

**Enrolled**  
**House Bill 3427**

Sponsored by COMMITTEE ON RULES (at the request of Representative Barbara Smith Warner)

CHAPTER .....

AN ACT

Relating to education funding; creating new provisions; amending ORS 316.037, 327.008, 327.527, 327.535, 329.095, 417.790 and 417.847; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

**FUND FOR STUDENT SUCCESS**

**SECTION 1.** Section 2 of this 2019 Act is added to and made a part of ORS chapter 327.

**SECTION 2. Fund for Student Success; transfers to accounts.** (1) The Fund for Student Success is established in the State Treasury, separate and distinct from the General Fund.

(2) The Fund for Student Success shall consist of moneys appropriated by the Legislative Assembly, moneys transferred to the fund under section 76 of this 2019 Act and moneys received as provided in subsection (3) of this section.

(3) The Department of Education, on behalf of the State of Oregon, may solicit and accept gifts, grants, donations and other moneys from public and private sources for the Fund for Student Success. Moneys received as provided in this subsection shall be deposited into the Fund for Student Success.

(4) Moneys in the Fund for Student Success are continuously appropriated to the department for:

(a) Transfer to the State School Fund in the amount calculated by the Legislative Fiscal Officer and the Legislative Revenue Officer to be the sum of:

(A) At least \$40 million, for the purpose of a transfer under ORS 327.008 (11) to the High Cost Disabilities Account established in ORS 327.348; and

(B) The amount of change in General Fund revenue to be collected in the biennium due to the amendments to ORS 316.037 by section 56 of this 2019 Act and the operation of sections 58 to 76 of this 2019 Act.

(b) Of the amount remaining in the Fund for Student Success after the transfer prescribed by paragraph (a) of this subsection, transfer to other education accounts as follows:

(A) At least 50 percent to the Student Investment Account established in section 8 of this 2019 Act.

(B) Up to 30 percent to the Statewide Education Initiatives Account established in section 24 of this 2019 Act.

(C) At least 20 percent to the Early Learning Account established in section 51 of this 2019 Act.

**SECTION 3. (1) In addition to and not in lieu of the transfer under section 2 of this 2019 Act, for the biennium beginning July 1, 2019, the Department of Education shall transfer from the Fund for Student Success to the State School Fund an amount that equals \$200 million.**

**(2) Notwithstanding section 2 (4)(a) of this 2019 Act, for the biennium beginning July 1, 2019, the amount the Department of Education shall transfer from the Fund for Student Success to the State School Fund for the purpose of a transfer under ORS 327.008 (11) to the High Cost Disabilities Account established in ORS 327.348 shall be \$20 million.**

#### STATE SCHOOL FUND

**SECTION 4.** ORS 327.008, as amended by section 22, chapter 639, Oregon Laws 2017, and section 5, chapter 700, Oregon Laws 2017, is amended to read:

327.008. (1)(a) There is established a State School Fund in the General Fund.

(b) The Department of Education, on behalf of the State of Oregon, may solicit and accept gifts, grants, donations and other moneys from public and private sources for the State School Fund. Moneys received as provided in this paragraph shall be deposited into the State School Fund.

(c) The State School Fund shall consist of moneys appropriated by the Legislative Assembly, **moneys transferred from the Fund for Student Success**, moneys transferred from the Education Stability Fund and the Oregon Marijuana Account and moneys received as provided in paragraph (b) of this subsection.

(d) The State School Fund is continuously appropriated to the Department of Education for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 336.575, 336.580, 336.635, 343.243, 343.533, 343.941 and 343.961 and sections 1 to 3, chapter 735, Oregon Laws 2013.

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

(3) For the first school year after a public charter school ceases to operate because of dissolution or closure or because of termination or nonrenewal of a charter, there shall be apportioned from the State School Fund to each school district that had sponsored a public charter school that ceased to operate an amount equal to the school district's general purpose grant per extended ADMw multiplied by five percent of the ADM of the public charter school for the previous school year.

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

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

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

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

(8) The total amount of the State School Fund that is distributed as facility grants may not exceed \$7 million in any biennium. If the total amount to be distributed as facility grants exceeds this limitation, the Department of Education shall prorate the amount of funds available for facility grants among those school districts that qualified for a facility grant. If the total amount to be distributed as facility grants does not exceed this limitation, any remaining amounts shall be expended for expenses incurred by the Office of School Facilities as provided in ORS 326.125 (1).

(9) Each biennium, the Department of Education may expend from the State School Fund no more than \$6 million for expenses incurred by the Office of School Facilities under ORS 326.125 (2) to (6).

(10) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facility Account established in ORS 327.022 the amount necessary to pay the costs of educational services provided to students admitted to pediatric nursing facilities as provided in ORS 343.941.

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

(12)(a) Each biennium, the Department of Education shall transfer \$39.5 million from the State School Fund to the Educator Advancement Fund established under ORS 342.953.

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

(A) The total amount available for all distributions from the State School Fund shall be reduced by \$6 million;

(B) The amount distributed to school districts from the State School Fund under this section and ORS 327.013 shall be reduced by \$16.75 million; and

(C) The amount distributed to education service districts from the State School Fund under this section and ORS 327.019 shall be reduced by \$16.75 million.

(c) For each biennium, the amounts identified in this subsection shall be adjusted by the same percentage by which the instructions furnished to state agencies by the Governor under ORS 291.204 direct the state agencies to adjust their agency budget requests for special payments under ORS 291.216 (6)(a)(C).

(13) Each biennium, the Department of Education shall transfer \$12.5 million from the State School Fund to the Statewide English Language Learner Program Account established under ORS 327.344.

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

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

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

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

(18) Each biennium, the Department of Education shall transfer \$2 million from the State School Fund for deposit to the Healthy School Facilities Fund established under ORS 332.337. Notwithstanding ORS 332.337, the department may expend moneys received in the Healthy School Facilities Fund under this subsection only as grants for costs associated with testing for elevated levels of lead in water used for drinking or food preparation.

**SECTION 5.** ORS 327.008, as amended by section 7, chapter 735, Oregon Laws 2013, section 7, chapter 81, Oregon Laws 2014, section 2, chapter 68, Oregon Laws 2015, section 38, chapter 245, Oregon Laws 2015, section 2, chapter 555, Oregon Laws 2015, section 11, chapter 604, Oregon Laws 2015, section 2, chapter 644, Oregon Laws 2015, section 8, chapter 783, Oregon Laws 2015, sections 22 and 23, chapter 639, Oregon Laws 2017, sections 5 and 6, chapter 700, Oregon Laws 2017, and section 34, chapter 725, Oregon Laws 2017, is amended to read:

327.008. (1)(a) There is established a State School Fund in the General Fund.

(b) The Department of Education, on behalf of the State of Oregon, may solicit and accept gifts, grants, donations and other moneys from public and private sources for the State School Fund. Moneys received as provided in this paragraph shall be deposited into the State School Fund.

(c) The State School Fund shall consist of moneys appropriated by the Legislative Assembly, **moneys transferred from the Fund for Student Success**, moneys transferred from the Education

Stability Fund and the Oregon Marijuana Account and moneys received as provided in paragraph (b) of this subsection.

(d) The State School Fund is continuously appropriated to the Department of Education for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 336.575, 336.580, 336.635, 343.243, 343.533, 343.941 and 343.961.

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

(3) For the first school year after a public charter school ceases to operate because of dissolution or closure or because of termination or nonrenewal of a charter, there shall be apportioned from the State School Fund to each school district that had sponsored a public charter school that ceased to operate an amount equal to the school district's general purpose grant per extended ADMw multiplied by five percent of the ADM of the public charter school for the previous school year.

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

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

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

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

(8) The total amount of the State School Fund that is distributed as facility grants may not exceed \$7 million in any biennium. If the total amount to be distributed as facility grants exceeds this limitation, the Department of Education shall prorate the amount of funds available for facility grants among those school districts that qualified for a facility grant. If the total amount to be distributed as facility grants does not exceed this limitation, any remaining amounts shall be expended for expenses incurred by the Office of School Facilities as provided in ORS 326.125 (1).

(9) Each biennium, the Department of Education may expend from the State School Fund no more than \$6 million for expenses incurred by the Office of School Facilities under ORS 326.125 (2) to (6).

(10) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facility Account established in ORS 327.022 the amount necessary to pay the costs of educational services provided to students admitted to pediatric nursing facilities as provided in ORS 343.941.

(11) Each fiscal year, the Department of Education shall transfer the amount of [~~\$35~~] **\$55** million from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

(12)(a) Each biennium, the Department of Education shall transfer \$39.5 million from the State School Fund to the Educator Advancement Fund established under ORS 342.953.

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

(A) The total amount available for all distributions from the State School Fund shall be reduced by \$6 million;

(B) The amount distributed to school districts from the State School Fund under this section and ORS 327.013 shall be reduced by \$16.75 million; and

(C) The amount distributed to education service districts from the State School Fund under this section and ORS 327.019 shall be reduced by \$16.75 million.

(c) For each biennium, the amounts identified in this subsection shall be adjusted by the same percentage by which the instructions furnished to state agencies by the Governor under ORS 291.204 direct the state agencies to adjust their agency budget requests for special payments under ORS 291.216 (6)(a)(C).

(13) Each biennium, the Department of Education shall transfer \$12.5 million from the State School Fund to the Statewide English Language Learner Program Account established under ORS 327.344.

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

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

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

(17) Each biennium, the Department of Education shall transfer \$2 million from the State School Fund for deposit to the Healthy School Facilities Fund established under ORS 332.337. Notwithstanding ORS 332.337, the department may expend moneys received in the Healthy School Facilities Fund under this subsection only as grants for costs associated with testing for elevated levels of lead in water used for drinking or food preparation.

**SECTION 6. (1) The amendments to ORS 327.008 by section 5 of this 2019 Act become operative on July 1, 2020.**

**(2) The amendments to ORS 327.008 by section 5 of this 2019 Act apply to State School Fund distributions commencing with the 2020-2021 distributions.**

## **STUDENT INVESTMENT ACCOUNT**

**SECTION 7. Sections 8 to 19 of this 2019 Act are added to and made a part of ORS chapter 327.**

**SECTION 8. Student Investment Account. (1) The Student Investment Account is established within the Fund for Student Success.**

**(2) The Student Investment Account shall consist of:**

**(a) Moneys transferred to the account from the Fund for Student Success;**

**(b) Moneys appropriated or otherwise transferred to the account by the Legislative Assembly;**

**(c) Amounts donated to the account; and**

**(d) Other amounts deposited into the account from any source.**

**(3) The Department of Education, on behalf of the State of Oregon, may solicit and accept gifts, grants, donations and other moneys from public and private sources for the Student Investment Account. Moneys received as provided in this subsection shall be deposited into the Student Investment Account.**

**(4) Moneys in the Student Investment Account are continuously appropriated to the Department of Education for the purposes of distributing grants under section 13 of this 2019 Act.**

**SECTION 9. Allowed uses of grants from Student Investment Account. (1) In addition to those moneys distributed through the State School Fund, the Department of Education shall award grants from the Student Investment Account. Grants shall be distributed as provided under section 13 of this 2019 Act.**

**(2) The purposes of grants distributed under section 13 of this 2019 Act shall be to:**

**(a) Meet students' mental or behavioral health needs; and**

**(b) Increase academic achievement for students, including reducing academic disparities for:**

(A) Economically disadvantaged students, as determined based on eligibility for free or reduced price lunches under the United States Department of Agriculture’s current Income Eligibility Guidelines;

(B) Students from racial or ethnic groups that have historically experienced academic disparities, as determined under rules adopted by the State Board of Education;

(C) Students with disabilities;

(D) Students who are English language learners;

(E) Students who are foster children, as defined in ORS 30.297;

(F) Students who are homeless, as determined under rules adopted by the State Board of Education; and

(G) Any other student groups that have historically experienced academic disparities, as determined by the State Board of Education by rule.

(3) Grant moneys received under section 13 of this 2019 Act may be used by a grant recipient only for:

(a) Increasing instructional time, which may include:

(A) More hours or days of instructional time;

(B) Summer programs;

(C) Before-school or after-school programs; or

(D) Technological investments that minimize class time used for assessments administered to students.

(b) Addressing students’ health or safety needs, which may include:

(A) Social-emotional learning and development;

(B) Student mental and behavioral health;

(C) Improvements to teaching and learning practices or organizational structures that lead to better interpersonal relationships at the school;

(D) Student health and wellness;

(E) Trauma-informed practices;

(F) School health professionals and assistants; or

(G) Facility improvements directly related to improving student health or safety.

(c) Reducing class sizes, which may include increasing the use of instructional assistants, by using evidence-based criteria to ensure appropriate student-teacher ratios or staff caseloads.

(d) Expanding availability of and student participation in well-rounded learning experiences, which may include:

(A) Developmentally appropriate and culturally responsive early literacy practices and programs in prekindergarten through third grade;

(B) Culturally responsive practices and programs in grades six through eight, including learning, counseling and student support that is connected to colleges and careers;

(C) Broadened curricular options at all grade levels, including access to:

(i) Art, music and physical education classes;

(ii) Science, technology, engineering and mathematics education;

(iii) Career and technical education, including career and technical student organization programs;

(iv) Electives that are engaging to students;

(v) Accelerated college credit programs, including dual credit programs, International Baccalaureate programs and advanced placement programs;

(vi) Dropout prevention programs and transition supports;

(vii) Life skills classes; or

(viii) Talented and gifted programs; or

(D) Access to licensed educators with a library media endorsement.

**SECTION 10. Application requirements to receive grants from Student Investment Account.** (1) As used in this section, “eligible applicant” means:

(a) Common school districts and union high school districts; and  
(b) Public charter schools that are not virtual public charter schools, as defined in ORS 338.005, and that have a student population of which:

(A) At least 35 percent of the student population is composed of students from the following student groups:

- (i) Economically disadvantaged, as described in section 9 (2)(b)(A) of this 2019 Act;
- (ii) Racial or ethnic groups that have historically experienced academic disparities, as described in section 9 (2)(b)(B) of this 2019 Act; or
- (iii) Students with disabilities, as described in section 9 (2)(b)(C) of this 2019 Act; and

(B) The percentage of the students from student groups identified under subparagraph (A) of this paragraph is greater than:

(i) The percentage of all students in the school district who are economically disadvantaged, if eligibility is determined based on the percentage of students who are economically disadvantaged;

(ii) The percentage of all students in the school district who are from racial or ethnic groups that have historically experienced academic disparities, if eligibility is determined based on the percentage of students who are from those racial or ethnic groups; or

(iii) The percentage of all students in the school district who are disabled, if eligibility is determined based on the percentage of students who are disabled.

(2)(a) Eligible applicants may apply for a grant from the Student Investment Account to receive a distribution under section 12 of this 2019 Act.

(b) Notwithstanding ORS 338.155 (9), a public charter school that is not an eligible applicant may not apply for a grant under this section.

(3) Prior to preparing a grant application, an eligible applicant must:

(a) If the eligible applicant is a school district, determine whether the school district will allow public charter schools sponsored by the school district to participate in the grant application and the grant agreement.

(b) If the eligible applicant is a public charter school, determine whether the public charter school intends to apply for a grant and provide notice of that intent to the school district that is the sponsor of the public charter school and to the Department of Education.

(4)(a) If an eligible applicant is a school district and decides to include public charter schools in the grant application and grant agreement, the school district must provide all public charter schools sponsored by the school district the opportunity to participate in the grant application and grant agreement.

(b)(A) A public charter school is not required to participate in the grant application and grant agreement of a school district.

(B) If a public charter school does not participate in a grant application and grant agreement under this subsection:

(i) The ADMw of the public charter school may not be used in the calculation of the school district ADMw for grants distributed under section 13 of this 2019 Act; and

(ii) The public charter school is not entitled to any grant moneys distributed under section 13 of this 2019 Act.

(C) If a public charter school participates in a grant application and grant agreement under this subsection:

(i) The public charter school and school district shall enter into an agreement for the distribution of moneys or the provision of services, including any accountability measures required of the public charter school by the school district;

(ii) The ADMw of the public charter school shall be used in the calculation of the school district ADMw for grants distributed under section 13 of this 2019 Act; and

(iii) The public charter school is entitled to any grant moneys or services provided for in the agreement entered into under this subparagraph.

(5)(a) For the purpose of preparing a grant application, an eligible applicant must determine:

(A) Which of the allowed uses identified in section 9 (3) of this 2019 Act the eligible applicant will fund with grant moneys; and

(B) Which of the eligible uses identified under subparagraph (A) of this paragraph the eligible applicant will designate to meeting student mental and behavioral health needs.

(b) An eligible applicant shall make the determinations required under paragraph (a) of this subsection by:

(A) Engaging in strategic planning; and

(B) Considering the recommendations of the Quality Education Commission established under ORS 327.500.

(6)(a) The strategic planning required under subsection (5) of this section must include:

(A) A completed needs assessment, as described in ORS 329.095;

(B) An analysis of the potential academic impact, both for the students of the eligible applicant and for student groups identified in section 9 (2)(b) of this 2019 Act, from the allowed uses that would be funded by grant moneys; and

(C) The creation of budgets for the allowed uses that would be funded by grant moneys.

(b) The strategic planning required under subsection (5) of this section must take into consideration:

(A) Input from the community of the eligible applicant, including school employees, students from student groups identified in section 9 (2)(b) of this 2019 Act and parents of those students; and

(B) Data collected by the eligible applicant to enable the eligible applicant to make equity-based decisions.

(7) Based on the strategic planning described in subsection (6) of this section, the eligible applicant shall develop a four-year plan for the use of grant moneys. The plan must be updated every two years and must:

(a) Identify which allowed uses identified in section 9 (3) of this 2019 Act will be funded with grant moneys and which of those uses will be designated to meet student mental and behavioral health needs.

(b) Describe how the allowed uses identified under paragraph (a) of this subsection will be used to:

(A) Meet students' mental and behavioral health needs;

(B) Increase academic achievement for students of the eligible applicant; and

(C) Reduce academic disparities for student groups identified in section 9 (2)(b) of this 2019 Act who are served by the eligible applicant, and identify which of those student groups will benefit from the allowed uses that are being funded with grant moneys.

(c) Include the budgets for the allowed uses to be funded with grant moneys.

(d) Be approved by the governing body of the eligible applicant at an open meeting, following:

(A) Provision of the plan at the main office of the eligible applicant and on the eligible applicant's website;

(B) Oral presentation of the plan by an administrator of the eligible applicant to the governing body of the eligible applicant; and

(C) Opportunity for the public to comment on the plan at an open meeting.

(e) Be a part of the local district continuous improvement plan described in ORS 329.095, if the eligible applicant is a school district.

(8) To apply for a grant, an eligible applicant must submit an application every two years in a format and according to timelines prescribed by the Department of Education. The application must include:

(a) A completed needs assessment, as described in ORS 329.095;

(b) The plan developed under subsection (7) of this section; and



(c) Budget estimates for each of the allowed uses identified in the plan developed under subsection (7) of this section that will be funded by grant moneys.

**SECTION 11.** Notwithstanding section 10 of this 2019 Act, any plans submitted for a grant from the Student Investment Account to be used before the 2021-2023 biennium must be for a three-year plan and must be updated after the first year.

**SECTION 12.** Approval of applications to receive grants from the Student Investment Account; performance growth targets. (1) As used in this section:

(a) “Disaggregated” means separated based on the student groups identified in section 9 (2)(b) of this 2019 Act.

(b) “Five-year completion rate” means the percentage of students who received a high school diploma, a modified diploma or an extended diploma or who received a certificate for passing an approved high school equivalency test such as the General Educational Development test (GED) within five years of the student beginning the ninth grade.

(c) “High school diploma” means a diploma that is awarded to a student upon satisfaction of the requirements prescribed by ORS 329.451 (2).

(d) “Ninth-grade on-track rates” means the percentage of students who, at the end of the summer following the year the students began ninth grade, completed one quarter of the credits required for high school graduation.

(e) “On-time graduation rate” means the percentage of students who received a high school diploma or a modified diploma within four years of the students beginning the ninth grade.

(f) “Regular attendance rates” means the percentage of students who are absent, as determined by Department of Education policy, for less than 10 percent of the school days for which the students are enrolled.

(g) “Third-grade reading proficiency rate” means the percentage of students in the third grade who are determined to be proficient or above in English language arts, as determined under rules adopted by the State Board of Education.

(2) The Department of Education shall review all applications for grants from the Student Investment Account that comply with the requirements prescribed by section 10 of this 2019 Act.

(3) If an application complies with the requirements of section 10 of this 2019 Act, the department shall collaborate with the grant recipient to develop applicable longitudinal performance growth targets. The longitudinal performance growth targets must:

(a) Be based on data available for longitudinal analysis;

(b) Be developed based on guidance established by the department; and

(c) Use the following applicable metrics:

(A) On-time graduation rates and five-year completion rates, including:

(i) The overall on-time graduation rate and five-year completion rate.

(ii) Gaps in disaggregated on-time graduation rates and five-year completion rates.

(B) Ninth-grade on-track rates, including:

(i) The overall ninth-grade on-track rate.

(ii) Gaps in disaggregated ninth-grade on-track rates.

(C) Third-grade reading proficiency rates, including:

(i) The overall third-grade reading proficiency rate.

(ii) Gaps in disaggregated third-grade reading proficiency rates.

(D) Regular attendance rates, including:

(i) The overall regular attendance rate.

(ii) Gaps in disaggregated regular attendance rates.

(4) In addition to the metrics identified in subsection (3) of this section, other local metrics may be used to develop applicable performance growth targets.

(5) When developing performance growth targets, the department and grant recipient shall:

- (a) Review disaggregated student data;
- (b) Apply a process adopted by the department for the purpose of strategically developing equitable policies and programs; and
- (c) Identify which student groups identified in section 9 (2)(b) of this 2019 Act are most at risk of not meeting performance growth targets.

(6)(a) After developing performance growth targets, the department and grant recipient shall enter into a grant agreement. The grant agreement must include applicable performance growth targets for measuring the academic growth of the students of the grant recipient.

(b) A grant agreement is not valid until approved by the governing body of the grant recipient at an open meeting following:

(A) Provision of the plan at the main office of the grant recipient and on the grant recipient's website;

(B) Oral presentation of the plan by an administrator of the grant recipient to the governing body of the grant recipient; and

(C) Opportunity for the public to comment on the plan at an open meeting.

(7) Any agreements between a public charter school and a grant recipient that is a school district shall become part of the grant agreement.

**SECTION 13. Calculations of grant amounts; distributions of grants.** (1)(a) Except as provided by paragraph (d) of this subsection, the amount of a grant awarded from the Student Investment Account = the grant recipient's ADMw × (the total amount available for distribution as grants in each biennium ÷ the total ADMw of all grant recipients).

(b) For purposes of this subsection and except as provided by paragraph (c) of this subsection, ADMw equals the ADMw as calculated under ORS 327.013, except that the additional amount allowed for students who are in poverty families, as determined under ORS 327.013 (1)(c)(A)(v)(I), shall be 0.5.

(c) When calculating ADMw, the Department of Education shall remove from a school district's calculation any amounts that are attributable to:

(A) A virtual public charter school, as defined in ORS 338.005;

(B) A public charter school that provided notice of the public charter school's intent to apply for a grant as an eligible applicant; and

(C) A public charter school sponsored by the school district that did not participate in the grant application or grant agreement.

(d) The amount of a grant distributed under this section may be adjusted by the department to ensure that:

(A) A grant recipient does not receive any moneys for uses that are not allowed uses under section 9 (3) of this 2019 Act.

(B) A school district with an ADMw of 50 or less receives a minimum grant amount.

(2) The State Board of Education shall adopt any rules necessary for the distribution of grants under this section, including establishing:

(a) The minimum grant amounts under subsection (1)(d) of this section; and

(b) Any percentages and timelines for installment payments and adjustments of those installment payments.

(3) A grant recipient shall deposit the grant moneys the grant recipient receives under this section into a separate account and shall apply amounts in that account as provided by the grant agreement.

**SECTION 14.** The Department of Education shall establish timelines that allow for the first distributions to be made under section 13 of this 2019 Act for the 2020-2021 school year.

**SECTION 15. Financial audits; determinations of moneys not spent in accordance with grant agreement or failure to meet performance growth targets.** (1)(a) Each year, each recipient of a grant from the Student Investment Account shall:

(A) Conduct a financial audit of the use of grant moneys that is prepared in accordance with the Municipal Audit Law; and

(B) Review the grant recipient's progress toward meeting the performance growth targets in the grant agreement.

(b) Results of the financial audit and progress review must be:

(A) Made available at the main office of the grant recipient and on the grant recipient's website.

(B) Presented to the governing body of the grant recipient at an open meeting, following:

(i) Oral presentation of the results by an administrator of the grant recipient to the governing body of the grant recipient; and

(ii) Opportunity for the public to comment on the results at an open meeting.

(C) Forwarded to the Department of Education.

(2)(a) Based on information received under subsection (1) of this section, the department shall determine each year whether grant moneys received by a grant recipient were used as provided by the grant agreement.

(b) If a grant recipient did not use grant moneys as provided by the grant agreement, the department shall:

(A) Collaborate with the grant recipient to identify and implement specific interventions;

(B) Provide technical assistance to the grant recipient as described in section 16 of this 2019 Act; or

(C) Deduct amounts from future grant distributions.

(c) If amounts are to be deducted from future grant distributions under paragraph (b)(C) of this subsection, the grant recipient may appeal to the State Board of Education for review as provided by the board by rule.

(d) If a grant recipient fails to commit to spending all available grant moneys, the department may deduct amounts not committed from future grant distributions.

(3)(a) The department shall determine each biennium if a grant recipient does not meet performance growth targets identified in the grant agreement.

(b) If a grant recipient does not meet the performance growth targets:

(A) The grant recipient may submit an explanation for the reasons why the performance growth targets were not met; and

(B) The department may:

(i) Take into consideration the explanation submitted by the grant recipient;

(ii) Require the grant recipient to enter into a coaching program described in section 17 of this 2019 Act; or

(iii) Direct the expenditure of grant moneys.

(4) Each grant recipient must conduct a performance review every four years, as required by standards adopted by the board by rule.

(5)(a) Based on a review of the information received under subsection (1) of this section, the department may require a grant recipient to conduct a financial audit on a specific funding area or multiple funding areas.

(b) The department may establish a procedure for conducting performance audits on a random basis or based on just cause as allowed under rules adopted by the board.

**SECTION 16. Technical assistance provided by the Department of Education.** (1) The Department of Education shall make available technical assistance to eligible applicants, as defined in section 10 of this 2019 Act, and to recipients of a grant from the Student Investment Account. The technical assistance shall include the provision of assistance with:

(a) Strategic planning for the use of grant moneys;

(b) Developing an application for a grant from the Student Investment Account;

(c) Identifying and implementing best practices for meeting performance growth targets; and

(d) Identifying and implementing promising practices related to a grant agreement.

- (2) When providing technical assistance, the department shall:
- (a) Apply a process adopted by the department to strategically develop equitable policies and programs; and
  - (b) Ensure that technical assistance is based on the eligible applicant's or grant recipient's specific needs and demographics.
- (3) For the purpose of providing technical assistance under this section, the department may enter into contracts with entities the department determines are qualified to provide the technical assistance.

**SECTION 17. Coaching program for grant recipients that do not meet performance growth targets.** (1) The Department of Education shall establish a coaching program for recipients of a grant from the Student Investment Account that do not meet the performance growth targets specified in their grant agreements. A public charter school may participate in the coaching program only if the public charter school received a grant directly from the department and did not meet the performance growth targets specified in the public charter school's grant agreement.

(2) If required by the department under section 15 of this 2019 Act to participate in a coaching program, a grant recipient must participate in the coaching program. Participation in the coaching program must be for at least one year, unless the department allows for a shorter period of time. Under the program, the department shall advise and counsel grant recipients on how to meet performance growth targets and shall assist grant recipients with ongoing professional development and peer collaboration.

(3) After a grant recipient has completed the coaching program, the department shall make available to the grant recipient ongoing technical assistance as described in section 16 of this 2019 Act.

(4) For the purpose of providing the coaching program under this section, the department may enter into contracts with entities the department determines are qualified to provide the coaching.

**SECTION 18. Intensive program for high needs school districts.** (1) The Department of Education shall establish an intensive program for school districts with the highest needs in this state.

(2)(a) The department shall identify and select school districts to participate in the intensive program. The department may not select a public charter school under this section.

(b) A school district that agrees to participate in the intensive program must participate in the program for at least four years.

(3) A school district that agrees to participate in the intensive program shall be eligible for additional funding from the Statewide Education Initiatives Account. The additional funding shall be based on rules adopted by the State Board of Education and shall be calculated based on the ADMw of the school district, as calculated under section 13 of this 2019 Act.

- (4) A school district that agrees to participate in the intensive program shall:
- (a) Commit to regular student success plan meetings to monitor practices;
  - (b) Use data to track student progress;
  - (c) Ensure school employees receive appropriate professional development and training;
  - (d) Create safe and inclusive learning environments;
  - (e) Improve school and school district practices and structures to support teaching and learning; and

(f) Improve the skills of the members of the school board.

(5) For the purpose of assisting school districts participating in the intensive program, the department shall establish student success teams. Student success teams shall be composed of personnel with expertise in school and school district improvement strategies, including the use of differentiated instruction and inclusionary practices.

(6)(a) Under the intensive program, student success teams shall:

- (A) Advise and counsel school districts on how to improve performance outcomes; and
- (B) Develop recommendations for meeting performance growth targets.
- (b) School district boards and superintendents of school districts participating in an intensive program must:

- (A) Accept all recommendations of the student success teams related to the use of Student Investment Account grant moneys and additional funding received under this section; and

- (B) Consider all recommendations of the student success teams not described in subparagraph (A) of this paragraph.

- (c) A school district that receives recommendations under this subsection must issue a report that:

- (A) Describes the recommendations;

- (B) Identifies the recommendations that will be implemented and the timelines for implementing the recommendations; and

- (C) Identifies the recommendations that will not be implemented and an explanation for why the recommendations will not be implemented.

- (d) The report required under paragraph (c) of this subsection must be:

- (A) Made available at the school district's main office and on the school district's website; and

- (B) Distributed to the school district community, including employees of the school district and families of the students of the school district.

**SECTION 19. Reports to the Legislative Assembly.** The Department of Education shall make a report to the committees of the Legislative Assembly related to education no later than February 1 of each year regarding the implementation of sections 8 to 19 of this 2019 Act. The report must include an annual performance review of each eligible applicant, as defined in section 10 of this 2019 Act. The report must:

- (1) Identify whether the eligible applicant received a grant under sections 8 to 19 of this 2019 Act.

- (2) For grant recipients, include a comparison of the grant recipient's progress toward meeting performance growth targets compared with the actual performance growth targets established by the department for the following:

- (a) On-time graduation rates and five-year completion rates, including the overall rate and disaggregated student group rates;

- (b) Ninth-grade on-track rates, including the overall rate and disaggregated student group rates;

- (c) Third-grade reading proficiency rates, including the overall rate and disaggregated student group rates;

- (d) Regular attendance rates, including the overall rate and disaggregated student group rates; and

- (e) Any optional local metrics.

**SECTION 20.** The Department of Education must make the first report required under section 19 of this 2019 Act no later than February 1, 2022.

**SECTION 21.** ORS 329.095 is amended to read:

329.095. (1)(a) The Department of Education shall require school districts and schools to conduct self-evaluations and to periodically update their local district continuous improvement plans. Except as provided by paragraph (b)(C) of this subsection, the department may not require school districts or schools to conduct self-evaluations or to update their local district continuous improvement plans more frequently than biennially.

- (b) The department may require a school district to:

- (A) File, periodically, or at the department's request, its local district continuous improvement plan with the department;

(B) Notify the department of any substantial changes, as defined by rule of the State Board of Education, to the school district; or

(C) Update its local district continuous improvement plan when there has been a substantial change, as defined by rule of the board, to the school district.

(c) The self-evaluation process conducted as provided by this subsection shall involve the public in the setting of local goals. The school districts shall ensure that representatives from the demographic groups of their school population are invited to participate in the development of local district continuous improvement plans to achieve the goals.

(2) As part of setting local goals, school districts shall undertake a communications process that involves parents, students, teachers, school employees and community representatives to explain and discuss the local goals and their relationship to programs under this chapter.

(3) At the request of the school district, department staff shall provide ongoing technical assistance in the development and implementation of the local district continuous improvement plan.

(4) The local district continuous improvement plan shall include:

(a) Goals to implement the following:

(A) A rigorous curriculum aligned with state standards;

(B) High-quality instructional programs;

(C) Short-term and long-term professional development plans;

(D) Programs and policies that achieve a safe educational environment;

(E) A plan for family and community engagement;

(F) Staff leadership development;

(G) High-quality data systems;

(H) Improvement planning that is data-driven;

(I) Education service plans for students who have or have not exceeded all of the academic content standards; and

(J) A strong school library program;

(b) A review of demographics, student performance, staff characteristics and student access to, and use of, educational opportunities; *[and]*

(c) A description of district efforts to achieve local efficiencies and efforts to make better use of resources[.]; **and**

**(d) A needs assessment, which shall:**

**(A) Be conducted in a manner that is inclusive of school employees, students from student groups identified in section 9 (2)(b) of this 2019 Act and parents of those students.**

**(B) Address the following priorities:**

**(i) Reducing academic disparities for students from student groups identified in section 9 (2)(b) of this 2019 Act;**

**(ii) Meeting students' mental or behavioral health needs;**

**(iii) Providing equitable access to academic courses across the school district or public charter school, with specific emphasis on access by students from student groups identified in section 9 (2)(b) of this 2019 Act;**

**(iv) Allowing teachers and staff to have sufficient time to:**

**(I) Collaborate with other teachers and staff;**

**(II) Review data on students' grades, absences and discipline, based on school and on grade level or course; and**

**(III) Develop strategies to ensure that at-risk students stay on track to graduate; and**

**(v) Possible partnerships with other organizations, federally recognized Indian tribes, school districts, education service districts, regional achievement collaboratives, post-secondary institutions of education, education partners or nonprofit programs and community-based programs that have demonstrated achievement of positive outcomes in work with students from student groups identified in section 9 (2)(b) of this 2019 Act.**

**SECTION 22. The amendments to ORS 329.095 by section 21 of this 2019 Act become operative on July 1, 2020.**

## STATEWIDE EDUCATION INITIATIVES ACCOUNT

**SECTION 23.** Sections 24 and 25 of this 2019 Act are added to and made a part of ORS chapter 327.

**SECTION 24. Statewide Education Initiatives Account.** (1) The Statewide Education Initiatives Account is established within the Fund for Student Success.

(2) The Statewide Education Initiatives Account shall consist of:

(a) Moneys transferred to the account from the Fund for Student Success;

(b) Moneys appropriated or otherwise transferred to the account by the Legislative Assembly;

(c) Amounts donated to the account; and

(d) Other amounts deposited into the account from any source.

(3) The Department of Education, on behalf of the State of Oregon, may solicit and accept gifts, grants, donations and other moneys from public and private sources for the Statewide Education Initiatives Account. Moneys received as provided in this subsection shall be deposited into the account.

(4) Moneys in the Statewide Education Initiatives Account are continuously appropriated to the Department of Education for use as described in section 25 of this 2019 Act.

**SECTION 25. Statewide Education Initiatives Account uses.** (1) The Department of Education shall use moneys in the Statewide Education Initiatives Account to provide funding for statewide education initiatives, including:

(a) Funding the High School Graduation and College and Career Readiness Act at the levels prescribed by ORS 327.856;

(b) Expanding school breakfast and lunch programs;

(c) Operating youth reengagement programs or providing youth reengagement services;

(d) Establishing and maintaining the Statewide School Safety and Prevention System under section 36 of this 2019 Act;

(e) Developing and providing statewide equity initiatives, including the black or African-American education plan developed under ORS 329.841, the American Indian or Alaskan Native education plan developed under section 38 of this 2019 Act, the Latino or Hispanic education plan developed under section 39 of this 2019 Act or any similar education plan identified by the department;

(f) Providing summer learning programs at schools that are considered high poverty under Title I of the federal Elementary and Secondary Education Act of 1965;

(g) Funding early warning systems to assist students in graduating from high school, as described in section 46 of this 2019 Act;

(h) Developing and implementing professional development programs and training programs, including programs that increase educator diversity and retain diverse educators;

(i) Planning for increased transparency and accountability in the public education system of this state;

(j) Providing additional funding to school districts participating in the intensive program under section 18 of this 2019 Act;

(k) Providing technical assistance, including costs incurred for:

(A) The coaching program described in section 17 of this 2019 Act; and

(B) The intensive program described in section 18 of this 2019 Act, including costs for student success teams;

(L) Funding education service districts, as described in subsection (2) of this section; and

(m) Funding costs incurred by the department in implementing this section and sections 8 to 19 and 52 of this 2019 Act.

(2)(a) The amount of a distribution to an education service district under this section = the education service district's ADMw × (the total amount available for distribution to ed-

education service districts in each biennium ÷ the total ADMw of all education service districts that receive a distribution).

(b) For purposes of this subsection, ADMw equals the ADMw as calculated under ORS 327.013, except that the additional amount allowed for students who are in poverty families, as determined under ORS 327.013 (1)(c)(A)(v)(I), shall be 0.5.

(c) An education service district shall use moneys received under this section as provided by a plan developed by the school districts located within the education service district. A school district that declines to participate in the development of the plan or that has withdrawn from an education service district as provided by ORS 334.015 is not entitled to any moneys distributed to the education service district under this subsection.

(d) A plan developed under this subsection must:

(A) Align with and support school districts in meeting the performance growth targets of the school districts developing the plan;

(B) Include the provision of technical assistance to school districts in developing, implementing and reviewing a plan for receiving a grant from the Student Investment Account;

(C) Provide for coordination with the department in administering and providing technical assistance to school districts, including coordinating any coaching programs established under section 17 of this 2019 Act; and

(D) Be adopted and amended as provided for local service plans under ORS 334.175 and approved by the department.

(e) Each education service district must submit an annual report to the department that:

(A) Describes how the education service district spent moneys received under this subsection; and

(B) Includes an evaluation of the education service district's compliance with the plan from the superintendent of each school district that participated in the development of the plan.

(3) The State Board of Education shall adopt rules necessary for the distribution of moneys under this section.

## SCHOOL BREAKFAST AND LUNCH PROGRAMS

**SECTION 26.** ORS 327.535 is amended to read:

327.535. (1) As used in this section, "eligible student" means a student who is eligible for free or reduced price lunches under the United States Department of Agriculture's current Income Eligibility Guidelines.

[(1)] (2) A school district may make breakfast accessible at any school site and shall make breakfast accessible if required by this section. *[Time spent by students consuming breakfast is considered instructional time when students consume breakfast in the students' classroom and instruction is being provided while students are consuming breakfast. No more than 15 minutes may be considered instructional time when students are consuming breakfast.]*

[(2)] (3) Subject to subsections [(3) and] (4) and (5) of this section, a school district that provides lunch at any school site shall make breakfast accessible as part of a breakfast program if 25 percent or more of the students at the school site are eligible students *[for free or reduced price lunches under the United States Department of Agriculture's current Income Eligibility Guidelines]* or the school site qualifies for assistance under Chapter I of Title I of the federal Elementary and Secondary Education Act of 1965.

[(3)] (4) A school district that makes breakfast accessible as provided under subsection [(2)] (3) of this section may apply to the [State Board] Department of Education for a waiver for all or for particular grade levels if [it] the school district is financially unable to implement a breakfast program. The [state board] department may grant a waiver to the school district for a period not to exceed two years, after which the school district must reestablish its claim of financial hardship if the waiver is to be extended.



[4] (5) If the per meal federal reimbursement for the breakfast program falls below the 1991 reimbursement levels, a school district may elect to discontinue the program until federal funding is restored to those levels. No waiver is required for such election.

[5] (6) A school district that makes breakfast accessible at any school site shall make breakfast accessible at that school site at no charge to all **eligible** students [*who are eligible for free or reduced price lunches under the United States Department of Agriculture's current Income Eligibility Guidelines*]. For each breakfast that a school district provides free of charge to a student who is eligible for a reduced price lunch, the department [*of Education*] shall provide reimbursement to the school district for the actual amount that a student would have been required to pay for the reduced price breakfast.

(7)(a) **Except as provided by subsection (8) of this section, a school district that makes breakfast accessible at a school site may choose to make breakfast accessible at that school site after the beginning of the school day.**

(b) **Time spent by students consuming breakfast is considered instructional time when students consume breakfast in the students' classroom and instruction is being provided while students are consuming breakfast. No more than 15 minutes may be considered instructional time when students are consuming breakfast.**

(8)(a) **If 70 percent or more of the students at a school site are eligible students, the school district must make breakfast accessible at that school site after the beginning of the school day.**

(b) **A school district that is required to make breakfast accessible as prescribed by paragraph (a) of this subsection must ensure that breakfast is:**

(A) **Accessible to all students after the beginning of the school day, regardless of grade or arrival time; and**

(B) **Provided free of charge to all students, regardless of whether a student is an eligible student.**

(c) **The department shall provide technical assistance to school districts to meet the requirements of this subsection. Technical assistance may include the development of breakfast delivery models.**

(d) **Notwithstanding paragraph (a) of this subsection, if a school district can demonstrate that 70 percent or more of the eligible students at a school site regularly receive breakfast at the school site without the school district complying with paragraph (a) of this subsection, the school district is not required to comply with paragraph (a) of this subsection.**

(9) **The State Board of Education may adopt any rules necessary for the implementation of this section.**

**SECTION 27.** (1) **The amendments to ORS 327.535 by section 26 of this 2019 Act become operative on July 1, 2020.**

(2) **Notwithstanding the operative date set forth in subsection (1) of this section, the Department of Education may take any action before the operative date set forth in subsection (1) of this section that is necessary for the department to exercise, on and after the operative date set forth in subsection (1) of this section, all of the duties, functions and powers conferred on the department by the amendments to ORS 327.535 by section 26 of this 2019 Act.**

**SECTION 28.** ORS 327.527 is amended to read:

327.527. (1) The Department of Education shall reimburse a school district, government agency or community group five cents for every breakfast or lunch the district, agency or group serves during the summer as a part of:

(a) The United States Department of Agriculture's Summer Food Service Program; or

(b) A summer meals program through an existing national school lunch program.

(2) In addition to the reimbursements provided under subsection (1) of this section, the Department of Education may award grants to school districts, government agencies and community

groups to encourage participation in a program identified in subsection (1) of this section. Each grant may not exceed \$20,000 and must be used to:

(a) Purchase or upgrade necessary equipment and services required to provide food service and meet sanitation requirements;

(b) Make any payment necessary to comply with sanitation requirements that may be required prior to approval; or

(c) Fund participant outreach activities and materials and necessary enrichment activities and materials.

**(3) The department may award grants or enter into contracts to enable school districts to make breakfast accessible as required under ORS 327.535 (8). Each grant or contract may not exceed \$5,000 per school site and must be used to purchase or upgrade necessary equipment required to provide breakfast after the beginning of the school day.**

[3] (4) The department may enter into a contract with a public or private entity for the purposes of the entity providing:

(a) Technical assistance to applicants for and recipients of grants; and

(b) Administration of the grant program.

[4] (5) The State Board of Education may adopt any rules necessary for the administration of this section.

**SECTION 29.** Section 30 of this 2019 Act is added to and made a part of ORS chapter 327.

**SECTION 30.** (1) For school districts with schools that provide United States Department of Agriculture reimbursable meals to students as described in subsections (2) and (3) of this section, the Department of Education shall reimburse the school districts for costs incurred by the school districts in providing the meals. The amounts of the reimbursements may not exceed the amounts prescribed by subsections (2) and (3) of this section.

(2) For schools that offer reimbursable breakfast and lunch free of charge to all students of the school based on the school's or school district's categorical eligibility to provide reimbursable breakfast and lunch free of charge without consideration of individual eligibility for free or reduced price meals, the amount of reimbursements provided under this section may not exceed the difference between:

(a) The reimbursement rate established by the United States Department of Agriculture for reimbursable meals; and

(b) Any amounts otherwise reimbursed or paid by state, federal or other sources.

(3) For schools that are not eligible to offer reimbursable breakfast and lunch free of charge as described in subsection (2) of this section but that provide reimbursable breakfast or lunch free of charge to students from households with incomes that do not exceed 300 percent of the federal poverty guidelines, the amount of reimbursements provided under this section may not exceed the difference between:

(a) The actual amount that a student would have been required to pay for the breakfast or lunch, taking into consideration if the student qualified for a free or reduced price lunch; and

(b) Any amounts otherwise reimbursed or paid by state, federal or other sources.

(4) The State Board of Education may adopt any rules necessary for making reimbursements under this section.

**SECTION 31.** (1) Section 30 of this 2019 Act becomes operative on July 1, 2020.

(2) Section 30 of this 2019 Act applies to costs incurred on or after July 1, 2020.

**SECTION 32.** (1) The Hunger Free Schools Account is established in the State Treasury, separate and distinct from the General Fund.

(2) Moneys in the Hunger Free Schools Account are continuously appropriated to the Department of Education for the purpose of making reimbursements to school districts under section 30 of this 2019 Act.

## STATEWIDE YOUTH REENGAGEMENT SYSTEM

**SECTION 33. Youth reengagement program.** (1) As used in this section, “eligible youth” means a person who:

(a) Is at least 14 years of age but younger than 21 years of age at the beginning of the school year; and

(b)(A) Is a school dropout, as defined in ORS 339.505;

(B) Is not exempt from attending public full-time schools under ORS 339.030; or

(C) Is recommended to participate in a youth reengagement program by the Department of Human Services, a juvenile court, the Oregon Youth Authority or any other entity identified by the Youth Development Council by rule.

(2) The Youth Development Division shall develop and administer a statewide youth reengagement system to provide appropriate educational opportunities and access to services for eligible youths.

(3) Under the statewide youth reengagement system, a school district or other entity identified by the Youth Development Council by rule may choose to provide a youth reengagement program. A youth reengagement program must:

(a) Be offered in collaboration with the Youth Development Division; and

(b) Include a partnership with an education service district, a community college district, a federally recognized Indian tribe, a community-based organization or any other entity identified by the Youth Development Council by rule.

(4) A youth reengagement program must offer, at a minimum, the following:

(a) Academic instruction that enables an eligible youth to receive credit that can be:

(A) Applied toward a high school diploma, a modified diploma or an extended diploma; or

(B) Used to improve college or career readiness, including courses that assist the eligible youth in preparing for an approved high school equivalency test such as the General Educational Development (GED) test; or

(b) Services for monitoring and supporting eligible youths, including:

(A) Academic counseling, career coaching and workforce readiness services; or

(B) Assistance with accessing services and resources that support at-risk youth and reduce barriers to educational success.

(5) If a school district or other entity chooses to provide a youth reengagement program, the school district or other entity may enter into an agreement to provide academic instruction or services as described in subsection (4) of this section. The agreement:

(a) May be with an education service district, a community college district or another public entity or with a community-based organization; and

(b) Must comply with any other requirements prescribed by the State Board of Education or the Youth Development Council by rule.

(6)(a) The State Board of Education, in collaboration with the Youth Development Council, shall establish by rule criteria for a school district or other entity to receive funding for eligible youths participating in a youth reengagement program. Funding may be in the form of grants.

(b) The criteria to receive funding may prescribe:

(A) Enrollment and attendance standards for eligible youths.

(B) Performance measures that establish targets that must be met for purposes of accountability. The performance measure targets shall be based on standards adopted by the Youth Development Council and may take into account the specific purpose of the program offered by the school district or other entity, the population served by the program and any other factors identified by the council.

(c) The criteria to receive funding must require a school district or other entity to provide to the Youth Development Division information that, at a minimum, describes:

(A) How the school district or other entity will identify, refer and enroll eligible youths;

(B) How academic instruction and services will be provided through the youth reengagement program and what academic instruction and services will be provided;

(C) How student records will be maintained and how data will be collected and reported;  
(D) How any applicable assessments under ORS 329.485 or 329.488 will be administered;  
(E) How the school district or other entity will provide special education and related services for eligible youths with disabilities who have an individualized education program or will provide necessary accommodations and plans for eligible youths who qualify under section 504 of the Rehabilitation Act of 1978 (29 U.S.C. 794);

(F) How the school district or other entity will ensure that eligible youths receive appropriate in-person guidance or support; and

(G) How the school district or other entity will record and report performance measures for purposes of accountability, including longitudinal monitoring of student progress and post-secondary education and employment readiness.

(7) The Department of Education and Youth Development Division shall provide technical assistance to school districts and other eligible entities choosing to provide youth reengagement programs.

(8)(a) The Youth Development Council shall coordinate with the State Board of Education to adopt rules under this section.

(b) When adopting rules under this section, the board and the council shall consult with post-secondary institutions of education and community-based organizations that have previously offered youth reengagement programs, providers of online courses and programs and education service districts.

(9) Nothing in this section affects the authority of a school district or other entity to directly offer youth reengagement programs or other educational services for eligible youths.

**SECTION 34.** ORS 417.847, as amended by section 63, chapter 774, Oregon Laws 2015, and section 36, chapter 17, Oregon Laws 2017, is amended to read:

417.847. (1) The Youth Development Council is established.

(2) The council is established for the purpose of overseeing a unified system that provides services to school-age children through youth 24 years of age in a manner that supports educational success, focuses on crime prevention, reduces high risk behaviors and is integrated, measurable and accountable. The council shall provide direction to the Youth Development Division.

(3) The council consists of no fewer than 15 members who are appointed by the Governor. The Governor shall ensure that membership of the council satisfies any federal requirements for membership of a state advisory committee on juvenile justice, and shall include tribal representation in the membership of the council.

(4) The council shall:

(a) Determine the availability of funding to support community-based youth development programs, services and initiatives with demonstrated outcomes and strategic objectives established by the council by rule.

(b) Prioritize funding for services related to:

(A) The prevention of and intervention in the risk factors that lead to juvenile delinquency and the promotion of protective factors that improve the health and well-being of children and youth, as supported by evidence-based program models and other research-based models; and

(B) The prevention of and intervention in gang violence and gang involvement.

(c) **Administer and coordinate the statewide youth reengagement system described in section 33 of this 2019 Act.**

(5) The council may:

(a) Enter into performance-based intergovernmental agreements with regional and county entities, and tribal governments, to contract for the provision of youth development programs, services and initiatives that will achieve demonstrated outcomes and strategic objectives established by the council by rule.

(b) Determine the means by which services to children and youth may be provided effectively and efficiently across multiple programs to improve the academic and social outcomes of children and youth.

(c) Assess state programs and services related to youth development and training, and identify methods by which programs and services may be coordinated or consolidated.

(d) Establish common academic and social indicators to support attainment of goals established by the council.

(e) Establish common program outcome measurements and coordinate data collection across multiple programs and services.

(f) Ensure implementation of best practices that:

(A) Are evidence based;

(B) Are culturally, gender and age appropriate;

(C) Address individual risk factors;

(D) Build upon factors that improve the health and well-being of children and youth; and

(E) Include tribal best practices.

(6) The Governor may designate one member of the council to serve as the chairperson or, if the Governor chooses not to designate a chairperson, the council may elect one of its members to serve as chairperson.

(7) In accordance with applicable provisions of ORS chapter 183, the council may adopt rules necessary for the administration of the laws that the council is charged with administering.

**SECTION 35. Section 33 of this 2019 Act and the amendments to ORS 417.847 by section 34 of this 2019 Act become operative on July 1, 2020.**

## **STATEWIDE SCHOOL SAFETY AND PREVENTION SYSTEM**

**SECTION 36. Statewide School Safety and Prevention System. (1) As used in this section:**

**(a) “Cyberbullying” has the meaning given that term in ORS 339.351.**

**(b) “Harassment, intimidation or bullying” has the meaning given that term in ORS 339.351.**

**(c) “Suicidal behavior” includes:**

**(A) Self-directed, injurious behavior with an intent to die as a result of the behavior;**

**(B) Nonfatal, self-directed, potentially injurious behavior with an intent to die as a result of the behavior that may not result in injury; or**

**(C) Thinking about, considering or planning suicide.**

**(d) “Violence” means aggressive behavior with the intention to cause, or an outcome that poses a risk of causing, serious or lethal injury.**

**(2) The Department of Education shall establish and maintain the Statewide School Safety and Prevention System.**

**(3) The system required under this section shall consist of the following:**

**(a) Assistance to school districts and education service districts in decreasing acts of harassment, intimidation or bullying and acts of cyberbullying through the implementation of effective prevention programs that:**

**(A) Incorporate evidenced-based, multitiered practices; and**

**(B) Support resiliency building and trauma-informed care practices.**

**(b) Assistance to school districts and education service districts in decreasing youth suicidal behavior through the implementation of effective prevention programs and student wellness programs that focus on early identification and intervention by school safety and prevention specialists, as described in subsection (4) of this section, who:**

**(A) Provide training, outreach and technical assistance related to youth suicidal behavior prevention and wellness;**

**(B) Support coordination between schools and health agencies, including public and private behavioral health providers; and**

**(C) Support school districts and education service districts in the establishment of suicidal behavior prevention programs.**

(c) Assistance to school districts and education service districts in implementing a multidisciplinary student safety assessment system to identify, assess and support students who present a potential risk for violence to others. Multidisciplinary school safety assessment teams shall be made available to assist each school district and education service district in assessing students who are engaged in violence or who are posing a threat of violence to others. The teams shall:

(A) Assess potential danger and identify circumstances and risk factors that may increase risk for potential violence;

(B) Develop management and intervention plans in collaboration with community partners; and

(C) Connect students and families to community resources and supports.

(d) Promotion and use of the statewide school safety tip line established by ORS 339.329. School safety and prevention specialists, as described in subsection (4) of this section, shall work collaboratively with the Oregon State Police to support school districts and education service districts in accessing and implementing the school safety tip line.

(4) The system required under this section shall be supported by school safety and prevention specialists who:

(a) Serve regions of this state;

(b) Are cross-trained in safety assessments and in the prevention of youth suicide, of acts of bullying, intimidation or harassment and of acts of cyberbullying; and

(c) Provide or facilitate training, the development of programs and plans, the coordination of local teams and the provision of ongoing consultation to regional partners, school districts and education service districts.

(5) The State Board of Education, in consultation with the Oregon Health Authority and other representatives of school districts, education service districts, school employees, human services, mental health professionals and law enforcement agencies, shall adopt rules related to the system required under this section.

**SECTION 37.** (1) Section 36 of this 2019 Act becomes operative on July 1, 2020.

(2) Notwithstanding the operative date set forth in subsection (1) of this section, the Department of Education may take any action before the operative date set forth in subsection (1) of this section that is necessary for the department to exercise, on and after the operative date set forth in subsection (1) of this section, all of the duties, functions and powers conferred on the department by section 36 of this 2019 Act.

## STATEWIDE EQUITY INITIATIVES

**SECTION 38.** (1) As used in this section, “plan student” means a student enrolled in early childhood through post-secondary education who:

(a) Is an American Indian or Alaskan Native; and

(b) Has experienced disproportionate results in education due to historical practices, as identified by the State Board of Education by rule.

(2)(a) The Department of Education shall develop and implement a statewide education plan for plan students.

(b) When developing the plan, the department shall consult with representatives from tribal governments and from executive branch agencies who have formed government-to-government relations to focus on education. Additionally, the department may receive input from an advisory group consisting of community members, education stakeholders and representatives of the Early Learning Division, the Youth Development Division and the Higher Education Coordinating Commission.

(c) The department shall be responsible for:

(A) Implementing the plan developed under this subsection;

(B) Developing eligibility criteria, the applicant selection process and expectations for recipients of grant awards described in this section; and

(C) Advising the State Board of Education on the adoption of rules under this section.

(3) The plan developed under this section must address:

(a) The disparities experienced by plan students in every indicator of academic success, as documented by the department's statewide report card and other relevant reports related to plan students;

(b) The historical practices leading to disproportionate outcomes for plan students; and

(c) The educational needs of plan students from early childhood through post-secondary education as determined by examining culturally appropriate best practices in this state and across the nation.

(4) The plan developed and implemented under this section must provide strategies to:

(a) Address the disproportionate rate of disciplinary incidents involving plan students as compared to all students in the education system;

(b) Increase parental engagement in the education of plan students;

(c) Increase the engagement of plan students in educational activities before and after regular school hours;

(d) Increase early childhood education and kindergarten readiness for plan students;

(e) Improve literacy and numeracy levels among plan students between kindergarten and grade three;

(f) Support plan student transitions to middle school and through the middle school and high school grades to maintain and improve academic performance;

(g) Support culturally responsive pedagogy and practices from early childhood through post-secondary education;

(h) Support the development of culturally responsive curricula from early childhood through post-secondary education;

(i) Increase attendance of plan students in early childhood programs through post-secondary and professional certification programs; and

(j) Increase attendance of plan students in four-year post-secondary institutions of education.

(5) The department shall submit a biennial report concerning the progress of the plan developed and implemented under this section to a committee of the Legislative Assembly related to education at each even-numbered year regular session of the Legislative Assembly.

(6) The department, in consultation with the advisory group, shall award grants to early learning hubs, providers of early learning services, school districts, education service districts, post-secondary institutions of education, tribal governments and community-based organizations to implement the strategies provided in the plan developed and implemented under this section.

(7) To qualify for and receive grants described in this section, an applicant must identify and demonstrate that the applicant meets the eligibility criteria adopted by the State Board of Education by rule.

**SECTION 39.** (1) As used in this section, "plan student" means a student enrolled in early childhood through post-secondary education who:

(a) Is Latino or Hispanic, including individuals of Mexican, Cuban, Puerto Rican, South American, Central American or Spanish descent; and

(b) Has experienced disproportionate results in education due to historical practices, as identified by the State Board of Education by rule.

(2)(a) The Department of Education shall develop and implement a statewide education plan for plan students.

(b) The department shall form an advisory group consisting of individuals representing:

(A) Urban and rural communities;

(B) Indigenous and immigrant populations;

- (C) English language learners;
  - (D) Individuals with disabilities;
  - (E) Parents and students;
  - (F) Youth who are lesbian, gay, bisexual, transgender, queer or another minority gender or sexual orientation;
  - (G) Community-based organizations serving Latino or Hispanic youth and families; and
  - (H) Education stakeholders, including representatives of the Early Learning Division, the Youth Development Division and the Higher Education Coordinating Commission.
- (c) The advisory group formed as provided in paragraph (b) of this subsection shall advise the department regarding:
- (A) Development and implementation of the plan;
  - (B) Eligibility criteria, applicant selection processes and expectations for recipients of grant awards described in this section; and
  - (C) Adoption of rules by the State Board of Education for the implementation of the plan.
- (3) The plan developed under this section must address:
- (a) The disparities experienced by plan students in every indicator of academic success, as documented by the department's statewide report card and other relevant reports related to plan students;
  - (b) The historical practices leading to disproportionate outcomes for plan students; and
  - (c) The educational needs of plan students from early childhood through post-secondary education as determined by examining culturally appropriate best practices in this state and across the nation.
- (4) The plan developed and implemented under this section must provide strategies to:
- (a) Address the disproportionate rate of disciplinary incidents involving plan students compared to all students in the education system;
  - (b) Increase parental engagement in the education of plan students;
  - (c) Increase the engagement of plan students in educational activities before and after regular school hours;
  - (d) Increase early childhood education and kindergarten readiness for plan students;
  - (e) Improve literacy and numeracy levels among plan students between kindergarten and grade three;
  - (f) Support plan student transitions to middle school and through the middle school and high school grades to maintain and improve academic performance;
  - (g) Support culturally responsive pedagogy and practices from early childhood through post-secondary education;
  - (h) Support the development of culturally responsive curricula from early childhood through post-secondary education;
  - (i) Increase attendance of plan students in community colleges and professional certification programs; and
  - (j) Increase attendance of plan students in four-year post-secondary institutions of education.
- (5) The department shall submit a biennial report concerning the progress of the plan developed and implemented under this section to a committee of the Legislative Assembly related to education at each even-numbered year regular session of the Legislative Assembly.
- (6) The department, in consultation with the advisory group, shall award grants to early learning hubs, providers of early learning services, school districts, post-secondary institutions of education and community-based organizations to implement the strategies provided in the plan developed and implemented under this section.
- (7) To qualify for and receive a grant described in this section, an applicant must identify and demonstrate that the applicant meets the eligibility criteria established by the State Board of Education by rule.



**SECTION 40.** The Department of Education shall submit a report concerning the development of the statewide education plans under sections 38 and 39 of this 2019 Act to an interim committee of the Legislative Assembly related to education no later than January 1, 2021.

**SECTION 41.** Notwithstanding section 39 of this 2019 Act, the Department of Education may not do any of the following prior to July 1, 2020:

(1) Implement the statewide education plans developed under section 39 of this 2019 Act, including awarding any grants to implement the plans; or

(2) Make any expenditures from any appropriations made to the department for the implementation of the plans developed under section 39 of this 2019 Act.

#### SUMMER PROGRAMS FOR TITLE I SCHOOLS

**SECTION 42.** Section 43 of this 2019 Act is added to and made a part of ORS chapter 327.

**SECTION 43.** (1) In addition to those moneys distributed through the State School Fund, the Department of Education shall make grants to improve student achievement in schools that:

(a) Are considered high poverty under Title I of the federal Elementary and Secondary Education Act of 1965;

(b) The department has identified as having a significant achievement gap between historically underserved students groups and other student groups pursuant to standards adopted by the State Board of Education; and

(c) The department has identified as needing additional supports and interventions based on:

(A) Criteria used by the Department of Education to measure the performance of the schools; and

(B) The schools' performance ranking compared to similar schools.

(2) The department shall identify schools to receive grants as provided in this section and shall notify the identified schools of the schools' eligibility to receive grants as provided in this section.

(3) Moneys received by a school under this section must be used to provide instructional time during a summer program. The summer program must provide at least 60 hours of direct academic instruction by a teacher licensed under ORS 342.125 or by an instructional assistant, as defined in ORS 342.120.

(4) The State Board of Education may adopt any rules necessary for the administration of this section.

**SECTION 44.** Notwithstanding section 43 of this 2019 Act, the Department of Education may not award any grants as provided under section 43 of this 2019 Act prior to July 1, 2020.

#### EARLY WARNING SYSTEM FOR HIGH SCHOOL GRADUATION

**SECTION 45.** Section 46 of this 2019 Act is added to and made a part of ORS chapter 327.

**SECTION 46.** (1) In addition to those moneys distributed through the State School Fund, the Department of Education shall award grants from the Statewide Education Initiatives Account to school districts to implement the early warning system described in this section that assist students in graduating from high school.

(2)(a) A system funded by a grant awarded under this section must enable school districts, students, students' families, educators, school counselors and community organizations to take necessary corrective actions to assist students in graduating from high school.

(b) Corrective actions that may be taken must be based on research on graduation rates and on reports of individual students related to:

(A) The student's attendance;

- (B) The student's behavior at school;
  - (C) The student's academic or skill progress; and
  - (D) Any other factors identified by the State Board of Education by rule.
- (3) The department shall assist school districts that may apply for a grant under this section, that have applied for a grant under this section or that have received a grant under this section, as appropriate, by:
- (a) Providing technical assistance to school districts to ensure that the school districts understand the goals and objectives of the system;
  - (b) Assisting school districts in developing expertise in assisting students in graduating from high school and developing a culture that encourages and assists students in graduating from high school;
  - (c) Identifying meaningful predictive indicators of high school graduation;
  - (d) Developing local communication systems among students, students' families, educators and community organizations to assist students in graduating from high school;
  - (e) Identifying and developing interventions at school, at home and in the community to meet students' needs; and
  - (f) Reviewing existing policies and practices to:
    - (A) Expand policies and practices that encourage high school graduation; and
    - (B) Eliminate or modify policies and practices that may provide a disincentive to graduate from high school.
- (4) The amount of each grant awarded under this section shall equal the school district's ADM as defined in ORS 327.006  $\times$  \$3.
- (5) The State Board of Education shall adopt any rules necessary for the administration of the grants described in this section.

**SECTION 47.** Section 46 of this 2019 Act becomes operative on July 1, 2020.

#### **EDUCATOR PROFESSIONAL DEVELOPMENT**

**SECTION 48.** (1) The Department of Education and the Educator Advancement Council, in consultation with the Teacher Standards and Practices Commission, the Higher Education Coordinating Commission and representatives of school districts and other education stakeholders, shall develop a plan to provide an effective combination of programs and initiatives for the professional development of educators from kindergarten through grade 12 and to be funded by the Statewide Education Initiatives Account. The plan shall be based on consideration of increasing:

- (a) Educator retention;
- (b) Educator diversity;
- (c) Mentoring and coaching of educators;
- (d) Participation in educator preparation programs; and
- (e) Educator scholarships.

(2) The department shall provide a report, and may include recommendations for legislation, to an interim committee of the Legislative Assembly related to education no later than January 15, 2020.

**SECTION 49.** Section 48 of this 2019 Act is repealed on June 30, 2020.

#### **EARLY LEARNING ACCOUNT**

**SECTION 50.** Sections 51 and 52 of this 2019 Act are added to and made a part of ORS chapter 327.

**SECTION 51. Early Learning Account.** (1) The Early Learning Account is established within the Fund for Student Success.

- (2) The Early Learning Account shall consist of:

(a) Moneys transferred from the Fund for Student Success under section 2 of this 2019 Act;

(b) Moneys appropriated or otherwise transferred to the account by the Legislative Assembly;

(c) Amounts donated to the account; and

(d) Other amounts deposited into the account from any source.

(3) The Department of Education, on behalf of the State of Oregon, may solicit and accept gifts, grants, donations and other moneys from public and private sources for the Early Learning Account. Moneys received as provided in this subsection shall be deposited into the Early Learning Account.

(4) Moneys in the Early Learning Account are continuously appropriated to the Department of Education for early learning programs as described in section 52 of this 2019 Act.

**SECTION 52. Early Learning Account uses.** (1) The Department of Education and the Early Learning Division shall use moneys in the Early Learning Account to provide funding for early learning programs in a manner consistent with a statewide early learning system plan overseen by the Early Learning Council. Early learning programs that may receive moneys from the Early Learning Account include:

(a) Early childhood special education or early intervention services, as provided by ORS 343.475;

(b) Relief nurseries;

(c) Programs funded by the Early Childhood Equity Fund;

(d) The Oregon prekindergarten program and other public preschool programs established under ORS 329.170 to 329.200, by increasing:

(A) The total number of spaces for children served by the programs; or

(B) Existing spaces for full-day programs from half-day programs;

(e) Professional development for early childhood educators; and

(f) Early Head Start programs.

(2) In addition to the uses identified in subsection (1) of this section, moneys in the Early Learning Account may be used for staffing needs of the Early Learning Division for the purpose of implementing this section.

(3) The State Board of Education and the Early Learning Council shall adopt rules necessary for the distribution of moneys under this section.

#### **EARLY CHILDHOOD EQUITY FUND**

**SECTION 53. Early Childhood Equity Fund.** (1) The Early Childhood Equity Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys in the Early Childhood Equity Fund are continuously appropriated to the Department of Education for the Early Learning Division to make grants under section 54 of this 2019 Act to culturally specific early learning, early childhood and parent support programs and to promote the capacity of culturally specific organizations to deliver these programs.

(2) The fund shall consist of:

(a) Moneys appropriated or otherwise transferred to the fund from the Legislative Assembly;

(b) Earnings received on moneys in the fund; and

(c) Other amounts deposited into the fund from any source.

**SECTION 54. Early childhood support grant program.** (1) The Early Learning Division may make grants from the Early Childhood Equity Fund established under section 53 of this 2019 Act to culturally specific early learning, early childhood and parent support programs in this state that build capacity in communities, ensure children start kindergarten ready to succeed and support families to be stable, healthy and attached. For purposes of this subsection, a program is in this state if the program serves communities within the ge-

ographic boundaries of this state, including communities within Indian country of a federally recognized Oregon Indian tribe that is within the geographic boundaries of this state.

(2) To receive a grant under this section, a program must:

(a) Provide outreach, support and resources to children and families who are at risk because of any combination of two or more factors, including their race, ethnicity, English language proficiency, socioeconomic status and geographic location; and

(b) Demonstrate a proven ability to provide outreach, support and resources to children and families described in paragraph (a) of this subsection.

(3) The division shall monitor capacity needs and provide technical assistance to grantees.

(4) The division shall conduct a biennial evaluation of programs that receive grants under this section. The evaluation shall include measurement of outcomes that align with:

(a) Current research regarding positive child and family indicators, including family stability and early childhood school readiness; and

(b) Culturally specific approaches.

(5) The Early Learning Council, in consultation with the division, shall adopt rules necessary to carry out the provisions of this section. The rules shall include requirements for grant eligibility under this section.

(6) On or before September 15 of each odd-numbered year, the division shall submit to the interim committees of the Legislative Assembly related to early childhood and child welfare a report on the status and impact of grants made to programs under this section. The report shall include changes in the capacity of culturally specific organizations and the results of any biennial evaluations conducted in accordance with subsection (4) of this section.

**SECTION 55.** ORS 417.790 is amended to read:

417.790. The Early Learning Division shall:

(1) Make grants to fund research-based services and initiatives to improve outcomes for children, youth or families.

(2) Make Great Start grants to fund community-based programs for children zero through six years of age. A recipient shall use Great Start grant funds to provide research-based early childhood programs in community settings and to provide services that have proven to be successful and that meet the needs of the community. These services shall be provided in accordance with ORS 417.728.

(3) **Make grants under section 54 of this 2019 Act to fund culturally specific early learning, early childhood and parent support programs that build capacity in communities to provide culturally appropriate services to ensure children start kindergarten ready to succeed and to support family stability.**

## PERSONAL INCOME TAX RATES

**SECTION 56.** ORS 316.037 is amended to read:

316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable income of every resident of this state. The amount of the tax shall be determined in accordance with the following table:

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If taxable income is:	The tax is:
Not over \$2,000	[5%] <b>4.75%</b> of taxable income
Over \$2,000 but not	

over \$5,000	[\$100] <b>\$95</b> plus [7%] <b>6.75%</b> of the excess over \$2,000
Over \$5,000 but not over \$125,000	[\$310] <b>\$298</b> plus [9%] <b>8.75%</b> of the excess over \$5,000
Over \$125,000	[\$11,110] <b>\$10,798</b> plus 9.9% of the excess over \$125,000

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(b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

(A) Except as provided in subparagraph (D) of this paragraph, the minimum and maximum dollar amounts for each bracket for which a tax is imposed shall be increased by the cost-of-living adjustment for the calendar year.

(B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this paragraph *[shall]* **may** not be changed.

(C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the rate brackets, shall be adjusted.

(D) The rate brackets applicable to taxable income in excess of \$125,000 may not be adjusted.

(c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calendar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the second quarter of the calendar year 1992.

(d) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50, the increase shall be rounded to the next lower multiple of \$50.

(2) A tax is imposed for each taxable year upon the entire taxable income of every part-year resident of this state. The amount of the tax shall be computed under subsection (1) of this section as if the part-year resident were a full-year resident and shall be multiplied by the ratio provided under ORS 316.117 to determine the tax on income derived from sources within this state.

(3) A tax is imposed for each taxable year on the taxable income of every full-year nonresident that is derived from sources within this state. The amount of the tax shall be determined in accordance with the table set forth in subsection (1) of this section.

**SECTION 57. The amendments to ORS 316.037 by section 56 of this 2019 Act apply to tax years beginning on or after January 1, 2020.**

## CORPORATE ACTIVITY TAX

**SECTION 58. Definitions.** As used in sections 58 to 76 of this 2019 Act:

(1)(a) "Commercial activity" means the total amount realized by a person, arising from transactions and activity in the regular course of the person's trade or business, without deduction for expenses incurred by the trade or business.

(b) "Commercial activity" does not include:

(A) Interest income except interest on credit sales;

**(B) Receipts from the sale, exchange or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset;**

**(C) Proceeds received attributable to the repayment, maturity or redemption of the principal of a loan, bond, mutual fund, certificate of deposit or marketable instrument;**

**(D) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;**

**(E) Contributions received by a trust, plan or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which title 26, subtitle A, chapter 1, subchapter (D) of the Internal Revenue Code applies;**

**(F) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts or calls, or from the sale of the taxpayer's treasury stock;**

**(G) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;**

**(H) Gifts or charitable contributions received, membership dues received by trade, professional, homeowners' or condominium associations, payments received for educational courses, meetings or meals, or similar payments to a trade, professional or other similar association, and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;**

**(I) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be treated as commercial activity;**

**(J) Property, money and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee or other remuneration;**

**(K) Tax refunds, other tax benefit recoveries and reimbursements for the tax imposed under sections 58 to 76 of this 2019 Act made by entities that are part of the same unitary group as provided under section 60 of this 2019 Act, and reimbursements made by entities that are not members of a unitary group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under sections 58 to 76 of this 2019 Act is required to be reported and paid entirely by one owner, as provided in section 60 of this 2019 Act;**

**(L) Pension reversions;**

**(M) Contributions to capital;**

**(N) Receipts from the sale, transfer, exchange or other disposition of motor vehicle fuel or any other product used for the propulsion of motor vehicles;**

**(O) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer or seller, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or ORS chapter 323;**

**(P) In the case of receipts from the sale of malt beverages, wine or alcoholic liquor, all as defined in ORS 471.001, or cider, as defined in ORS 471.023, by a person holding a license issued under ORS chapter 471, an amount equal to the federal and state excise taxes paid by any person on or for such malt beverages, wine or alcoholic liquor under subtitle E of the Internal Revenue Code or ORS chapter 471, and any net amount paid to the Oregon Liquor Control Commission by a person licensed to sell alcoholic liquor under ORS chapter 471 in excess of the purchase price paid by the licensee;**

**(Q) In the case of receipts from the sale of marijuana items, as defined in ORS 475B.015, by a person holding a license issued under ORS 475B.010 to 475B.545, an amount equal to the federal and state excise taxes paid by any person on or for such marijuana items under subtitle E of the Internal Revenue Code or ORS 475B.700 to 475B.760;**

**(R) Receipts realized by a vehicle dealer certified under ORS 822.020 from the sale or other transfer of a motor vehicle, as defined in ORS 801.360, to another vehicle dealer for the purpose of resale by the transferee vehicle dealer, but only if the sale or other transfer was**

based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

(S) Registration fees or taxes collected by a vehicle dealer certified under ORS 822.020 at the sale or other transfer of a motor vehicle, as defined in ORS 801.360, that are owed to a third party by the purchaser of the motor vehicle and passed to the third party by the dealer;

(T) Receipts from a financial institution for services provided to the financial institution in connection with the issuance, processing, servicing and management of loans or credit accounts, if the financial institution and the recipient of the receipts have at least 50 percent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(U) In the case of amounts retained as commissions by a holder of a license under ORS chapter 462, an amount equal to the amounts specified under ORS chapter 462 that must be paid to or collected by the Department of Revenue as a tax and the amounts specified under ORS chapter 462 to be used as purse money;

(V) Net revenue of residential care facilities as defined in ORS 443.400 or in-home care agencies as defined in ORS 443.305, to the extent that the revenue is derived from or received as compensation for providing services to a medical assistance or Medicare recipient;

(W) Dividends received;

(X) Distributive income received from a pass-through entity;

(Y) Receipts from sales to a wholesaler in this state, if the seller receives certification at the time of sale from the wholesaler that the wholesaler will sell the purchased property outside this state;

(Z) Rebates paid to purchasers by retailers or wholesalers;

(AA) Receipts from the wholesale or retail sale of groceries;

(BB) Receipts from transactions among members of a unitary group;

(CC) Moneys, including public purpose charge moneys collected under ORS 757.612 and costs of funding or implementing cost-effective energy conservation measures collected under ORS 757.689, that are collected from customers, passed to a utility and approved by the Public Utility Commission and that support energy conservation, renewable resource acquisition and low-income assistance programs;

(DD) Moneys collected by a utility from customers for the payment of loans through on-bill financing;

(EE) Surcharges collected under ORS 757.736;

(FF) Moneys passed to a utility by the Bonneville Power Administration for the purpose of effectuating the Regional Power Act Exchange credits or pursuant to any settlement associated with the exchange credit;

(GG) Moneys collected by a utility for franchise fees, privilege taxes, federal taxes, local taxes and fees payable under ORS 756.310;

(HH) Charges paid to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987;

(II) Universal service surcharge moneys collected by telecommunications carriers and paid into the universal service fund established in ORS 759.425;

(JJ) Moneys collected for public purpose funding as described in ORS 759.430;

(KK) Moneys collected for the federal universal service fund as determined by the Federal Communications Commission;

(LL) In the case of a seller or provider of telecommunications services, the amount of tax imposed under ORS 403.200 for access to the emergency communications system that is collected from subscribers or consumers;

(MM) In the case of a transient lodging tax collector, the amount of tax imposed under ORS 320.305 and of any local transient lodging tax imposed upon the occupancy of transit lodging;

(NN) In the case of a seller of bicycles, the amount of tax imposed under ORS 320.415 upon retail sales of bicycles;

(OO) In the case of a qualified heavy equipment provider, the amount of tax imposed under section 2, chapter 64, Oregon Laws 2018, upon the rental price of heavy equipment;

(PP) Receipts representing business done with or for members of an agricultural cooperative in this state that is a cooperative organization described in section 1381 of the Internal Revenue Code; and

(QQ) Revenue received by a business entity that is mandated by contract or subcontract to be distributed to another person or entity if the revenue constitutes sales commissions that are paid to a person who is not an employee of the business entity, including, without limitation, a split-fee real estate commission.

(2)(a) “Commercial activity of a financial institution” includes all items of income without deduction for expenses.

(b) If the reporting person for a financial institution is a holding company, “commercial activity of a financial institution” includes all items of income reported on the FR Y-9 filed by the holding company.

(c) If the reporting person for a financial institution is a bank organization, “commercial activity of a financial institution” includes all items of income reported on the call report filed by the bank organization.

(d) If the reporting person for a financial institution is a nonbank financial organization, “commercial activity of a financial institution” includes all items of income reported in accordance with generally accepted accounting principles.

(3) “Commercial activity of an insurer” includes all items of income without deduction for expenses and all items of income reported on the statement of income accompanying the annual statement required under ORS 731.574 to be filed with the Director of the Department of Consumer and Business Services.

(4) “Cost inputs” means the cost of goods sold as calculated under section 471 of the Internal Revenue Code.

(5) “Doing business” means engaging in any activity, whether legal or illegal, that is conducted for, or results in, the receipt of commercial activity at any time during a calendar year.

(6) “Excluded person” means any of the following:

(a) Organizations described in sections 501(c) and 501(j) of the Internal Revenue Code, unless the exemption is denied under section 501(h), (i) or (m) or under section 502, 503 or 505 of the Internal Revenue Code.

(b) Organizations described in section 501(d) of the Internal Revenue Code, unless the exemption is denied under section 502 or 503 of the Internal Revenue Code.

(c) Organizations described in section 501(e) of the Internal Revenue Code.

(d) Organizations described in section 501(f) of the Internal Revenue Code.

(e) Charitable risk pools described in section 501(n) of the Internal Revenue Code.

(f) Organizations described in section 521 of the Internal Revenue Code.

(g) Qualified state tuition programs described in section 529 of the Internal Revenue Code.

(h) Foreign or alien insurance companies, but only with respect to the underwriting profit derived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and 731.828.

(i) Governmental entities.

(j) Any person with commercial activity that does not exceed \$1 million for the calendar year, other than a person that is part of a unitary group as provided in section 60 of this 2019 Act with commercial activity in excess of \$1 million.



(k) Hospitals subject to assessment under section 2, chapter 736, Oregon Laws 2003, long term care facilities subject to assessment under section 16, chapter 736, Oregon Laws 2003, or any entity subject to assessment under section 3, 5 or 9, chapter 538, Oregon Laws 2017.

(7) "Financial institution" has the meaning given that term in ORS 314.610, except that "financial institution" does not include a credit union.

(8)(a) "FR Y-9" means the consolidated or parent-only financial statements that a holding company is required to file with the Federal Reserve Board pursuant to 12 U.S.C. 1844.

(b) In the case of a holding company required to file both consolidated and parent-only financial statements, "FR Y-9" means the consolidated financial statements that the holding company is required to file.

(9) "Governmental entity" means:

(a) The United States and any of its unincorporated agencies and instrumentalities.

(b) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

(c) The State of Oregon and any of its unincorporated agencies and instrumentalities.

(d) Any county, city, district or other political subdivision of the state.

(e) Any public corporation.

(f) A federally recognized Indian tribe.

(10) "Groceries" means food as defined in 7 U.S.C. 2012(k).

(11) "Insurer" has the meaning given that term in ORS 317.010.

(12) "Internal Revenue Code," except where the Legislative Assembly has provided otherwise, refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect on December 31, 2018.

(13) "Labor costs" means total compensation of all employees, not to include compensation paid to any single employee in excess of \$500,000.

(14)(a) "Motor vehicle fuel or any other product used for the propulsion of motor vehicles" means:

(A) Motor vehicle fuel as defined in ORS 319.010; and

(B) Fuel the use of which in a motor vehicle is subject to taxation under ORS 319.530.

(b) "Motor vehicle fuel or any other product used for the propulsion of motor vehicles" does not mean:

(A) Electricity; or

(B) Electric batteries or any other mechanical or physical component or accessory of a motor vehicle.

(15) "Person" includes individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, entities organized as for-profit corporations under ORS chapter 60, C corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes and any other entities.

(16) "Retailer" means a person doing business by selling tangible personal property to a purchaser for a purpose other than:

(a) Resale by the purchaser of the property as tangible personal property in the regular course of business;

(b) Incorporation by the purchaser of the property in the course of regular business as an ingredient or component of real or personal property; or

(c) Consumption by the purchaser of the property in the production for sale of a new article of tangible personal property.

(17) "Taxable commercial activity" means commercial activity sourced to this state under section 66 of this 2019 Act, less any subtraction pursuant to section 64 of this 2019 Act.

(18)(a) "Taxpayer" means any person or unitary group required to register, file or pay tax under sections 58 to 76 of this 2019 Act.

(b) "Taxpayer" does not include excluded persons.

(19)(a) "Unitary business" means a business enterprise in which there exists directly or indirectly between the members or parts of the enterprise a sharing or exchange of value as demonstrated by:

(A) Centralized management or a common executive force;

(B) Centralized administrative services or functions resulting in economies of scale; or

(C) Flow of goods, capital resources or services demonstrating functional integration.

(b) "Unitary business" may include a business enterprise the activities of which:

(A) Are in the same general line of business, such as manufacturing, wholesaling or retailing; or

(B) Constitute steps in a vertically integrated process, such as the steps involved in the production of natural resources, which might include exploration, mining, refining and marketing.

(20) "Unitary group" means a group of persons with more than 50 percent common ownership, either direct or indirect, that is engaged in business activities that constitute a unitary business.

(21) "Wholesaler" means a person primarily doing business by merchant distribution of tangible personal property to retailers or to other wholesalers.

**SECTION 59. Accounting methods.** A taxpayer's method of accounting for commercial activity, cost inputs and labor costs for a tax year shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal tax year that includes the tax year. If a taxpayer's method of accounting for federal income tax purposes changes, the taxpayer's method of accounting for commercial activity under sections 58 to 76 of this 2019 Act shall be changed accordingly.

**SECTION 60. Unitary groups.** A unitary group shall register, file and pay taxes under sections 58 to 76 of this 2019 Act as a single taxpayer and may exclude receipts from transactions among its members. The Department of Revenue may collect identifying information about all members of a unitary group and may require disclosure to the department, for each member, of the commercial activity in Oregon and in the United States.

**SECTION 61. Taxation of property transferred into state.** (1) Except as provided in subsection (2) of this section:

(a) A person shall include as taxable commercial activity the value of property the person transfers into this state for the person's own use in the course of a trade or business within one year after the person receives the property outside this state; and

(b) In the case of a unitary group, the taxpayer shall include as taxable commercial activity the value of property that any of the taxpayer's members transferred into this state for the use in the course of a trade or business by any of the taxpayer's members within one year after the taxpayer receives the property outside this state.

(2) Property brought into this state within one year after it is received outside this state by a person or unitary group described in subsection (1) of this section may not be included as taxable commercial activity as required under subsection (1) of this section if the Department of Revenue ascertains that the property's receipt outside this state by the person or unitary group followed by its transfer into this state within one year was not intended in whole or in part to avoid in whole or in part the tax imposed under sections 58 to 76 of this 2019 Act.

(3) The department may adopt rules necessary to administer this section.

**SECTION 62. Joint and several liability.** All members of a unitary group during the tax year or periods for which additional tax, penalty or interest is owed are jointly and severally liable for such amounts. Although the reporting person shall be assessed for the liability,

amounts due may be collected by assessment against any member of the unitary group or pursued against any member of the unitary group.

**SECTION 63. Corporate activity tax imposed on commercial activity.** (1) A corporate activity tax is imposed on each person with taxable commercial activity for the privilege of doing business in this state. The tax is imposed upon persons with substantial nexus with this state. The tax imposed under this section is not a transactional tax and is not subject to the Interstate Income Act of 1959 (P.L. 86-272). The tax imposed under this section is in addition to any other taxes or fees imposed under the tax laws of this state. The tax imposed under this section is imposed on the person receiving the commercial activity and is not a tax imposed directly on a purchaser. The tax imposed under this section is an annual privilege tax for the calendar year and shall be remitted quarterly to the Department of Revenue. A taxpayer is subject to the annual corporate activity tax for doing business during any portion of such calendar year.

(2) A person has substantial nexus with this state if any of the following applies. The person:

- (a) Owns or uses a part or all of its capital in this state.
- (b) Holds a certificate of existence or authorization issued by the Secretary of State authorizing the person to do business in this state.
- (c) Has bright-line presence in this state.
- (d) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under sections 58 to 76 of this 2019 Act under the United States Constitution.

(3) A person has bright-line presence in this state for the calendar year if any of the following applies. The person:

- (a) Owns at any time during the calendar year property in this state with an aggregate value of at least \$50,000. For purposes of this paragraph, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.
- (b) Has during the calendar year payroll in this state of at least \$50,000. Payroll in this state includes the following:
  - (A) Any amount subject to withholding by the person under ORS 316.167 and 316.172;
  - (B) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and
  - (C) Any amount the person pays for services performed in this state on the person's behalf by another.
- (c) Has during the calendar year commercial activity, sourced to this state under section 66 of this 2019 Act, of at least \$750,000.
- (d) Has at any time during the calendar year within this state at least 25 percent of the person's total property, total payroll or total commercial activity.
- (e) Is a resident of this state or is domiciled in this state for corporate, commercial or other business purposes.

**SECTION 64. Subtraction.** (1) A taxpayer shall subtract from commercial activity sourced to this state 35 percent of the greater of the following amounts paid or incurred by the taxpayer in the tax year:

- (a) The amount of cost inputs; or
  - (b) The taxpayer's labor costs.
- (2) The amounts in subsection (1)(a) or (b) of this section shall be apportioned to this state in the manner required for apportionment of income under ORS 314.605 to 314.675.
- (3) Notwithstanding subsection (1) of this section, the subtraction under this section may not exceed 95 percent of the taxpayer's commercial activity in this state.

**SECTION 65. Rate of taxation.** (1) The corporate activity tax imposed under section 63 of this 2019 Act for each calendar year shall equal \$250 plus the product of the taxpayer's

taxable commercial activity in excess of \$1 million for the calendar year multiplied by 0.57 percent.

(2) A tax is not owed under this section if the person's taxable commercial activity does not exceed \$1 million.

**SECTION 66. Sourcing of commercial activity.** (1) For purposes of sections 58 to 76 of this 2019 Act, commercial activity other than commercial activity of financial institutions or insurers shall be sourced to this state as follows:

(a) In the case of the sale, rental, lease or license of real property, if and to the extent the property is located in this state.

(b) In the case of the rental, lease or license of tangible personal property, if and to the extent the property is located in this state.

(c) In the case of the sale of tangible personal property, if and to the extent the property is delivered to a purchaser in this state.

(d) In the case of the sale of a service, if and to the extent the service is delivered to a location in this state.

(e) In the case of the sale, rental, lease or license of intangible property, if and to the extent the property is used in this state. If the receipts are not based on the amount of use of the property, but rather on the right to use the property, and the payor has the right to use the property in this state, the receipts shall be sourced to this state to the extent the receipts are based on the right to use the property in this state.

(2) If the sourcing provisions of subsection (1) of this section do not fairly represent the extent of a person's commercial activity attributable to this state, the person may request, or the Department of Revenue may require or permit, an alternative method. A request under this subsection by a person must be made within the statute of limitations applicable to sections 58 to 76 of this 2019 Act.

(3) The department may adopt rules to provide additional guidance to the application of this section, and to provide alternative methods of sourcing commercial activity that apply to financial institutions and to insurers, and to any other persons, or a subset of persons, that are engaged in similar business or trade activities.

## LOCAL TAX PREEMPTION

**SECTION 67. Local taxes preempted.** (1) Except as expressly authorized by this section, the authority to impose, in this state, a tax upon the commercial activity of an entity is vested solely in the Legislative Assembly. A city, county, district or other political subdivision or municipal corporation of this state may not impose, by ordinance or other law, a tax upon commercial activity or upon receipts from grocery sales.

(2) Subsection (1) of this section does not apply:

(a) To any tax, or to subsequent amendments of the provisions of any tax, if the ordinance or other law imposing the tax is in effect and operative on April 1, 2019, or is adopted by initiative or referendum petition at an election held prior to March 1, 2019; or

(b) To the imposition of franchise fees or franchise taxes.

## REGISTRATION PROCEDURES

**SECTION 68. Registration.** (1) Any person or unitary group with commercial activity in excess of \$750,000 in the tax year shall register with the Department of Revenue.

(2) The department by rule may establish the information pertaining to the person or unitary group that must be submitted to the department accompanying the registration and the time and manner for issuance of registrations under this section.

(3) The department may impose a penalty for failing to register as required under this section, not to exceed \$100 per month that a person or unitary group has failed to register

or a total of \$1,000 in a calendar year. The penalty under this subsection may be imposed not earlier than 30 days after the date on which the commercial activity of the person or unitary group exceeds \$750,000 for the tax year.

**SECTION 69. Records.** Every person doing business in this state shall keep records, receipts, invoices and other pertinent papers related to the corporate activity tax imposed under section 63 of this 2019 Act in a form required by the Department of Revenue.

## RETURNS AND PAYMENTS

**SECTION 70. Returns, payment.** (1) For purposes of the corporate activity tax imposed under section 63 of this 2019 Act, every person doing business in this state with commercial activity for the tax year in excess of \$1 million shall file not later than April 15 of the following year an annual return. The return must be filed with the Department of Revenue in a form prescribed by the department.

(2) The corporate activity tax imposed under section 63 of this 2019 Act is due and payable to the department on or before the last day of January, April, July and October of each year for the previous calendar quarter.

(3) The department may by rule extend the time for making any return for good cause. If the time for filing a return is extended at the request of a taxpayer, interest on any unpaid tax at the rate established under ORS 305.220 from the time the return was originally required to be filed to the time of payment, shall be added and paid.

**SECTION 71. Accounting, installment payment.** (1) Subject to rules adopted by the Department of Revenue, the corporate activity tax imposed under section 63 of this 2019 Act becomes payable in accordance with the system of accounting regularly employed by the taxpayer.

(2) In the case of a lease, contract, sale or arrangement described in section 4216(c) of the Internal Revenue Code, rules similar to the rules of section 4217(e)(2) of the Internal Revenue Code shall apply for purposes of the corporate activity tax.

(3) A person is entitled to a credit or refund for taxes previously paid on debts that are deductible under section 166 of the Internal Revenue Code.

## COLLECTION

**SECTION 72. Rules, uniformity.** The Department of Revenue is authorized to and shall adopt rules requiring uniformity in application, reporting and collection and otherwise carrying out the purposes of sections 58 to 76 of this 2019 Act.

**SECTION 73. Quitting business, successor.** (1) For purposes of sections 58 to 76 of this 2019 Act, "successor" means any person to whom another person quitting, selling out, exchanging or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of business, a major part of the materials, supplies, merchandise, inventory, fixtures or equipment of the person. Any person obligated to fulfill the terms of a contract shall be considered a successor to any contractor defaulting in the performance of any contract as to which the person is a surety or guarantor.

(2) If any person quits business or sells out, exchanges or otherwise disposes of a business or stock of goods, any corporate activity tax imposed under section 63 of this 2019 Act shall become immediately due and payable. The person shall, within 45 days after the sale, exchange or disposition, make a return and pay the tax due.

(3) Notwithstanding ORS 314.835, the successor is liable for the full amount of the tax and may withhold from the purchase price a sum sufficient to pay any tax due until a receipt or evidence from the Department of Revenue showing payment in full of any tax due is presented to the successor. If a receipt or other evidence is not presented to the successor within 45 days, the successor may pay the tax and the amount paid shall, to the extent paid,

be considered a payment of the purchase price. If the tax paid by the successor is greater than the purchase price, the amount of the difference is a debt due to the successor from the seller or transferor.

(4) A successor is not liable for any tax due from the person from whom the successor has acquired a business or stock of goods if the successor gives written notice to the department of the acquisition and the department does not assess a deficiency against the seller or transferor within 18 months of receipt of the notice of acquisition and mail or deliver a copy of the assessment to the successor.

#### APPLICABILITY OF TAX LAWS

**SECTION 74.** Except as otherwise provided in sections 58 to 76 of this 2019 Act or where the context requires otherwise:

(1) The provisions of ORS chapters 305 and 314 as to the audit and examination of returns, periods of limitation, determination of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of returns and the penalties relative thereto, and the procedures relating thereto, apply to the determinations of taxes, penalties and interest under sections 58 to 76 of this 2019 Act.

(2) Any term that is not defined in section 58 of this 2019 Act shall have the meaning given that term for the purposes of ORS chapter 305, 314, 316 or 317.

#### DISPOSITION OF PROCEEDS

**SECTION 75. Payments to Department of Revenue.** For purposes of sections 58 to 76 of this 2019 Act, and except as otherwise provided by law, all taxes, interest and penalties imposed and all amounts of corporate activity tax collected or required to be paid to the state shall be paid to the Department of Revenue and upon receipt by the department shall be turned over to the State Treasurer, to be disbursed as provided in section 76 of this 2019 Act.

**SECTION 76. Suspense account, other disposition.** (1) Except as otherwise provided by law, all moneys received by the Department of Revenue under sections 58 to 76 of this 2019 Act shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445 separate and distinct from the General Fund. The department may pay expenses for the administration, collection and enforcement of the tax imposed under sections 58 to 76 of this 2019 Act out of moneys received from the corporate activity tax imposed under section 63 of this 2019 Act. Refunds, including refunds of erroneous overpayments or refunds of other moneys received in which the department has no legal interest, shall be paid out of the suspense account.

(2) After payment of refunds, the net revenue shall be transferred to the Fund for Student Success established under section 2 of this 2019 Act. A working balance of unreceipted revenue from the tax imposed under sections 58 to 76 of this 2019 Act may be retained by the department for the payment of refunds, but such working balance may not at the close of any fiscal year exceed the amount of \$500,000.

(3) There are continuously appropriated to the department amounts necessary to pay the administrative expenses of the department in administering, collecting and enforcing the corporate activity tax imposed under section 63 of this 2019 Act.

#### UNDERPAYMENT OR UNDERREPORTING

**SECTION 77. Interest and penalties.** (1) The Department of Revenue may not impose any interest or penalty that would otherwise apply to taxes due if the interest or penalty is based

on underpayment or underreporting that results solely from the operation of sections 58 to 76 of this 2019 Act.

(2) A taxpayer shall pay at least 80 percent of the balance due for any quarter or the department may impose a penalty as provided in ORS 314.400 (3).

**SECTION 78.** Section 77 of this 2019 Act applies to tax years beginning on or after January 1, 2020, and before January 1, 2021, and to returns filed on or before April 15, 2021.

#### APPLICABILITY

**SECTION 79.** Sections 58 to 76 of this 2019 Act apply to tax years beginning on or after January 1, 2020.

#### PARTS NOT SEVERABLE

**SECTION 80.** It is the intent of the Legislative Assembly that each part of this 2019 Act be considered as essentially and inseparably connected with and dependent upon every other part. The Legislative Assembly does not intend that any part of this 2019 Act be the law if any other part does not become law.

#### REPORT FROM DEPARTMENT OF EDUCATION

**SECTION 81.** No later than February 1, 2020, the Department of Education shall provide a report, and may include recommendations for legislation, to an interim committee of the Legislative Assembly related to education regarding the progress of implementing this 2019 Act.

**SECTION 82.** Section 81 of this 2019 Act is repealed on December 31, 2020.

#### CAPTIONS

**SECTION 83.** The unit and section captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

#### EFFECTIVE DATE

**SECTION 84.** This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.

**Passed by House May 1, 2019**

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Tina Kotek, Speaker of House

**Passed by Senate May 13, 2019**

.....  
Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2019

**Approved:**

.....M,....., 2019

.....  
Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2019

.....  
Bev Clarno, Secretary of State