

Requested by Senator COURTNEY

**PROPOSED AMENDMENTS TO
SENATE BILL 4**

1 On page 1 of the printed bill, delete “amending ORS 329.496” and insert
2 “creating new 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
6 [8] **eight** shall participate in physical education for the entire school year.

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

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

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

17 “**(A) School weeks with scheduled school closures, including clo-**
18 **sures for holidays, inservice days and days scheduled for parent-**
19 **teacher conferences;**

20 “**(B) School weeks with unscheduled school closures, including clo-**
21 **sures for inclement weather and emergencies;**

1 **“(C) School weeks with out-of-school activities that occur during**
2 **usual school hours, including field trips and outdoor school programs;**

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

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

7 **“(d) School districts and public charter schools are not required to**
8 **comply with the time requirements established by paragraphs (a) and**
9 **(b) of this subsection for school years during the biennium in which**
10 **the total amounts appropriated or allocated to the State School Fund**
11 **and available for distribution to school districts are less than the**
12 **amounts determined to be needed for school districts through the**
13 **State School Fund under the tentative budget prepared as provided by**
14 **ORS 291.210. After the beginning of a biennium, a school district or a**
15 **public charter school may cease to comply with the time requirements**
16 **established by paragraphs (a) and (b) of this subsection if the amounts**
17 **appropriated or allocated to the State School Fund and available for**
18 **distribution to school districts are less than the amounts determined**
19 **to be needed for distribution through the State School Fund, as cal-**
20 **culated under ORS 291.210.**

21 **“[(2)] (3) School districts and public charter schools shall offer instruction**
22 **in physical education that meets the academic content standards for physical**
23 **education adopted by the State Board of Education under ORS 329.045. The**
24 **instruction shall be a sequential, developmentally appropriate curriculum**
25 **that is designed, implemented and evaluated to help students develop the**
26 **knowledge, motor skills, self-management skills, attitudes and confidence**
27 **needed to adopt and maintain physical activity throughout their lives.**

28 **“[(3)] (4)(a) School districts and public charter schools shall devote at**
29 **least 50 percent of physical education class time to actual physical activity**
30 **in each school week, with as much class time as possible spent in moderate**

1 physical activity.

2 **“(b)(A) For the purpose of satisfying the time requirements estab-**
3 **lished by subsection (2) of this section, school districts and public**
4 **charter schools may provide up to 45 minutes of activities during each**
5 **school week that:**

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

8 **“(ii) Are provided for students by a teacher whose license allows the**
9 **teacher to provide instruction in physical education to those students,**
10 **even if the teacher does not have a physical education endorsement;**
11 **and**

12 **“(iii) Have been reviewed by a licensed teacher with a physical ed-**
13 **ucation endorsement.**

14 **“(B) The Department of Education shall:**

15 **“(i) Review and, as appropriate, approve activities that are devel-**
16 **oped by nonprofit professional organizations representing health and**
17 **physical education educators if the activities meet the requirements**
18 **of subparagraph (A) of this paragraph; and**

19 **“(ii) Make available to school districts and public charter schools a**
20 **list of activities approved as provided by this subparagraph.**

21 **“(C) School districts and public charter schools may provide activ-**
22 **ities that meet the requirements of subparagraph (A) of this paragraph**
23 **even if the activities are not approved as provided by subparagraph (B)**
24 **of this paragraph.**

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

29 **“(b) Notwithstanding subsections [(1) and (3)] (1), (2) and (4) of this**
30 **section, a student who does not have an individualized education program**

1 but has chronic health problems, other disabling conditions or other special
2 needs that preclude the student from participating in regular physical edu-
3 cation instruction shall have suitably adapted physical education incorpo-
4 rated as part of an individualized health plan developed for the student by
5 the school district or public charter school.

6 “[5] (6) School districts and public charter schools shall assess school
7 curricula at regular intervals to measure the attainment of the minimum
8 number of minutes that students are required to participate in physical ed-
9 ucation under this section.

10 “[6] (7)(a) All teachers of physical education for public school students
11 in kindergarten through grade [8] **eight** shall be adequately prepared and
12 shall regularly participate in professional development activities to effec-
13 tively deliver the physical education program.

14 **“(b)(A) Notwithstanding any licensing or endorsement requirements**
15 **established by the Teacher Standards and Practices Commission, a**
16 **teacher with an elementary multiple subject endorsement may in-**
17 **struct students in activities described in subsection (4)(b) of this sec-**
18 **tion if the activities are reviewed by a licensed teacher with a physical**
19 **education endorsement.**

20 **“(B) A teacher described in this paragraph may provide instruction**
21 **in activities described in subsection (4)(b) of this section to students**
22 **who are not regularly taught by the teacher as long as the instruction**
23 **in the activities to students who are not regularly taught by the**
24 **teacher does not exceed 45 minutes during each school week. Nothing**
25 **in this subparagraph allows a school district to employ a teacher for**
26 **the sole purpose of providing instruction in activities described in**
27 **subsection (4)(b) of this section.**

28 **“(8) A school district that does not comply with the requirements**
29 **of this section is considered to be nonstandard under ORS 327.103.**

30 **“SECTION 2. (1) Except as provided by subsections (2) and (3) of**

1 **this section and only for school years prior to the 2022-2023 school**
2 **year, a school district may not be considered nonstandard under ORS**
3 **327.103 and moneys may not be withheld or any other penalty or**
4 **sanctions imposed on a school district that does not comply with the**
5 **time requirements established by ORS 329.496 (2).**

6 **“(2)(a) For the 2019-2020 school year, students identified in ORS**
7 **329.496 (2)(a) shall participate in physical education for at least 120**
8 **minutes during each school week.**

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

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

15 **“(3)(a) For the 2021-2022 school year, students identified in ORS**
16 **329.496 (2)(b) shall participate in physical education for at least 180**
17 **minutes during each school week.**

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

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

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

25 **“(a) Prorate time requirements provided by this section in compli-**
26 **ance with rules adopted by the State Board of Education under ORS**
27 **329.496 (2)(c);**

28 **“(b) Apply up to 45 minutes of activities described in ORS 329.496**
29 **(4)(b) to the time requirements provided by this section; and**

30 **“(c) Cease to comply with the time requirements provided by this**

1 **section if the conditions described in ORS 329.496 (2)(d) are satisfied.**

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

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

4 **“329.498. (1) The Department of Education shall collect data from school**
5 **districts on:**

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

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

15 **“(c) The additional facilities required by public schools to provide phys-**
16 **ical education to students as described in paragraph (b) of this subsection.**

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

19 **“(a) Annually, for data described in subsection (1)(a) of this section.**

20 **“(b) Whenever a public school increases or decreases the school’s physical**
21 **capacity to provide students with physical education, for data described in**
22 **subsection (1)(b) and (c) of this section.**

23 **“(3) The department shall provide technical assistance to school**
24 **districts and public charter schools to enable the school districts and**
25 **public charter schools to comply with the requirements of ORS 329.496.**

26 **“SECTION 5. (1) The Department of Education shall develop rec-**
27 **ommendations for implementing the provisions of ORS 329.496 (2)(b).**

28 **“(2) For the purpose of developing the recommendations, the de-**
29 **partment shall collaborate with advocates for physical education, rep-**
30 **resentatives of school districts, educators and other interested**

1 stakeholders. Collaboration may be in person, electronically, or a
2 combination of both.

3 “(3) When developing the recommendations, the department shall
4 consider:

5 “(a) Best practices for providing physical education to students in
6 grades six through eight and balance those best practices with re-
7 sources available for providing physical education to students in
8 grades six through eight, including scheduling issues, facility avail-
9 ability, costs for adding or upgrading facilities, moneys available for
10 adding or upgrading facilities, the availability and costs of licensed
11 physical education teachers and any other issues identified by the en-
12 tities identified in subsection (2) of this section.

13 “(b) All options for implementing the requirements of ORS 329.496
14 (2)(b) and other alternatives to the requirements of ORS 329.496 (2)(b)
15 that are available for providing physical education to students in
16 grades six through eight.

17 “(4) All agencies of state government, as defined in ORS 174.111, and
18 school districts are directed to assist the department in the perform-
19 ance of the department’s duties under this section and, to the extent
20 permitted by laws relating to confidentiality, to furnish information
21 and advice the department considers necessary to perform its duties.

22 “(5) The department may accept donations of time and money for
23 the purpose of fulfilling the duties of the department under this sec-
24 tion.

25 “(6) The department shall submit any recommendations for legis-
26 lation to the interim committees of the Legislative Assembly related
27 to education no later than November 15, 2018.

28 “SECTION 6. Section 5 of this 2017 Act becomes operative on Jan-
29 uary 1, 2018.

30 “SECTION 7. Section 5 of this 2017 Act is repealed on December 31,

1 2018.

2 **“SECTION 8. This 2017 Act being necessary for the immediate**
3 **preservation of the public peace, health and safety, an emergency is**
4 **declared to exist, and this 2017 Act takes effect July 1, 2017.”.**

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