

Senate Bill 667

Sponsored by Senators KRUSE, GELSER

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**.

Removes sunset related to grants distributed to small school districts with one or more small high schools.

Declares emergency, effective June 29, 2015.

A BILL FOR AN ACT

1
2 Relating to small school districts; creating new provisions; amending ORS 327.006, 327.008, 327.019,
3 327.125, 327.137, 339.129 and 340.045 and section 20, chapter 735, Oregon Laws 2013; repealing
4 section 19, chapter 735, Oregon Laws 2013; and declaring an emergency.

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

6 **SECTION 1. Section 19, chapter 735, Oregon Laws 2013, is repealed.**

7 **SECTION 2.** Section 20, chapter 735, Oregon Laws 2013, is amended to read:

8 **Sec. 20.** The amendments to ORS 327.006, 327.008, 327.019, 327.125, 327.137, 339.129 and 340.045
9 by sections 5, 7, 9, 11, 14, 16 and 18 [*of this 2013 Act, and the repeal of sections 1, 2 and 3 of this*
10 *2013 Act of this 2013 Act by section 19 of this 2013 Act, become operative on June 30, 2015*], **chapter**
11 **735, Oregon Laws 2013, become operative on June 29, 2015.**

12 **SECTION 3.** ORS 327.006, as amended by section 7, chapter 704, Oregon Laws 2011, and section
13 5, chapter 735, Oregon Laws 2013, is amended to read:

14 327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731 **and sections 1 to 3, chapter**
15 **735, Oregon Laws 2013:**

16 (1) "Aggregate days membership" means the sum of days present and absent, according to the
17 rules of the State Board of Education, of all resident pupils when school is actually in session during
18 a certain period. The aggregate days membership of kindergarten pupils shall be calculated on the
19 basis of a half-day program for half-day kindergarten and on the basis of a full-day program for
20 full-day kindergarten.

21 (2)(a) "Approved transportation costs" means those costs as defined by rule of the State Board
22 of Education and is limited to those costs attributable to transporting or room and board provided
23 in lieu of transporting:

24 (A) Elementary school students who live at least one mile from school;

25 (B) Secondary school students who live at least 1.5 miles from school;

26 (C) Any student required to be transported for health or safety reasons, according to supple-
27 mental plans from districts that have been approved by the state board identifying students who are
28 required to be transported for health or safety reasons, including special education;

29 (D) Preschool children with disabilities requiring transportation for early intervention services
30 provided pursuant to ORS 343.224 and 343.533;

31 (E) Students who require payment of room and board in lieu of transportation;

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 (F) A student transported from one school or facility to another school or facility when the
2 student attends both schools or facilities during the day or week; and

3 (G) Students participating in school-sponsored field trips that are extensions of classroom
4 learning experiences.

5 (b) "Approved transportation costs" does not include the cost of constructing boarding school
6 facilities.

7 (3) "Average daily membership" or "ADM" means the aggregate days membership of a school
8 during a certain period divided by the number of days the school was actually in session during the
9 same period. However, if a district school board adopts a class schedule that operates throughout
10 the year for all or any schools in the district, average daily membership shall be computed by the
11 Department of Education so that the resulting average daily membership will not be higher or lower
12 than if the board had not adopted such schedule.

13 (4) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers of the
14 Portland, Oregon, Metropolitan Statistical Area, as compiled by the United States Department of
15 Labor, Bureau of Labor Statistics.

16 (5) "Kindergarten" means a kindergarten program that conforms to the standards and rules
17 adopted by the State Board of Education.

18 (6) "Net operating expenditures" means the sum of expenditures of a school district in
19 kindergarten through grade 12 for administration, instruction, attendance and health services, op-
20 eration of plant, maintenance of plant, fixed charges and tuition for resident students attending in
21 another district, as determined in accordance with the rules of the State Board of Education, but
22 net operating expenditures does not include transportation, food service, student body activities,
23 community services, capital outlay, debt service or expenses incurred for nonresident students.

24 (7)(a) "Resident pupil" means any pupil:

25 (A) Whose legal school residence is within the boundaries of a school district reporting the pu-
26 pil, if the district is legally responsible for the education of the pupil, except that "resident pupil"
27 does not include a pupil who pays tuition or for whom the parent pays tuition or for whom the
28 district does not pay tuition for placement outside the district; or

29 (B) Whose legal residence is not within the boundaries of the district reporting the pupil but
30 who attends school in the district with the written consent of the district school board where the
31 school is located as provided by ORS 339.133 (5).

32 (b) A pupil is not considered to be a resident pupil under paragraph (a)(A) of this subsection if
33 the pupil is attending school in another school district pursuant to a contract under ORS 339.125
34 and in the prior year was considered to be a resident pupil in another school district under para-
35 graph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another
36 school district under paragraph (a)(B) of this subsection.

37 (c) A pupil is not considered to be a resident pupil under paragraph (a)(B) of this subsection if
38 the pupil is attending school in a school district pursuant to ORS 339.133 (5) and in the prior year
39 was considered to be a resident pupil under paragraph (a)(A) of this subsection because the pupil
40 was attending school in another school district pursuant to a contract under ORS 339.125. The pupil
41 shall continue to be considered a resident pupil under paragraph (a)(A) of this subsection.

42 (d) "Resident pupil" includes a pupil admitted to a school district under ORS 339.115 (7).

43 (8) "Standard school" means a school meeting the standards set by the rules of the State Board
44 of Education.

45 (9) "Tax" and "taxes" includes all taxes on property, excluding exempt bonded indebtedness, as

1 those terms are defined in ORS 310.140.

2 **SECTION 4.** ORS 327.008, as amended by section 7, chapter 735, Oregon Laws 2013, and section
3 7, chapter 81, Oregon Laws 2014, is amended to read:

4 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist
5 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education
6 Stability Fund. The State School Fund is continuously appropriated to the Department of Education
7 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,
8 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961, **sections 1 to 3, chapter 735, Oregon**
9 **Laws 2013**, and section 2, chapter 81, Oregon Laws 2014.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (11) Each fiscal year, the Department of Education may expend up to \$550,000 from the State

1 School Fund for the contract described in ORS 329.488. The amount distributed to education service
2 districts from the State School Fund under this section and ORS 327.019 shall be reduced by the
3 amount expended by the department under this subsection.

4 (12) Each biennium, the Department of Education may expend up to \$350,000 from the State
5 School Fund to provide administration of and support for the development of talented and gifted
6 education under ORS 343.404.

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

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

13 **SECTION 5.** ORS 327.019, as amended by section 9, chapter 735, Oregon Laws 2013, is amended
14 to read:

15 327.019. (1) As used in this section:

16 (a) "Education service district extended ADMw" means the sum of the extended ADMw of the
17 school districts located within the territory of the education service district as computed under ORS
18 327.013.

19 (b) "Local revenues of an education service district" means the total of the following:

20 (A) The amount of revenue offset against local property taxes as determined by the Department
21 of Revenue under ORS 311.175 (3)(a)(A);

22 (B) The amount of property taxes actually received by the district including penalties and in-
23 terest on taxes;

24 (C) The amount of revenue received by the district from state-managed forestlands under ORS
25 530.115 (1)(b) and (c); and

26 (D) Any positive amount obtained by subtracting the operating property taxes actually imposed
27 by the district based on the rate certified pursuant to ORS 310.060 from the amount that would have
28 been imposed by the district if the district had certified the maximum rate of operating property
29 taxes allowed by law.

30 (2) Each fiscal year, the Superintendent of Public Instruction shall calculate a State School Fund
31 grant for each education service district as provided in this section.

32 (3)(a) Each fiscal year, the superintendent shall calculate the total amount appropriated or al-
33 located to the State School Fund and available for distribution to school districts, education service
34 districts and programs + total amount of local revenues of all school districts, computed as provided
35 in ORS 327.011, + total amount of local revenues of all education service districts. The super-
36 intendent may not include in the calculation under this paragraph amounts received by the De-
37 partment of Education from the State School Fund under ORS 343.243.

38 (b) The superintendent shall multiply the amount calculated under paragraph (a) of this sub-
39 section by 95.5 percent.

40 (c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent
41 shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to
42 327.133 and 327.348 **and sections 1 to 3, chapter 735, Oregon Laws 2013**, the total amount calcu-
43 lated under paragraph (b) of this subsection as school district general purpose grants, facility grants,
44 high cost disabilities grants and transportation grants to school districts.

45 (d) Based on the funding percentage calculated under paragraph (c) of this subsection, the su-

1 perintendent shall calculate the general purpose grant, facility grant, transportation grant and high
2 cost disabilities grant amounts for each school district.

3 (4)(a) The general services grant for an education service district shall equal the higher of:

4 (A) The total amount calculated under subsection (3)(d) of this section for the school districts
5 located within the territory of the education service district $\times (4.5 \div 95.5)$; or

6 (B) \$1 million if the education service district received a general services grant of \$1 million for
7 the 2010-2011 school year.

8 (b) Notwithstanding paragraph (a) of this subsection and only for State School Fund distrib-
9 utions made for the first school year after two or more education service districts join together, if
10 an education service district received a general services grant as provided by paragraph (a)(B) of
11 this subsection prior to the education service district joining together with one or more other edu-
12 cation service districts to form a new education service district:

13 (A) The general services grant for the new education service district shall be calculated for each
14 component education service district as though the component education service districts had not
15 joined together to form a new education service district; and

16 (B) A component education service district that received \$1 million as provided by paragraph
17 (a)(B) of this subsection shall be entitled to receive \$1 million under the calculation provided by this
18 paragraph.

19 (5) Subject to subsection (6) of this section, the State School Fund grant for an education service
20 district = general services grant – local revenues of the education service district.

21 (6)(a) After completing the calculations under subsections (2) to (5) of this section, the Super-
22 intendent of Public Instruction shall apportion from the State School Fund to each education service
23 district an amount = (funding percentage \times general services grant) – local revenues of the educa-
24 tion service district.

25 (b) The funding percentage used in paragraph (a) of this subsection shall be calculated by the
26 superintendent to distribute as nearly as practicable the total amount available for distribution to
27 education service districts from the State School Fund for each fiscal year.

28 (7) Notwithstanding subsections (5) and (6) of this section:

29 (a) The State School Fund grant of an education service district may not be less than zero; and

30 (b) The State School Fund grant of an education service district shall be in an amount that,
31 when combined with the local revenues of the education service district, equals \$1 million or more.

32 (8) An education service district shall distribute to school districts located within the territory
33 of the education service district any amount of local revenues of the education service district that
34 is greater than the general services grant. The amount that each school district receives under this
35 subsection shall be prorated based on the district extended ADMw of the school district as calcu-
36 lated under ORS 327.013.

37 (9)(a) An education service district shall distribute to a school district that is located within the
38 territory of the education service district but that has withdrawn from the education service district
39 as provided in ORS 334.015 the amounts received by the education service district as a general
40 services grant and from the School Improvement Fund.

41 (b) The amounts that a school district receives under this subsection:

42 (A) Shall be prorated based on the district extended ADMw of the school district as calculated
43 under ORS 327.013;

44 (B) Shall equal 90 percent of the school district's prorated share, as calculated under subpara-
45 graph (A) of this paragraph; and

1 (C) May be used to pay for any expenses incurred in providing services described in ORS 334.175
 2 (2) to the students of the school district by:

- 3 (i) The school district;
 4 (ii) The education service district from which the school district withdrew;
 5 (iii) An education service district that is not the education service district from which the
 6 school district withdrew; or
 7 (iv) Any other public entity with which the school district has entered into a contract to provide
 8 the services.

9 **SECTION 6.** ORS 327.125, as amended by section 11, chapter 735, Oregon Laws 2013, is
 10 amended to read:

11 327.125. The Superintendent of Public Instruction shall administer the provisions of ORS 327.006
 12 to 327.133, 327.348 and 327.731 **and sections 1 to 3, chapter 735, Oregon Laws 2013.** The State
 13 Board of Education shall adopt all necessary rules not inconsistent with ORS 327.006 to 327.133,
 14 327.348 and 327.731 **and sections 1 to 3, chapter 735, Oregon Laws 2013,** to carry into effect the
 15 provisions of those statutes.

16 **SECTION 7.** ORS 327.137, as amended by section 14, chapter 735, Oregon Laws 2013, is
 17 amended to read:

18 327.137. (1)(a) Every common or union high school district or education service district shall file
 19 a copy of its audit report with the Department of Education within six months of the end of the
 20 fiscal year for which the audit is required. The audit report shall include:

21 (A) Information necessary for the computation required in the administration of ORS 327.006 to
 22 327.133, 327.348, 327.731, 328.542 and 530.115, **sections 1 to 3, chapter 735, Oregon Laws 2013,** and
 23 this section; and

24 (B) If the district is a sponsor of any public charter schools, a copy of each annual audit for-
 25 forwarded to the district as required by ORS 338.095 (4).

26 (b) If the audit report, as submitted to the district, fails to provide the detail necessary for the
 27 computation required in the administration of ORS 327.006 to 327.133, 327.348, 327.731, 328.542 and
 28 530.115, **sections 1 to 3, chapter 735, Oregon Laws 2013,** and this section, the district shall submit
 29 the necessary information on forms provided by the department within the time prescribed for filing
 30 the audit in this section.

31 (c) The Superintendent of Public Instruction may withhold any payments from the State School
 32 Fund for a public charter school that, pursuant to ORS 338.155, are due to a district under ORS
 33 327.095 if:

34 (A) The audit report filed by the district fails to include the public charter school annual audit
 35 as required by paragraph (a)(B) of this subsection; and

36 (B) The district has not filed the public charter school annual audit with the department by
 37 April 1.

38 (d) If payments are withheld as provided by paragraph (c) of this subsection, the superintendent
 39 may allow payments to be made from the State School Fund to the district upon receipt of the an-
 40 nual audit or upon the meeting of any other conditions identified by rule of the State Board of Ed-
 41 ucation.

42 (e) Any district failing to file a copy of an audit report under this section or a report under ORS
 43 327.133 may not receive any payments from the State School Fund until the report is filed.

44 (2) Notwithstanding the timeline provided by this section and pursuant to rules adopted by the
 45 State Board of Education, the superintendent may waive a reporting date or specify an alternative

1 date to provide the audit report or information if a human-created disaster or a natural disaster
2 affects the ability of a school district or an education service district to provide the audit report
3 or information by a specified date.

4 **SECTION 8.** ORS 339.129, as amended by section 16, chapter 735, Oregon Laws 2013, is
5 amended to read:

6 339.129. (1) A school district shall provide or cause to be provided appropriate education for
7 children placed in a local or regional correctional facility located in the school district. The edu-
8 cation may be provided by the school district or an education service district.

9 (2) The school district may claim State School Fund reimbursement under ORS 327.006 to
10 327.133, 327.348 and 327.731 **and sections 1 to 3, chapter 735, Oregon Laws 2013**, for each child
11 who is in a local or regional correctional facility.

12 (3) A local or regional correctional facility shall notify the school district within which the fa-
13 cility is located of the name and date of birth of each school-age child placed in the facility, in-
14 cluding a child with a disability under the age of 22 years who may be eligible for special education.
15 The notice shall be in writing and shall be given within five business days of the child's placement
16 in the facility.

17 (4) The local or regional correctional facility shall allow the school district and education ser-
18 vice district to have safe and reasonable access to children placed in that facility for whom the
19 school district is required to provide education.

20 (5) As used in this section:

21 (a) "Local correctional facility" means a local correctional facility as defined in ORS 169.005.

22 (b) "Regional correctional facility" means a regional correctional facility as defined in ORS
23 169.620.

24 **SECTION 9.** ORS 340.045, as amended by section 18, chapter 735, Oregon Laws 2013, is
25 amended to read:

26 340.045. (1) An eligible student enrolled in an eligible post-secondary course at an eligible post-
27 secondary institution pursuant to ORS 340.030 shall continue to be considered a resident pupil of
28 the student's school district for purposes of calculation of the State School Fund grant under ORS
29 327.006 to 327.133, 327.348 and 327.731 **and sections 1 to 3, chapter 735, Oregon Laws 2013**.

30 (2) The amount of each school district's general purpose grant per extended ADMw as calcu-
31 lated under ORS 327.013 shall be determined each fiscal year by the Department of Education and
32 made available to all school districts and, upon request, to any eligible post-secondary institution.

33 (3) A school district and any eligible post-secondary institution that accepts a student for en-
34 rollment in an eligible post-secondary course pursuant to ORS 340.030 shall negotiate in good faith
35 a financial agreement for the payment of actual instructional costs associated with the enrollment
36 of the eligible student in eligible post-secondary courses, including tuition and fees and the costs
37 of textbooks, equipment and materials.

38 (4) As part of the negotiated financial agreement, an eligible post-secondary institution shall
39 provide the school district with the published refund policy for eligible students who do not complete
40 eligible post-secondary courses in which the students enroll and do not earn credit.

41 (5) If, after participating in good faith negotiations, a school district and an eligible post-
42 secondary institution are unable to agree on the payment of actual instructional costs as described
43 in subsection (3) of this section, either entity may appeal to the department for a determination of
44 whether the negotiations were conducted in good faith.

45 (6) The department shall develop a process and criteria to use for appeals.

1 (7)(a) If the department determines that the negotiations were not conducted in good faith by
 2 either the school district or the eligible post-secondary institution, the department shall order the
 3 school district and the eligible post-secondary institution to conduct the negotiations again.

4 (b) If the department determines that the negotiations were conducted in good faith by the
 5 school district and the eligible post-secondary institution, the department shall grant the school
 6 district a waiver under ORS 340.083 from participating in the Expanded Options Program with the
 7 eligible post-secondary institution with which the school district was negotiating.

8 (8) The decision of the department shall be binding on the school district and the eligible post-
 9 secondary institution.

10 (9) In addition to any financial agreement entered into under subsection (3) of this section, the
 11 resident school district of the eligible student shall enter into an agreement with an eligible post-
 12 secondary institution that accepts a student for enrollment in an eligible post-secondary course that
 13 is a nontuition course or noncredit course pursuant to ORS 340.030 for the payment of the actual
 14 instructional costs associated with the student's attending the eligible post-secondary course at the
 15 institution.

16 (10) Nothing in this section shall prohibit an eligible post-secondary institution from receiving
 17 additional state funding that may be available under any other law.

18 **SECTION 10. The amendments to ORS 327.006, 327.008, 327.019, 327.125, 327.137, 339.129**
 19 **and 340.045 by sections 3 to 9 of this 2015 Act apply to State School Fund distributions com-**
 20 **mencing with the 2015-2016 distributions.**

21 **SECTION 11. This 2015 Act being necessary for the immediate preservation of the public**
 22 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
 23 **June 29, 2015.**