

SENATE AMENDMENTS TO SENATE BILL 4

By COMMITTEE ON EDUCATION

April 14

1 On page 1 of the printed bill, line 2, delete “amending ORS 329.496” and insert “creating new
2 provisions; amending ORS 329.496 and 329.498”.

3 Delete lines 4 through 31 and delete page 2 and insert:

4 “**SECTION 1.** ORS 329.496 is amended to read:

5 “329.496. (1) Every public school student in kindergarten through grade [8] **eight** shall partic-
6 ipate in physical education for the entire school year.

7 “**(2)(a)** Students in kindergarten through grade [5] **five, and students in grade six at a school**
8 **that teaches kindergarten through grade six**, shall participate in physical education for at least
9 150 minutes during each school week.

10 “**(b)** **Except as provided by paragraph (a) of this subsection**, students in grades [6] **six**
11 through [8] **eight** shall participate in physical education for at least 225 minutes during each school
12 week.

13 “**(c)** **Notwithstanding the time requirements established by paragraphs (a) and (b) of this**
14 **subsection, the State Board of Education shall adopt rules that prorate the time require-**
15 **ments for:**

16 “**(A)** **School weeks with scheduled school closures, including closures for holidays, inser-**
17 **vice days and days scheduled for parent-teacher conferences;**

18 “**(B)** **School weeks with unscheduled school closures, including closures for inclement**
19 **weather and emergencies;**

20 “**(C)** **School weeks with out-of-school activities that occur during usual school hours, in-**
21 **cluding field trips and outdoor school programs;**

22 “**(D)** **Part-time school programs, including half-day kindergarten; and**

23 “**(E)** **Irregular class schedules, including class schedules based on a four-day week.**

24 “**(d)** **School districts and public charter schools are not required to comply with the time**
25 **requirements established by paragraphs (a) and (b) of this subsection for school years during**
26 **the biennium in which the total amounts appropriated or allocated to the State School Fund**
27 **and available for distribution to school districts are less than the amounts determined to be**
28 **needed for school districts through the State School Fund under the tentative budget pre-**
29 **pared as provided by ORS 291.210. After the beginning of a biennium, a school district or a**
30 **public charter school may cease to comply with the time requirements established by para-**
31 **graphs (a) and (b) of this subsection if the amounts appropriated or allocated to the State**
32 **School Fund and available for distribution to school districts are less than the amounts de-**
33 **termined to be needed for distribution through the State School Fund, as calculated under**
34 **ORS 291.210.**

35 “[2] **(3)** School districts and public charter schools shall offer instruction in physical education

1 that meets the academic content standards for physical education adopted by the State Board of
2 Education under ORS 329.045. The instruction shall be a sequential, developmentally appropriate
3 curriculum that is designed, implemented and evaluated to help students develop the knowledge,
4 motor skills, self-management skills, attitudes and confidence needed to adopt and maintain physical
5 activity throughout their lives.

6 “[3] (4)(a) School districts and public charter schools shall devote at least 50 percent of
7 physical education class time to actual physical activity in each school week, with as much class
8 time as possible spent in moderate physical activity.

9 “(b)(A) For the purpose of satisfying the time requirements established by subsection (2)
10 of this section, school districts and public charter schools may provide up to 45 minutes of
11 activities during each school week that:

12 “(i) Meet the academic content standards for physical education adopted by the State
13 Board of Education under ORS 329.045;

14 “(ii) Are provided for students by a teacher whose license allows the teacher to provide
15 instruction in physical education to those students, even if the teacher does not have a
16 physical education endorsement; and

17 “(iii) Have been reviewed by a licensed teacher with a physical education endorsement.

18 “(B) The Department of Education shall:

19 “(i) Review and, as appropriate, approve activities that are developed by nonprofit pro-
20 fessional organizations representing health and physical education educators if the activities
21 meet the requirements of subparagraph (A) of this paragraph; and

22 “(ii) Make available to school districts and public charter schools a list of activities ap-
23 proved as provided by this subparagraph.

24 “(C) School districts and public charter schools may provide activities that meet the re-
25 quirements of subparagraph (A) of this paragraph even if the activities are not approved as
26 provided by subparagraph (B) of this paragraph.

27 “[4)(a)] (5)(a) Notwithstanding subsections [(1) and (3)] (1), (2) and (4) of this section, a student
28 with disabilities shall have suitably adapted physical education incorporated as part of the individ-
29 ualized education program developed for the student under ORS 343.151.

30 “(b) Notwithstanding subsections [(1) and (3)] (1), (2) and (4) of this section, a student who does
31 not have an individualized education program but has chronic health problems, other disabling
32 conditions or other special needs that preclude the student from participating in regular physical
33 education instruction shall have suitably adapted physical education incorporated as part of an in-
34 dividualized health plan developed for the student by the school district or public charter school.

35 “[5] (6) School districts and public charter schools shall assess school curricula at regular in-
36 tervals to measure the attainment of the minimum number of minutes that students are required to
37 participate in physical education under this section.

38 “[6] (7)(a) All teachers of physical education for public school students in kindergarten
39 through grade [8] eight shall be adequately prepared and shall regularly participate in professional
40 development activities to effectively deliver the physical education program.

41 “(b)(A) Notwithstanding any licensing or endorsement requirements established by the
42 Teacher Standards and Practices Commission, a teacher with an elementary multiple subject
43 endorsement may instruct students in activities described in subsection (4)(b) of this section
44 if the activities are reviewed by a licensed teacher with a physical education endorsement.

45 “(B) A teacher described in this paragraph may provide instruction in activities described

1 in subsection (4)(b) of this section to students who are not regularly taught by the teacher
2 as long as the instruction in the activities to students who are not regularly taught by the
3 teacher does not exceed 45 minutes during each school week. Nothing in this subparagraph
4 allows a school district to employ a teacher for the sole purpose of providing instruction in
5 activities described in subsection (4)(b) of this section.

6 “(8) A school district that does not comply with the requirements of this section is con-
7 sidered to be nonstandard under ORS 327.103.

8 “**SECTION 2.** (1) Except as provided by subsections (2) and (3) of this section and only for
9 school years prior to the 2022-2023 school year, a school district may not be considered non-
10 standard under ORS 327.103 and moneys may not be withheld or any other penalty or sanc-
11 tions imposed on a school district that does not comply with the time requirements
12 established by ORS 329.496 (2).

13 “(2)(a) For the 2019-2020 school year, students identified in ORS 329.496 (2)(a) shall par-
14 ticipate in physical education for at least 120 minutes during each school week.

15 “(b) For the 2020-2021 school year and every school year thereafter, students identified
16 in ORS 329.496 (2)(a) shall participate in physical education for at least 150 minutes during
17 each school week.

18 “(c) If a school district fails to comply with paragraph (a) or (b) of this subsection, the
19 school district may be considered nonstandard under ORS 327.103.

20 “(3)(a) For the 2021-2022 school year, students identified in ORS 329.496 (2)(b) shall par-
21 ticipate in physical education for at least 180 minutes during each school week.

22 “(b) For the 2022-2023 school year and every school year thereafter, students identified
23 in ORS 329.496 (2)(b) shall participate in physical education for at least 225 minutes during
24 each school week.

25 “(c) If a school district fails to comply with paragraph (a) or (b) of this subsection, the
26 school district may be considered nonstandard under ORS 327.103.

27 “(4) For the purposes of this section, a school district may:

28 “(a) Prorate time requirements provided by this section in compliance with rules adopted
29 by the State Board of Education under ORS 329.496 (2)(c);

30 “(b) Apply up to 45 minutes of activities described in ORS 329.496 (4)(b) to the time re-
31 quirements provided by this section; and

32 “(c) Cease to comply with the time requirements provided by this section if the condi-
33 tions described in ORS 329.496 (2)(d) are satisfied.

34 “**SECTION 3.** Section 2 of this 2017 Act is repealed on July 1, 2022.

35 “**SECTION 4.** ORS 329.498 is amended to read:

36 “329.498. (1) The Department of Education shall collect data from school districts on:

37 “(a) The number of minutes of physical education that are provided to students in kindergarten
38 through grade [8] **eight** each school week in each public school within the district;

39 “(b) The physical capacity of public schools to provide students [*in kindergarten through grade*
40 *5 with at least 150 minutes of physical education during each school week and to provide students in*
41 *grades 6 through 8 with at least 225 minutes of physical education during each school week*] **with the**
42 **number of minutes of physical education specified by ORS 329.496 (2);** and

43 “(c) The additional facilities required by public schools to provide physical education to students
44 as described in paragraph (b) of this subsection.

45 “(2) The department shall collect the data described in subsection (1) of this section:

1 “(a) Annually, for data described in subsection (1)(a) of this section.
2 “(b) Whenever a public school increases or decreases the school’s physical capacity to provide
3 students with physical education, for data described in subsection (1)(b) and (c) of this section.
4 **“(3) The department shall provide technical assistance to school districts and public
5 charter schools to enable the school districts and public charter schools to comply with the
6 requirements of ORS 329.496.**
7 **“SECTION 5. (1) The Department of Education shall develop recommendations for im-
8 plementing the provisions of ORS 329.496 (2)(b).**
9 **“(2) For the purpose of developing the recommendations, the department shall collab-
10 orate with advocates for physical education, representatives of school districts, educators
11 and other interested stakeholders. Collaboration may be in person, electronically, or a com-
12 bination of both.**
13 **“(3) When developing the recommendations, the department shall consider:**
14 **“(a) Best practices for providing physical education to students in grades six through
15 eight and balance those best practices with resources available for providing physical edu-
16 cation to students in grades six through eight, including scheduling issues, facility availabil-
17 ity, costs for adding or upgrading facilities, moneys available for adding or upgrading
18 facilities, the availability and costs of licensed physical education teachers and any other is-
19 sues identified by the entities identified in subsection (2) of this section.**
20 **“(b) All options for implementing the requirements of ORS 329.496 (2)(b) and other al-
21 ternatives to the requirements of ORS 329.496 (2)(b) that are available for providing physical
22 education to students in grades six through eight.**
23 **“(4) All agencies of state government, as defined in ORS 174.111, and school districts are
24 directed to assist the department in the performance of the department’s duties under this
25 section and, to the extent permitted by laws relating to confidentiality, to furnish informa-
26 tion and advice the department considers necessary to perform its duties.**
27 **“(5) The department may accept donations of time and money for the purpose of fulfilling
28 the duties of the department under this section.**
29 **“(6) The department shall submit any recommendations for legislation to the interim
30 committees of the Legislative Assembly related to education no later than November 15,
31 2018.**
32 **“SECTION 6. Section 5 of this 2017 Act becomes operative on January 1, 2018.**
33 **“SECTION 7. Section 5 of this 2017 Act is repealed on December 31, 2018.**
34 **“SECTION 8. This 2017 Act being necessary for the immediate preservation of the public
35 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
36 July 1, 2017.”.**
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