provided by subsection (2) of this section.**

17 **SECTION 3. (1) The amendments to ORS 336.079 by section 2 of this 2015 Act become**  
 18 **operative July 1, 2016.**

19 **(2) The reporting requirements described in the amendments to ORS 336.079 by section**  
 20 **2 of this 2015 Act first apply to information collected for the 2016-2017 school year.**

21 **SECTION 4.** ORS 327.013 is amended to read:

22 327.013. The State School Fund distributions for school districts include the following grants:

23 (1) General Purpose Grant = Funding Percentage × Target Grant × District extended ADMw.  
 24 For the purpose of the calculation made under this subsection:

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

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

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

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

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

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

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

45 (ii) 0.5 for each student in average daily membership *[eligible for and enrolled in an English as*

1 *a second language program under ORS 336.079.] who qualifies for English language learner pro-*  
 2 **gram funding as provided in section 6 of this 2015 Act.**

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

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

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

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

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

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

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

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

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

30 (2) High cost disabilities grant = the total amount received by a school district under ORS  
 31 327.348 for providing special education and related services to resident pupils with disabilities.

32 (3)(a) Transportation grant equals:

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

35 (B) 80 percent of approved transportation costs for those school districts ranked in or above the  
 36 80th percentile but below the 90th percentile under paragraph (b) of this subsection.

37 (C) 90 percent of approved transportation costs for those school districts ranked in or above the  
 38 90th percentile under paragraph (b) of this subsection.

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

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

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

45 (c) As used in this subsection:

1 (A) "New school building" includes new school buildings, structures added onto existing school  
2 buildings and premanufactured structures added to a school district if those buildings or structures  
3 are to be used for instructing students.

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

5 **SECTION 5.** Section 6 of this 2015 Act is added to and made a part of ORS 327.006 to  
6 **327.133.**

7 **SECTION 6.** (1) Funding for students enrolled in English language learner programs shall  
8 be distributed as provided in this section.

9 (2) For purposes of State School Fund distributions made under ORS 327.013 (1)(c)(A)(ii),  
10 a student qualifies for English language learner program funding if:

11 (a) The student is eligible for and enrolled in an English language learner program under  
12 ORS 336.079 and the student:

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

17 (B) Has been enrolled in the program for no more than four years total, if the student  
18 began the program with moderate language proficiency, as determined according to stan-  
19 dards adopted by the State Board of Education based on the results of an assessment iden-  
20 tified by the State Board of Education by rule; or

21 (b) The student had been eligible for and enrolled in an English language learner program  
22 under ORS 336.079, the student no longer is enrolled in the program and, had the student  
23 continued to be enrolled in the program, the student:

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

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

32 (3)(a) Notwithstanding subsection (2) of this section, a school district may apply to the  
33 Department of Education for a waiver that allows the school district to continue to receive  
34 English language learner program funding for a student for more than seven years total. The  
35 percentage of the students of the school district for whom the school district requests a  
36 waiver under this paragraph may not exceed the percentage of the students of school dis-  
37 tricts in this state who have received English language learner program funding for more  
38 than seven years total.

39 (b) A waiver described in paragraph (a) of this subsection:

40 (A) Must be submitted annually on a form prescribed by the Department of Education;

41 (B) Is valid for only one school year; and

42 (C) Must describe the school district's English language learner programs and the results  
43 of the programs.

44 **SECTION 7.** Section 6 of this 2015 Act and the amendments to ORS 327.013 by section 4  
45 of this 2015 Act apply to State School Fund distributions commencing with the 2015-2016

1 **distributions.**

2 **SECTION 8.** ORS 327.345 is amended to read:

3 327.345. (1) As used in this section, [*ESL student*] "**ELL student**" means a student who is el-  
4 igible for and enrolled in an English [*as a second*] language **learner** program under ORS 336.079.

5 (2) In addition to distributing moneys through the State School Fund, the Department of Edu-  
6 cation may award grants to school districts for the costs of training English [*as a second*] language  
7 **learner** teachers.

8 (3) The grants shall be available to any school district:

9 (a) In which three percent or more of the students enrolled are [*ESL*] **ELL** students;

10 (b) That serves [*ESL*] **ELL** students or bilingual students within a large geographic area in the  
11 district;

12 (c) That has a high growth, as defined by rule of the State Board of Education, of [*ESL*] **ELL**  
13 students or bilingual students in any school year; or

14 (d) That can demonstrate extraordinary need, as defined by rule of the board, for English [*as a*  
15 *second*] language **learner** teachers or training for English [*as a second*] language **learner** teachers.

16 (4) A school district that receives a grant under this section may use the grant to reimburse  
17 teachers for tuition costs associated with completing an English [*as a second*] language **learner** or  
18 a bilingual teaching program.

19 (5) The department may seek and accept gifts, grants and donations from any source and federal  
20 funds for the purpose of carrying out the grant program under this section.

21 (6) The board may adopt any rules necessary for the administration of the grant program. The  
22 rules adopted by the board shall include a method for determining the grant amount that a qualified  
23 school district may receive under this section.

24 **SECTION 9.** ORS 329.157 is amended to read:

25 329.157. (1) Community learning centers shall promote identification and coordination of existing  
26 resources including, but not limited to, the following services and activities:

27 (a) Before-school and after-school enrichment activities linked with the school curriculum;

28 (b) Youth development and service learning activities;

29 (c) Child care programs;

30 (d) Mentoring and tutoring programs;

31 (e) Parent literacy and adult education programs;

32 (f) Prenatal and early childhood support programs;

33 (g) Parent education and support groups;

34 (h) Cultural activities and English [*as a second*] language **learner** programs;

35 (i) School-to-work and workforce development programs;

36 (j) Intergenerational activities connecting senior citizens with children;

37 (k) Referrals for health care and other social and educational services;

38 (L) Primary health care services, including immunizations, sports physicals and well-child  
39 checkups; and

40 (m) Counseling services.

41 (2) School districts that create community learning centers shall encourage existing family re-  
42 source centers to become involved in the development and implementation of the community learn-  
43 ing centers. An existing family resource center developed under ORS 417.725 may be designated as  
44 a community learning center if the family resource center meets the standards specified in this  
45 section and ORS 329.156.

(3) Community learning centers shall follow best practice standards to ensure their effectiveness.

**SECTION 10.** ORS 342.950 is amended to read:

342.950. (1) The Network of Quality Teaching and Learning is established. The network consists of the Oregon Education Investment Board, the Department of Education and public and private entities that receive funding as provided by this section to accomplish the purposes of the network described in subsection (2) of this section.

(2) The purposes of the network are the following:

(a) To enhance a culture of leadership and collaborative responsibility for advancing the profession of teaching among providers of early learning services, teachers and administrators in kindergarten through grade 12, education service districts and teacher education institutions.

(b) To strengthen and enhance existing evidence-based practices that improve student achievement, including practices advanced by or described in ORS 329.788 to 329.820, 329.822, 329.824, 329.838, 342.433 to 342.449 and 342.805 to 342.937.

(c) To improve recruitment, preparation, induction, career advancement opportunities and support of educators.

(3) To accomplish the purposes of the network described in subsection (2) of this section, the Department of Education, subject to the direction and control of the Chief Education Officer, shall distribute funding as follows:

(a) To school districts, schools, nonprofit organizations, post-secondary institutions and consortiums that are any combination of those entities for the purpose of supporting the implementation of common core state standards.

(b) To school districts and nonprofit organizations for the purposes of complying with the core teaching standards adopted as provided by ORS 342.856 and complying with related standards prescribed by federal law.

(c) To school districts and nonprofit organizations for the purpose of providing teachers with opportunities for professional collaboration and professional development and for the pursuit of career pathways in a manner that is consistent with the School District Collaboration Grant Program described in ORS 329.838.

(d) To school districts and nonprofit organizations for the purpose of providing beginning teachers and administrators with mentors in a manner that is consistent with the beginning teacher and administrator mentorship program described in ORS 329.788 to 329.820.

(e) To school districts for the purposes of obtaining assessments and developing professional development plans to meet school improvement objectives and educator needs.

(f) To school districts, nonprofit organizations and post-secondary institutions for the purpose of closing achievement gaps by providing and improving the effectiveness of professional development, implementing data-driven decision making, supporting practice communities and implementing culturally competent practices.

(g) To school districts and nonprofit organizations for the purposes of developing and engaging in proficiency-based or student-centered learning practices and assessments.

(h) To school districts, nonprofit organizations and post-secondary institutions for the purposes of strengthening educator preparation programs and supporting the development and sustainability of partnerships between providers of early learning services, public schools with any grades from kindergarten through grade 12 and post-secondary institutions.

(i) To providers of early learning services, nonprofit organizations and post-secondary institutions for the purposes of providing professional development and supporting providers of early

1 learning services with opportunities for professional collaboration and advancement.

2 (4) The Oregon Education Investment Board shall support the network by:

3 (a) Conducting and coordinating research to determine best practices and evidence-based mod-  
4 els.

5 (b) Working with educator preparation programs to ensure ongoing collaboration with education  
6 providers.

7 (c) Supporting programs that help to achieve the goal of the Minority Teacher Act of 1991 as  
8 described in ORS 342.437.

9 (d) Creating and supporting a statewide plan for increasing the successful recruitment of high-  
10 ability and culturally diverse candidates to work in high-need communities and fields.

11 (5) The Department of Education shall support the network by:

12 (a) Developing a system that ensures statewide dissemination of best practices and evidence-  
13 based models.

14 (b) Supporting the development and implementation of standards-based curriculum, high-leverage  
15 practices and assessments that promote student learning and improve outcomes for students [*learn-*  
16 *ing English as a second language*] **who are enrolled in an English language learner program**  
17 **under ORS 336.079** and for students with disabilities.

18 (c) Administering the distribution of funding as described in subsection (3) of this section.

19 (6) The Oregon Education Investment Board shall develop processes to establish the network  
20 and ensure the accountability of the network. The processes must ensure that the network:

21 (a) Gives preference to entities that have demonstrated success in improving student outcomes.

22 (b) Delivers services for the benefit of all regions of this state.

23 (c) Is accountable for improving education outcomes identified by the Oregon Education Invest-  
24 ment Board, contained in achievement compacts or set forth in ORS 351.009.

25 (d) Includes and connects education providers and leaders from pre-kindergarten through post-  
26 secondary education.

27 (7) No more than two percent of all moneys received for the purposes of this section may be  
28 expended by the Oregon Education Investment Board or the Department of Education for adminis-  
29 trative costs incurred under this section. For the purpose of this subsection, technical assistance  
30 and direct program services provided to school districts and nonprofit organizations are not con-  
31 sidered administrative costs.

32 (8) The State Board of Education may adopt any rules necessary for the Department of Educa-  
33 tion to support the network and perform any duties assigned to the department under this section  
34 or assigned to the department by the Oregon Education Investment Board. Any rules adopted by the  
35 State Board of Education must be consistent with this section and with actions taken by the Oregon  
36 Education Investment Board to implement this section.

37 **SECTION 11.** ORS 342.950, as amended by section 2, chapter 661, Oregon Laws 2013, is  
38 amended to read:

39 342.950. (1) The Network of Quality Teaching and Learning is established. The network consists  
40 of the Department of Education and public and private entities that receive funding as provided by  
41 this section to accomplish the purposes of the network described in subsection (2) of this section.

42 (2) The purposes of the network are the following:

43 (a) To enhance a culture of leadership and collaborative responsibility for advancing the pro-  
44 fession of teaching among providers of early learning services, teachers and administrators in  
45 kindergarten through grade 12, education service districts and teacher education institutions.

1 (b) To strengthen and enhance existing evidence-based practices that improve student achieve-  
 2 ment, including practices advanced by or described in ORS 329.788 to 329.820, 329.822, 329.824,  
 3 329.838, 342.433 to 342.449 and 342.805 to 342.937.

4 (c) To improve recruitment, preparation, induction, career advancement opportunities and sup-  
 5 port of educators.

6 (3) To accomplish the purposes of the network described in subsection (2) of this section, the  
 7 Department of Education, subject to the direction and control of the Superintendent of Public In-  
 8 struction, shall distribute funding as follows:

9 (a) To school districts, schools, nonprofit organizations, post-secondary institutions and consor-  
 10 tiums that are any combination of those entities for the purpose of supporting the implementation  
 11 of common core state standards.

12 (b) To school districts and nonprofit organizations for the purposes of complying with the core  
 13 teaching standards adopted as provided by ORS 342.856 and complying with related standards pre-  
 14 scribed by federal law.

15 (c) To school districts and nonprofit organizations for the purpose of providing teachers with  
 16 opportunities for professional collaboration and professional development and for the pursuit of ca-  
 17 reer pathways in a manner that is consistent with the School District Collaboration Grant Program  
 18 described in ORS 329.838.

19 (d) To school districts and nonprofit organizations for the purpose of providing beginning  
 20 teachers and administrators with mentors in a manner that is consistent with the beginning teacher  
 21 and administrator mentorship program described in ORS 329.788 to 329.820.

22 (e) To school districts for the purposes of obtaining assessments and developing professional  
 23 development plans to meet school improvement objectives and educator needs.

24 (f) To school districts, nonprofit organizations and post-secondary institutions for the purpose  
 25 of closing achievement gaps by providing and improving the effectiveness of professional develop-  
 26 ment, implementing data-driven decision making, supporting practice communities and implementing  
 27 culturally competent practices.

28 (g) To school districts and nonprofit organizations for the purposes of developing and engaging  
 29 in proficiency-based or student-centered learning practices and assessments.

30 (h) To school districts, nonprofit organizations and post-secondary institutions for the purposes  
 31 of strengthening educator preparation programs and supporting the development and sustainability  
 32 of partnerships between providers of early learning services, public schools with any grades from  
 33 kindergarten through grade 12 and post-secondary institutions.

34 (i) To providers of early learning services, nonprofit organizations and post-secondary insti-  
 35 tutions for the purposes of providing professional development and supporting providers of early  
 36 learning services with opportunities for professional collaboration and advancement.

37 (4) The Department of Education shall support the network by:

38 (a) Conducting and coordinating research to determine best practices and evidence-based mod-  
 39 els.

40 (b) Working with educator preparation programs to ensure ongoing collaboration with education  
 41 providers.

42 (c) Supporting programs that help to achieve the goal of the Minority Teacher Act of 1991 as  
 43 described in ORS 342.437.

44 (d) Creating and supporting a statewide plan for increasing the successful recruitment of high-  
 45 ability and culturally diverse candidates to work in high-need communities and fields.



1 (e) Developing a system that ensures statewide dissemination of best practices and evidence-  
2 based models.

3 (f) Supporting the development and implementation of standards-based curriculum, high-leverage  
4 practices and assessments that promote student learning and improve outcomes for students [*learn-*  
5 *ing English as a second language*] **who are enrolled in an English language learner program**  
6 **under ORS 336.079** and for students with disabilities.

7 (g) Administering the distribution of funding as described in subsection (3) of this section.

8 (5) The State Board of Education shall develop processes to establish the network and ensure  
9 the accountability of the network. The processes must ensure that the network:

10 (a) Gives preference to entities that have demonstrated success in improving student outcomes.

11 (b) Delivers services for the benefit of all regions of this state.

12 (c) Is accountable for improving education outcomes identified by the State Board of Education,  
13 contained in achievement compacts or set forth in ORS 351.009.

14 (d) Includes and connects education providers and leaders from pre-kindergarten through post-  
15 secondary education.

16 (6) No more than two percent of all moneys received for the purposes of this section may be  
17 expended by the Department of Education for administrative costs incurred under this section. For  
18 the purpose of this subsection, technical assistance and direct program services provided to school  
19 districts and nonprofit organizations are not considered administrative costs.

20 (7) The State Board of Education may adopt any rules necessary for the Department of Educa-  
21 tion to support the network and perform any duties assigned to the department under this section.  
22 Any rules adopted by the State Board of Education must be consistent with this section.

23 **SECTION 12.** ORS 344.257 is amended to read:

24 344.257. (1) For the purposes of ORS 344.259, “continuing education” means organized instruc-  
25 tion to serve the needs of post-secondary students, including but not limited to:

26 (a) Courses as offered to the regular full-time resident post-secondary student consisting of pro-  
27 fessional preparatory courses and professional supplementary, technical, academic and professional  
28 courses;

29 (b) Developmental education, consisting of adult basic education, high school completion courses  
30 for a high school diploma, instruction to pass the General Educational Development (GED) tests,  
31 English [*as a second language instruction*] **language learner program**, and remedial instruction;

32 (c) Educational activities, consisting of adult self-improvement courses and Federal Cooperative  
33 Extension Service; and

34 (d) Hobby and recreation activities.

35 (2) “Continuing education” for a community college is limited to instruction within district  
36 boundaries and instruction outside district boundaries offered under contract.

37 **SECTION 13.** **This 2015 Act being necessary for the immediate preservation of the public**  
38 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
39 **July 1, 2015.**

40