SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Limits percentage of general purpose grants that school districts and education service districts may expend on administrative expenses.

Removes enrollment limitations for virtual public charter schools.

Directs Department of Education to develop plan to allow students to attend any public school in state regardless of school district in which student resides.

Directs Department of Education to develop plan to allow qualified high school students to enroll in post-secondary institutions of education and to have any costs incurred from enrollment paid from State School Fund.

Directs Teacher Standards and Practices Commission to conduct study related to coteaching training models.

Establishes minimum number of days in school year and prohibits inclusion of days on which students do not receive any instruction in calculation of number of days.

Redirects certain employee contributions to Public Employees Retirement System to School Districts Unfunded Liability Fund to be applied against system liabilities of school district employees.

Prohibits education providers from entering into certain agreements or contracts with former or current employees to remove specified information from documents maintained by education providers.

Repeals Student Assessment Bill of Rights.

Appropriates to Department of Education for deposit in High School Graduation and College and Career Readiness Fund amount prescribed to be deposited under High School Graduation and College and Career Readiness Act (Ballot Measure 98 (2016)).

Declares emergency, effective July 1, 2019.

A BILL FOR AN ACT


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

LIMITS PERCENTAGE OF MONEYS SCHOOLS MAY USE ON ADMINISTRATIVE EXPENSES

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

SECTION 2. A school district or an education service district may not expend more than 10 percent of the amounts received by the district as a general purpose grant, as calculated under ORS 327.013 or 327.019, on the administrative expenses of the district.

SECTION 3. Section 2 of this 2019 Act becomes operative on July 1, 2020.

REMOVAL OF ENROLLMENT LIMITATION FOR VIRTUAL PUBLIC CHARTER SCHOOLS

SECTION 4. ORS 338.125 is amended to read:
338.125. (1) Student enrollment in a public charter school is voluntary.

(2)(a) All students who reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available.

(b) Students who do not reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available [and subject to subsection (4) of this section].

(c) A public charter school may not limit student enrollment based on race, religion, sex, sexual orientation, ethnicity, national origin, disability, the terms of an individualized education program, income level, proficiency in the English language or athletic ability but may implement a weighted lottery for historically underserved students as provided by subsection (3)(d) of this section.

(3)(a) Except as provided by paragraphs (b) and (c) of this subsection, if the number of applications from students who reside in the school district exceeds the capacity of a program, class, grade level or building, the public charter school shall select students through an equitable lottery selection process. An equitable lottery selection process may incorporate the provisions described in paragraph (d) of this subsection.

(b)(A) A public charter school may give priority for admission to students who reside within the attendance boundaries that were in effect at the time a school district closed a nonchartered public school if:

(i) The public charter school began to operate not more than two years after the nonchartered public school was closed;

(ii) The school district that closed the nonchartered public school is the sponsor of the public charter school;

(iii) The public charter school is physically located within the attendance boundaries of the closed nonchartered public school; and

(iv) The school district board, through board action, approved the public charter school giving priority as described in this paragraph.

(B) Nothing in this paragraph requires an amendment to a charter. A school district board may take an action described in subparagraph (A)(iv) of this paragraph at any time during the term of a charter.

(c) After a public charter school has been in operation for one or more years, the public charter school may give priority for admission to students who:

(A) Were enrolled in the school in the prior year;

(B) Have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year; or

(C) If the public charter school is a party to a cooperative agreement described in ORS 338.080, reside in the school district that is the sponsor of the public charter school or in a school district that is a party to the cooperative agreement.

(d) For the purpose of ameliorating the impact of discrimination against historically underserved students, a public charter school may select students through a weighted lottery that favors historically underserved students. As used in this paragraph, “historically underserved students” are at risk because of any combination of two or more factors including their race, ethnicity, English language proficiency, socioeconomic status, gender, sexual orientation, disability and geographic location.

[(4)(a)] (4) A student who wishes to enroll in a virtual public charter school does not need the approval of the school district where the student is a resident before the student enrolls in the
virtual public charter school. If a student wishes to enroll in a virtual public charter school, the
parent, legal guardian or person in parental relationship with the student must provide the following
notices to the school district where the student is a resident:

[(A)] (a) Intent to enroll the student in a virtual public charter school; and
[(B)] (b) Enrollment of the student in a virtual public charter school.

[(b)(A) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than three
percent of the students who reside in a school district are enrolled in virtual public charter schools that
are not sponsored by the school district, a student who is a resident of the school district must receive
approval from the school district before enrolling in a virtual public charter school. A school district
is not required to give approval if more than three percent of the students who reside in the school
district are enrolled in virtual public charter schools that are not sponsored by the school district.]

[(B) For the purpose of determining whether more than three percent of the students who reside in
the school district are enrolled in virtual public charter schools that are not sponsored by the school
district, the school district board shall include any students who:]

[(i) Reside in the school district, regardless of whether the students are considered residents of
different school districts as provided by ORS 339.133 (5); and]

[(ii) Are enrolled in virtual public charter schools that are not sponsored by the school district.]  
[(C) Students who reside in the school district, regardless of whether the students are considered
residents of different school districts as provided by ORS 339.133 (5), must receive approval from the
school district before enrolling in a virtual public charter school if the limit described in subparagraph
(A) of this paragraph has been met.]

[(c) If the school district does not give approval under paragraph (b) of this subsection, the school
district must provide information to the parent, legal guardian or person in parental relationship with
the student about the right to appeal the decision to the State Board of Education and other online
options available to the student. If an appeal is made to the State Board of Education, the board must
issue a decision within 30 days of the submission of the appeal.]  

(5) Within 10 days of a student's enrollment in a public charter school, the public charter school
shall provide written notice of the student's enrollment to the school district in which the public
charter school is located if the student does not reside in the school district where the public
charter school is located.

(6) Within 10 days of receiving the notice described in subsection (5) of this section, the school
district in which the public charter school is located shall provide to the student's parent, legal
guardian or person in parental relationship written information about:

(a) The school district's responsibility to identify, locate and evaluate students enrolled in the
public charter school to determine which students may be in need of special education and related
services as provided by ORS 338.165; and

(b) The methods by which the school district may be contacted to answer questions or provide
information related to special education and related services.

(7) When a student described in subsection (5) of this section withdraws from a public charter
school for a reason other than graduation from high school, the school district in which the public
charter school is located shall:

(a) Provide to the school district in which the student resides written notice that the student
has withdrawn.

(b) Provide to the student's parent, legal guardian or person in parental relationship written
information about:
(A) The responsibility of the school district in which the student resides to identify, locate and evaluate students who reside in the school district to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(B) The methods by which the school district in which the student resides may be contacted to answer questions or provide information related to special education and related services.

(8)(a) If a student described in subsection (5) of this section enrolls in a public charter school and has an individualized education program, the school district in which the public charter school is located must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(b) If a student described in subsection (5) of this section withdraws from a public charter school and has an individualized education program, the school district in which the student resides must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(9) When a virtual public charter school enrolls a student or a student no longer is enrolled in a virtual public charter school, the virtual public charter school shall provide the written notices described in ORS 338.120 (1)(m) and (n) to the school district where the student is a resident.

(10) A public charter school may conduct fund-raising activities but may not require a student to participate in fund-raising activities as a condition of admission to the public charter school.

SECTION 5. ORS 338.125, as amended by section 2, chapter 585, Oregon Laws 2015, and section 2, chapter 218, Oregon Laws 2017, is amended to read:

338.125. (1) Student enrollment in a public charter school is voluntary.

(2)(a) All students who reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available.

(b) Students who do not reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available [and subject to subsection (4) of this section].

(c) A public charter school may not limit student enrollment based on race, religion, sex, sexual orientation, ethnicity, national origin, disability, the terms of an individualized education program, income level, proficiency in the English language or athletic ability.

(3)(a) Except as provided by paragraphs (b) and (c) of this subsection, if the number of applications from students who reside in the school district exceeds the capacity of a program, class, grade level or building, the public charter school shall select students through an equitable lottery selection process.

(b)(A) A public charter school may give priority for admission to students who reside within the attendance boundaries that were in effect at the time a school district closed a nonchartered public school if:

(i) The public charter school began to operate not more than two years after the nonchartered public school was closed;

(ii) The school district that closed the nonchartered public school is the sponsor of the public charter school;

(iii) The public charter school is physically located within the attendance boundaries of the closed nonchartered public school; and

(iv) The school district board, through board action, approved the public charter school giving priority as described in this paragraph.

(B) Nothing in this paragraph requires an amendment to a charter. A school district board may
take an action described in subparagraph (A)(iv) of this paragraph at any time during the term of a charter.

(c) After a public charter school has been in operation for one or more years, the public charter school may give priority for admission to students who:

(A) Were enrolled in the school in the prior year;
(B) Have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year; or
(C) If the public charter school is a party to a cooperative agreement described in ORS 338.080, reside in the school district that is the sponsor of the public charter school or in a school district that is a party to the cooperative agreement.

[(4)(a)] (4) A student who wishes to enroll in a virtual public charter school does not need the approval of the school district where the student is a resident before the student enrolls in the virtual public charter school. If a student wishes to enroll in a virtual public charter school, the parent, legal guardian or person in parental relationship with the student must provide the following notices to the school district where the student is a resident:

[(A)] (a) Intent to enroll the student in a virtual public charter school; and
[(B)] (b) Enrollment of the student in a virtual public charter school.

[(b)(A) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than three percent of the students who reside in a school district are enrolled in virtual public charter schools that are not sponsored by the school district, a student who is a resident of the school district must receive approval from the school district before enrolling in a virtual public charter school. A school district is not required to give approval if more than three percent of the students who reside in the school district are enrolled in virtual public charter schools that are not sponsored by the school district.]

[(B) For the purpose of determining whether more than three percent of the students who reside in the school district are enrolled in virtual public charter schools that are not sponsored by the school district, the school district board shall include any students who:

(i) Reside in the school district, regardless of whether the students are considered residents of different school districts as provided by ORS 339.133 (5); and
(ii) Are enrolled in virtual public charter schools that are not sponsored by the school district.]

[(C) Students who reside in the school district, regardless of whether the students are considered residents of different school districts as provided by ORS 339.133 (5), must receive approval from the school district before enrolling in a virtual public charter school if the limit described in subparagraph (A) of this paragraph has been met.]

[(c) If the school district does not give approval under paragraph (b) of this subsection, the school district must provide information to the parent, legal guardian or person in parental relationship with the student about the right to appeal the decision to the State Board of Education and other online options available to the student. If an appeal is made to the State Board of Education, the board must issue a decision within 30 days of the submission of the appeal.]

(5) Within 10 days of a student’s enrollment in a public charter school, the public charter school shall provide written notice of the student’s enrollment to the school district in which the public charter school is located if the student does not reside in the school district where the public charter school is located.

(6) Within 10 days of receiving the notice described in subsection (5) of this section, the school district in which the public charter school is located shall provide to the student’s parent, legal guardian or person in parental relationship written information about:
(a) The school district’s responsibility to identify, locate and evaluate students enrolled in the public charter school to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(b) The methods by which the school district may be contacted to answer questions or provide information related to special education and related services.

(7) When a student described in subsection (5) of this section withdraws from a public charter school for a reason other than graduation from high school, the school district in which the public charter school is located shall:

(a) Provide to the school district in which the student resides written notice that the student has withdrawn.

(b) Provide to the student’s parent, legal guardian or person in parental relationship written information about:

(A) The responsibility of the school district in which the student resides to identify, locate and evaluate students who reside in the school district to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(B) The methods by which the school district in which the student resides may be contacted to answer questions or provide information related to special education and related services.

(8)(a) If a student described in subsection (5) of this section enrolls in a public charter school and has an individualized education program, the school district in which the public charter school is located must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(b) If a student described in subsection (5) of this section withdraws from a public charter school and has an individualized education program, the school district in which the student resides must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(9) When a virtual public charter school enrolls a student or a student no longer is enrolled in a virtual public charter school, the virtual public charter school shall provide the written notices described in ORS 338.120 (1)(m) and (n) to the school district where the student is a resident.

(10) A public charter school may conduct fund-raising activities but may not require a student to participate in fund-raising activities as a condition of admission to the public charter school.

SECTION 6. ORS 338.025 is amended to read:

338.025. (1) The State Board of Education may adopt any rules necessary for the implementation of this chapter. The rules shall follow the intent of this chapter.

(2) Upon application by a public charter school, the State Board of Education may grant a waiver of any provision of this chapter if the waiver promotes the development of programs by providers, enhances the equitable access by underserved families to the public education of their choice, extends the equitable access to public support by all students or permits high quality programs of unusual cost. The State Board of Education may not waive any appeal provision in this chapter or any provision under ORS 338.115 (1)(a) to (aa), 338.120, [338.125 (4),] 338.135 (2)(b) or 339.122.

DEVELOPMENT OF PLAN TO OPEN ENROLLMENT FOR ALL PUBLIC SCHOOL STUDENTS

SECTION 7. (1) The Department of Education shall develop a plan to allow students to
attend any public school in this state regardless of the school district in which the student resides.

(2) The department shall report a summary of the plan in the manner provided by ORS 192.245, and may include recommendations for legislation, to an interim committee of the Legislative Assembly related to education no later than September 15, 2020.

SECTION 8. Section 7 of this 2019 Act is repealed on December 31, 2020.

DEVELOPMENT OF PLAN TO ALLOW HIGH SCHOOL STUDENTS TO ENROLL IN POST-SECONDARY INSTITUTIONS OF EDUCATION AND PAY WITH MONEYS FROM STATE SCHOOL FUND

SECTION 9. (1) The Department of Education shall develop a plan to allow qualified high school students to enroll in post-secondary institutions of education and to have any costs incurred from the enrollment be paid from the State School Fund.

(2) The department shall report a summary of the plan in the manner provided by ORS 192.245, and may include recommendations for legislation, to an interim committee of the Legislative Assembly related to education no later than September 15, 2020.

SECTION 10. Section 9 of this 2019 Act is repealed on December 31, 2020.

STUDY RELATED TO COTEACHING TRAINING MODELS

SECTION 11. (1) The Teacher Standards and Practices Commission shall conduct a study to identify methods for:

(a) Implementing coteaching training models that allow workforce experts to assist in teaching without changing their employment status; and

(b) Encouraging workforce experts to participate in models identified under paragraph (a) of this subsection.

(2) The commission shall report the results of the study in the manner provided by ORS 192.245, and may include recommendations for legislation, to an interim committee of the Legislative Assembly related to education no later than September 15, 2020.

SECTION 12. Section 11 of this 2019 Act is repealed on December 31, 2020.

ESTABLISHMENT OF MINIMUM NUMBER OF SCHOOL DAYS

SECTION 13. ORS 336.010 is amended to read:

336.010. (1) The common school month consists of 20 days and the common school year consists of at least 180 days. For purposes of calculating the number of days in the common school year, days in which students do not receive any instruction may not be included in the calculation.

(2) No pupil shall be required to attend school on any Saturday or on any legal school holiday. Except as otherwise specifically provided in this section, a legal school holiday is any holiday specified in ORS 187.010.

(3) Days on which an election is held throughout the state shall be school holidays only for such
s

(4) The following days are not school holidays, but a portion of the days shall be set apart and observed in the public schools by appropriate activities:

(a) Lincoln’s Birthday on February 12.

(b) Admission of Oregon into the Union on February 14.

(c) Washington’s Birthday on February 22.

(d) Columbus Day on October 12.

(5) On January 15, Martin Luther King, Jr.’s actual date of birth, a portion of the day shall be set apart and observed in the public schools by appropriate activities.

(6) Martin Luther King, Jr.’s Birthday, designated in ORS 187.010 as the third Monday in January, shall be a legal school holiday. However, notwithstanding subsection (8) of this section, whether or not there shall be compensation of school employees shall be at the discretion of the school board or covered by a collective bargaining agreement.

(7) Presidents Day, designated in ORS 187.010 as the third Monday in February, is not a legal school holiday.

(8) No teacher shall be required to teach on any Saturday, except as provided in the terms of the teacher’s employment, or on any legal school holiday. When a holiday occurs on what would otherwise be a school day, teachers shall be allowed full pay for the holiday.

(9) No subject required for graduation shall be taught on Saturday only.


(2) The amendments to ORS 336.010 by section 13 of this 2019 Act first apply to the 2020-2021 school year.

REDIRECTION OF EMPLOYEE CONTRIBUTIONS FOR PUBLIC EMPLOYEES RETIREMENT SYSTEM

SECTION 15. ORS 238A.330 is amended to read:

238A.330. (1) A member of the individual account program must make employee contributions to the individual account program of six percent of the member’s salary.

(2)(a) For a member who establishes membership in the Public Employees Retirement System before August 29, 2003, employee contributions made [by a member of the individual account program] under this section shall be credited by the board to the [employee] contributions account established for the member under ORS 238A.350 [(2)] (3).

(b) For a member who establishes membership in the Public Employees Retirement System on or after August 29, 2003, of the employee contributions made under this section:

(A) Three percent of the member’s salary shall be credited to the employee account established for the member under ORS 238A.350 (2); and

(B) Three percent of the member’s salary shall be credited by the board to the contributions account established for the member under ORS 238A.350 (3).

(3) A new member of the individual account program shall first make contributions under this section for those wages that are attributable to services performed by the employee during the first full pay period following the six-month probationary period required under ORS 238A.300, without regard to when those wages are considered earned for other purposes under this chapter.

SECTION 16. ORS 238A.350 is amended to read:
238A.350. (1) Upon any contributions being made to the individual account program by or on behalf of a member of the program, the Public Employees Retirement Board shall create the account or accounts described in this section. Each account shall be adjusted at least annually in accordance with rules adopted by the board to reflect any net earnings or losses on those contributions and to pay the reasonable administrative costs of maintaining the program to the extent the earnings on the assets of the program are insufficient to pay those costs. The adjustments described in this subsection shall continue until the account is distributed to the member or forfeited or transferred to the School Districts Unfunded Liability Fund established in section 24, chapter 105, Oregon Laws 2018, as provided in subsection (3) of this section.

(2)(a) The board shall establish an employee account, which shall consist of the employee contributions made by or on behalf of the member and credited to the employee account, as adjusted under subsection (1) of this section.

(b) The board shall create a separate employee account for a member who becomes an active member for the purpose of service in the Legislative Assembly under ORS 237.650, which shall consist of the employee contributions made by or on behalf of the member that are attributable to the member’s legislative service, as adjusted under subsection (1) of this section.

(3)(a) The board shall establish a contributions account, which shall consist of the employee contributions made by or on behalf of the member under ORS 238A.330 and credited to the contributions account, as adjusted under subsection (1) of this section.

(b) Unless the amounts in a contributions account established under this subsection are withdrawn under ORS 238A.375, upon the member’s retirement the amounts in the account shall be transferred to the School Districts Unfunded Liability Fund established in section 24, chapter 105, Oregon Laws 2018.

SECTION 17. ORS 238A.320 is amended to read:

238A.320. (1) A member of the individual account program becomes vested in the employee account established for the member under ORS 238A.350 (2) on the date the employee account is established.

(2) A member who makes rollover contributions becomes vested in the rollover account established for the member under ORS 238A.350 (4) (5) on the date the rollover account is established.

(3) Except as provided in subsection (4) of this section, if an employer makes employer contributions for a member under ORS 238A.340, the member becomes vested in the employer account established under ORS 238A.350 (3) (4) on the earliest of the following dates:

(a) The date on which the member completes at least 600 hours of service in each of five calendar years. The five calendar years need not be consecutive, but are subject to the provisions of
subsection (5) of this section.

(b) The date on which an active member reaches the normal retirement age for the member under ORS 238A.160.

(c) If the individual account program is terminated, the date on which termination becomes effective, but only to the extent the account is then funded.

(d) The date on which an active member becomes disabled, as described in ORS 238A.155 (5).

(e) The date on which an active member dies.

(4) If on the date that a person becomes an active member the person has already reached the normal retirement age for the person under ORS 238A.160, and the employer makes employer contributions for the member under ORS 238A.340, the person is vested in the employer account established under ORS 238A.350 [(3)] (4) on that date.

(5) If a member of the individual account program who is not vested in the employer account performs fewer than 600 hours of service in each of five consecutive calendar years, hours of service performed before the first calendar year of the period of five consecutive calendar years shall be disregarded for purposes of determining whether the member is vested under subsection (3)(a) of this section.

(6) Solely for purposes of determining whether a member is vested under subsection (3)(a) of this section, hours of service include creditable service, as defined in ORS 238.005, performed by the person before the person became an eligible employee, as long as the membership of the person under ORS chapter 238 has not been terminated under the provisions of ORS 238.095 on the date the person becomes an eligible employee.

(7) A member becomes vested in the contributions account established for the member under ORS 238A.350 (3) on the date the account is established.

SECTION 18. ORS 238A.375 is amended to read:

ORS 238A.375. (1) (a) An inactive member of the individual account program may elect to receive a distribution of the amounts in the member’s employee account, rollover account and employer account to the extent the member is vested in those accounts under ORS 238A.320 if the inactive member has separated from all service with participating public employers and with employers who are treated as part of a participating public employer’s controlled group under the federal laws and rules governing the status of the system and the fund as a qualified governmental retirement plan and trust.

(b)(A) An inactive member of the individual account program may elect to receive a distribution of the amounts in the member's contributions account established for the member under ORS 238A.350 (3) if:

(i) The inactive member has separated from all service with participating public employers and with employers who are treated as part of a participating public employer’s controlled group under the federal laws and rules governing the status of the system and the fund as a qualified governmental retirement plan and trust; and

(ii) The member is eligible to withdraw and withdraws from the pension program under ORS 238A.120.

(B) The withdrawal of the member’s accounts under this paragraph cancels all membership rights in the Public Employees Retirement System.

(2) If an inactive member of the individual account program who is not vested in the employer account receives a distribution under subsection (1) of this section, the employer account of the member is permanently forfeited as of the date of the distribution.
(3) A member may not make an election under this section for less than all of the member's individual accounts described in ORS 238A.350 in which the member is vested.

(4) A member who is vested in the pension program established under this chapter and who is eligible to withdraw from the pension program under ORS 238A.120 may make an election under this section only if the member also withdraws from the pension program.

(5) A member who has a member account established under ORS chapter 238 may make an election under this section only if the member also withdraws that member account in the manner provided by ORS 238.265. A member who has an account established under ORS 238.440 may make an election under this section only if the member also withdraws the account established under ORS 238.440.

(6) If an inactive member receives a distribution under subsection (1) of this section and is subsequently reemployed by a participating public employer, any service performed before the date the member became an inactive member may not be used toward the period of service required for vesting in the employer account under ORS 238A.320.

SECTION 19. ORS 238A.410, as amended by section 9, chapter 101, Oregon Laws 2018, is amended to read:

238A.410. (1)(a) If a member of the individual account program dies before retirement, the amounts in the member's employee account, rollover account and employer account, to the extent the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the beneficiary or beneficiaries designated by the member for the purposes of this section.

(b) If a member of the individual account program dies before retirement, the amounts in the contributions account established for the member under ORS 238A.350 (3) shall be transferred to the School Districts Unfunded Liability Fund established in section 24, chapter 105, Oregon Laws 2018.

(2) If a member of the individual account program is married at the time of death, or there exists at the time of death any other person who is constitutionally required to be treated in the same manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the beneficiary for purposes of the death benefit payable under this section unless the spouse or other person consents to the designation of a different beneficiary or beneficiaries before the designation has been made and the consent has not been revoked by the spouse or other person as of the time of the member's death. Consent and revocation of consent must be in writing, acknowledged by a notary public, and submitted to the Public Employees Retirement Board in accordance with rules adopted by the board. If the member's spouse is designated as the member's beneficiary and the marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated as predeceasing the member for purposes of this section, unless the member expressly designates the former spouse as beneficiary after the effective date of the dissolution or the former spouse is required to be designated as a beneficiary under the provisions of ORS 238.465.

(3) For purposes of this section and ORS 238A.400 (3), if a member fails to designate a beneficiary, or if the person or persons designated do not survive the member, the death benefit provided for in this section shall be paid to the following person or persons, in the following order of priority:

(a) The member's surviving spouse or other person who is constitutionally required to be treated in the same manner as a spouse;

(b) The member's surviving children, in equal shares; or

(c) The member's estate.

(4) The entire amount of a deceased member's vested accounts must be distributed by December
31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
 provision of this chapter, distributions of death benefits under the individual account program must
 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
 plementing that section, as in effect on December 31, 2017. The [Public Employees Retirement] board
 shall adopt rules implementing those minimum distribution requirements.

SECTION 20. ORS 243.800 is amended to read:

243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to
243.945, the governing board of a public university listed in ORS 352.002 shall establish and admin-
ister an Optional Retirement Plan for administrative and academic employees of the public univer-
sity. The Optional Retirement Plan must be a qualified plan under the Internal Revenue Code,
capable of accepting funds transferred under subsection (7) of this section without the transfer being
treated as a taxable event under the Internal Revenue Code, and willing to accept those funds.
Retirement and death benefits shall be provided under the plan by the purchase of annuity contracts,
fixed or variable or a combination thereof, or by contracts for investments in mutual funds.

(2) An administrative or academic employee who is eligible to remain or become a member of
the Public Employees Retirement System may elect to participate in the Optional Retirement Plan
upon completion of:

(a) Six hundred hours of employment, or the equivalent as determined by the governing board; and

(b) Six months of employment that is not interrupted by more than 30 consecutive working days.

(3) An administrative or academic employee who is eligible to remain or become a member of
the Public Employees Retirement System, including an administrative or academic employee who
previously participated in the Optional Retirement Plan because of employment in a position clas-
sified as a post-doctoral scholar position under ORS 350.370, may make an irrevocable election to
participate in the Optional Retirement Plan within six months after being employed. An election
under this subsection is effective on the first day of the month following the completion of the re-
quirements of subsection (2) of this section.

(4) An administrative or academic employee who is eligible to remain or become a member of
the Public Employees Retirement System and who does not elect to participate in the Optional Re-
tirement Plan:

(a) Remains or becomes a member of the Public Employees Retirement System in accordance
with ORS chapters 238 and 238A; or

(b) Continues to be assisted by the governing board under ORS 243.920 if the employee is being
so assisted.

(5) Except as provided in subsection (6) of this section, employees who elect to participate in the
Optional Retirement Plan are ineligible for active membership in the Public Employees Retirement
System or for any assistance by the governing board under ORS 243.920 as long as those employees
are employed in the public university and the plan is in effect.

(6)(a) An administrative or academic employee who elects to participate in the Optional Retire-
ment Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who
is not vested shall be considered by the Public Employees Retirement Board to be a terminated
member under the provisions of ORS 238.095 as of the effective date of the election, and the
[amount] amounts credited to the member [account] accounts of the member established under
ORS 238.250 and 238.260 shall be transferred directly to the Optional Retirement Plan by the Public
Employees Retirement Board in the manner provided by subsection (7) of this section.
(b) An administrative or academic employee who elects to participate in the Optional Retirement Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall be considered to be an inactive member by the Public Employees Retirement Board and shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes a written request to the Public Employees Retirement Board for a transfer of the amounts credited to the member account established under ORS 238.250 and 238.260 to the Optional Retirement Plan. A request for a transfer must be made at the time the member elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer all amounts credited to the member account established under ORS 238.250 and 238.260 directly to the Optional Retirement Plan, and shall terminate all rights, privileges and options of the employee as provided in ORS 238.095.

(c) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is not a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 shall be considered to be a terminated member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.100 on the date that the election becomes effective, but who has not vested in the program under ORS 238A.115 on the date that the election becomes effective, shall be considered to be a vested member of the pension program by the Public Employees Retirement Board as of the effective date of the election. The Public Employees Retirement Board shall transfer the amounts credited to the member accounts of the member directly to the Optional Retirement Plan in the manner provided by subsection (7) of this section.

(d) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be considered an inactive member of the pension program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the pension program. If the actuarial equivalent of the employee's benefit under the pension program at the time that the election becomes effective is $5,000 or less, the employee may make a written request to the Public Employees Retirement Board for a transfer of the employee's interest under the pension program to the Optional Retirement Plan. The request must be made at the time the member elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit under the pension program directly to the Optional Retirement Plan, and shall terminate the membership of the employee in the pension program.

(e) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a vested member of the individual account program of the Oregon Public Service Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective, shall be considered an inactive member of the individual account program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the individual account program. An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a member of the individual account program of the Oregon
Public Service Retirement Plan, may make a written request to the Public Employees Retirement Board that all amounts [in the member's employee account, rollover account and employer account] credited to the member accounts of the member established under ORS 238A.350, to the extent the member is vested in those accounts under ORS 238A.320, be transferred to the Optional Retirement Plan. The request must be made at the time the member elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amounts directly to the Optional Retirement Plan, and shall terminate the membership of the employee in the individual account program upon making the transfer.

(f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the Public Employees Retirement Board may not treat any employee as an inactive member under the provisions of this subsection for the purpose of receiving any benefit under ORS chapter 238 or 238A that requires that the employee be separated from all service with participating public employers and with employers who are treated as part of a participating public employer's controlled group under the federal laws and rules governing the status of the Public Employees Retirement System and the Public Employees Retirement Fund as a qualified governmental retirement plan and trust.

(7) Any amounts transferred from the Public Employees Retirement Fund under subsection (6) of this section shall be transferred directly to the Optional Retirement Plan by the Public Employees Retirement Board and may not be made available to the employee.

(8) An employee participating in the Optional Retirement Plan who was hired before July 1, 2014, shall contribute monthly an amount equal to the percentage of the employee's salary that the employee would otherwise have contributed as an employee contribution to the Public Employees Retirement System if the employee had not elected to participate in the Optional Retirement Plan.

(9) For an employee participating in the Optional Retirement Plan who was hired before July 1, 2014, the governing board shall contribute monthly to the Optional Retirement Plan the percentage of salary of the employee equal to the percentage of salary that would otherwise have been contributed as an employer contribution on behalf of the employee to the Public Employees Retirement System, before any offset under ORS 238.229 (2), if the employee had not elected to participate in the Optional Retirement Plan.

(10) For an employee participating in the Optional Retirement Plan who was hired on or after July 1, 2014, the governing board shall contribute monthly to the Optional Retirement Plan:

(a) Eight percent of the employee's salary; and

(b) A percentage of the employee's salary equal to the percentage of salary contributed by the employee to the public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820, up to four percent of the employee's salary in each pay period.

(11)(a) Unless otherwise prohibited by law, a person employed in a position classified as a post-doctoral scholar position under ORS 350.370 is an academic employee under subsection (1) of this section and becomes a participant in the Optional Retirement Plan when the person participates in the public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820.

(b) Participation in the Optional Retirement Plan under this subsection becomes effective on the first day of the month following the later of:

(A) Enrollment in the public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820; or

(B) Completion of:

(i) Six hundred hours of employment, or the equivalent as determined by the governing board; and

[14]
(ii) Six months of employment that is not interrupted by more than 30 consecutive working days.

(c) For a post-doctoral scholar participating in the Optional Retirement Plan, the governing board shall contribute monthly to the Optional Retirement Plan a percentage of the post-doctoral scholar’s salary equal to the percentage of salary contributed by the post-doctoral scholar to the public university’s Tax-Deferred Investment 403(b) Plan under ORS 243.820, up to four percent of the post-doctoral scholar’s salary in each pay period.

(d) A post-doctoral scholar is an academic employee who elects to participate in the Optional Retirement Plan for purposes of subsection (6) of this section.

(e) Subsections (8) to (10) of this section do not apply to a post-doctoral scholar participating in the Optional Retirement Plan.

(12) Both employee and employer contributions to an Optional Retirement Plan shall be remitted directly to the companies that have issued annuity contracts to the participating employees or directly to the mutual funds.

(13) Benefits under the Optional Retirement Plan are payable to employees who elect to participate in the plan and their beneficiaries by the selected annuity provider or mutual fund in accordance with the terms of the annuity contracts or the terms of the contract with the mutual fund. Employees electing to participate in the Optional Retirement Plan agree that benefits payable under the plan are not obligations of the State of Oregon or of the Public Employees Retirement System.

SECTION 21. ORS 341.551 is amended to read:

341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A, the Office of Community Colleges and Workforce Development may establish and administer an optional retirement plan for administrative employees of community college districts who are eligible for membership in the Public Employees Retirement System. Any community college district may participate in the plan by giving written notice to the office.

(2) An administrative employee may make an election to participate in the optional retirement plan if the community college district that employs the employee is participating in the plan. The election must be made in the following manner:

(a) An administrative employee who is an active member of the Public Employees Retirement System may make an election to participate in the plan within 180 days after the community college district commences participation in the plan, effective on the first day of the month following the election.

(b) An administrative employee who is hired after the community college district commences participation in the plan may make an election to participate in the plan within the first six months of employment, effective on the first day of the month following six full months of employment.

(3) An administrative employee who does not elect to participate in the optional retirement plan remains or becomes a member of the Public Employees Retirement System in accordance with ORS chapters 238 and 238A.

(4) An administrative employee may elect to participate in the optional retirement plan only if at the time the election becomes effective the employee is not concurrently employed in a position with any participating public employer other than the community college district in a position that entitles the employee to membership in the Public Employees Retirement System. Except as provided in subsection (9) of this section, employees who elect to participate in the optional retirement plan are ineligible for active membership in the Public Employees Retirement System for as long as those employees are employed by a community college district that participates in the plan, whether by reason of employment by the district or any other participating public employer.
(5)(a) An administrative employee who elects to participate in the optional retirement plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is not vested shall be considered by the Public Employees Retirement Board to be a terminated member under the provisions of ORS 238.095 as of the effective date of the election, and the amounts credited to the member accounts of the member established under ORS 238.250 and 238.260 shall be transferred directly to the optional retirement plan by the Public Employees Retirement Board in the manner provided by subsection (6) of this section.

(b) An administrative employee who elects to participate in the optional retirement plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall be considered to be an inactive member by the Public Employees Retirement Board and shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes a written request to the Public Employees Retirement Board for a transfer of the amounts credited to the member accounts of the member established under ORS 238.250 and 238.260 to the optional retirement plan. A request for a transfer must be made at the time the member elects to participate in the optional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall transfer all amounts credited to the member accounts of the member established under ORS 238.250 and 238.260 directly to the optional retirement plan and shall terminate all rights, privileges and options of the employee under ORS chapter 238 as provided in ORS 238.095.

(c) [An administrative employee who elects to participate in the optional retirement plan and who is not a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115] An administrative employee who elects to participate in the optional retirement plan and who is a member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.100 on the date that the election becomes effective, but who has not vested in the program under ORS 238A.115 on the date that the election becomes effective, shall be considered to be a terminated member of the pension program by the Public Employees Retirement Board as of the effective date of the election. The Public Employees Retirement Board shall transfer the amounts credited to the member accounts of the member directly to the optional retirement plan in the manner provided by subsection (6) of this section.

(d) An administrative employee who elects to participate in the optional retirement plan and who is a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 on the date that the election becomes effective shall be considered an inactive member of the pension program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the pension program. If the actuarial equivalent of the employee’s benefit under the pension program at the time that the election becomes effective is $5,000 or less, the employee may make a written request to the Public Employees Retirement Board for a transfer of the employee’s interest under the pension program to the optional retirement plan. The request must be made at the time the member elects to participate in the optional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amount determined to be the actuarial equivalent of the employee’s benefit under the pension program directly to the optional retirement plan and shall terminate the membership of the employee in the pension program.

(e) An administrative employee who elects to participate in the optional retirement plan and
who is a vested member of the individual account program of the Oregon Public Service Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective shall be considered an inactive member of the individual account program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the individual account program. An administrative employee who elects to participate in the optional retirement plan and who is a member of the individual account program of the Oregon Public Service Retirement Plan may make a written request to the Public Employees Retirement Board that all amounts [in the member's employee account, rollover account and employer account] credited to the member accounts of the member established under ORS 238A.350, to the extent the member is vested in those accounts under ORS 238A.320, be transferred to the optional retirement plan. The request must be made at the time the member elects to participate in the optional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amounts directly to the optional retirement plan and shall terminate the membership of the employee in the individual account program.

(f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the Public Employees Retirement Board shall not treat any employee as an inactive member under the provisions of this subsection for the purpose of receiving any benefit under ORS chapter 238 or 238A that requires that the employee be separated from all service with participating public employers and with employers who are treated as part of a participating public employer's controlled group under the federal laws and rules governing the status of the Public Employees Retirement System and the Public Employees Retirement Fund as a qualified governmental retirement plan and trust.

(6) Any amounts transferred from the Public Employees Retirement Fund under subsection (5) of this section shall be transferred directly to the optional retirement plan by the Public Employees Retirement Board and shall not be made available to the employee.

(7) An employee participating in the optional retirement plan shall contribute monthly an amount equal to the percentage of the employee's salary that the employee would otherwise have contributed as an employee contribution to the Public Employees Retirement System if the employee had not elected to participate in the optional retirement plan.

(8) A participating community college district shall contribute monthly to the optional retirement plan the percentage of salary for each employee participating in the plan that is equal to the percentage of salary that is required to be made as the employer contribution under ORS 238A.220, less any contributions made by reason of unfunded liabilities. The district may make contributions under this subsection only during periods of time in which the employee would be eligible for membership in the Public Employees Retirement System if the employee had not elected to participate in the optional retirement plan.

(9) An administrative employee who elects to participate in the optional retirement plan may make an election to withdraw from the plan. An employee may make an election under this subsection only once. Upon withdrawing from the plan:

(a) All contributions made to the plan before the effective date of the withdrawal remain credited to the employee;

(b) The employee becomes a member of the Public Employees Retirement System under ORS chapter 238A if the member meets all requirements for membership under ORS chapter 238A; and

(c) The employee is barred from ever again electing to participate in the optional retirement plan.
For the purposes of this section, "administrative employee" means a president, vice president or dean, or a person holding a position that is the equivalent of a president, vice president or dean.


(2) The Public Employees Retirement Board may take any action before the operative date specified in subsection (1) of this section that is necessary for the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by the amendments to ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 15 to 21 of this 2019 Act.

SECTION 23. (1) As soon as practicable after the effective date of this 2019 Act, the Public Employees Retirement Board shall:

(a) Determine the amount of savings in employer contributions that are attributable to the amendments to ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 15 to 21 of this 2019 Act; and

(b) Recalculate the contribution rates of all employers, pursuant to ORS 238.225, to reflect the amendments to ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 15 to 21 of this 2019 Act; and

(2) The board shall issue corrected contribution rate orders to employers affected by rates recalculated under this section as soon as is practicable after the effective date of this 2019 Act. The corrected rates are effective July 1, 2019.

SECTION 24. (1) Jurisdiction is conferred upon the Supreme Court to determine in the manner provided by this section whether the amendments to ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 15 to 21 of this 2019 Act breach any contract between members of the Public Employees Retirement System and their employers or violate any provision of the Oregon Constitution or of the United States Constitution, including but not limited to impairment of contract rights of members of the Public Employees Retirement System under Article I, section 21, of the Oregon Constitution, or Article I, section 10, clause 1, of the United States Constitution.

(2) A person who is adversely affected by the amendments to ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 15 to 21 of this 2019 Act or who will be adversely affected by the amendments to ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 15 to 21 of this 2019 Act may institute a proceeding for review by filing with the Supreme Court a petition that meets the following requirements:

(a) The petition must be filed within 60 days after the effective date of this 2019 Act.

(b) The petition must include the following:

(A) A statement of the basis of the challenge; and

(B) A statement and supporting affidavit showing how the petitioner is adversely affected.

(3) The petitioner shall serve a copy of the petition by registered or certified mail upon the Public Employees Retirement Board, the Attorney General and the Governor.

(4) Proceedings for review under this section shall be given priority over all other matters before the Supreme Court.

(5) The Supreme Court shall allow public employers participating in the Public Employees Retirement System to intervene in any proceeding under this section.
(6)(a) The Supreme Court shall allow members of the Legislative Assembly to intervene in any proceeding relating to the amendments to ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 15 to 21 of this 2019 Act. After a member intervenes in a proceeding relating to the amendments to ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 15 to 21 of this 2019 Act, the member has standing to participate in the proceeding even if the member ceases to be a member of the Legislative Assembly.

(b) A member of the Senate or the House of Representatives who intervenes in a proceeding under this subsection may not use public funds to pay legal expenses incurred in intervening in or participating in the proceeding.

(7) In the event the Supreme Court determines that there are factual issues in the petition, the Supreme Court may appoint a special master to hear evidence and to prepare recommended findings of fact.

(8) The Supreme Court may not award attorney fees to a petitioner in a proceeding under this section.

PROHIBITION OF CERTAIN AGREEMENTS

SECTION 25. ORS 339.392 is amended to read:

339.392. (1) An education provider may not enter into a collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement or any other contract or agreement that:

(a) Has the effect of suppressing information relating to an ongoing investigation related to a report of suspected abuse or sexual conduct or relating to a substantiated report of abuse or sexual conduct by a current or former employee;

(b) Affects the duties of the education provider to report suspected abuse or sexual conduct or to discipline a current or former employee for a substantiated report of abuse or sexual conduct;

(c) Impairs the ability of the education provider to discipline an employee for a substantiated report of abuse or sexual conduct; or

(d) Requires the education provider to expunge from documents maintained by the education provider:

(A) Substantiated information about abuse or sexual conduct;[from any documents maintained by an education provider.];

(B) Substantiated information about behavior that did not constitute abuse or sexual conduct but that may indicate a pattern of behavior for which an employee may be disciplined; or

(C) Unsubstantiated information that may indicate a pattern of behavior and to which the current or former employee was able to respond, including any response of the employee to the information.

(2) Any provision of an employment contract or agreement that is contrary to this section is void and unenforceable.

(3) Nothing in this section prevents an education provider from entering into a collective bargaining agreement that includes:

(a) Standards for investigation of a report of abuse or sexual conduct; or

(b) An appeal process from the determination by an education provider that a report of abuse
or sexual conduct has been substantiated as provided in ORS 339.388 (5).

SECTION 26. The amendments to ORS 339.392 by section 25 of this 2019 Act apply to
agreements and contracts entered into on or after the effective date of this 2019 Act.

REPEAL OF STUDENT ASSESSMENT
BILL OF RIGHTS

SECTION 27. ORS 329.479 is repealed.

APPROPRIATION FOR HIGH SCHOOL GRADUATION AND
COLLEGE AND CAREER READINESS FUND

SECTION 28. There is appropriated to the Department of Education, for the biennium
beginning July 1, 2019, out of the General Fund, the amount of $306,000,000 for deposit in the
High School Graduation and College and Career Readiness Fund established by ORS 327.856.

CAPTIONS

SECTION 29. The unit captions used in this 2019 Act are provided only for the conven-
ience 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.

EMERGENCY CLAUSE

SECTION 30. This 2019 Act being necessary for the immediate preservation of the public
peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
July 1, 2019.