

House Bill 4044

Sponsored by Representatives BARKER, SMITH G, Senator FINDLEY, Representative DOHERTY; Senator WAGNER (at the request of Oregon Education Association, Oregon Small Schools Association, Oregon School Boards Association, Confederation of Oregon School Administrators, Oregon School Employees Association, Stand for Children) (Presession filed.)

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**.

Makes permanent small school district grants and school district funding for foreign exchange students.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to State School Fund distributions; amending ORS 327.006, 327.008, 327.019, 327.125, 327.137,
3 339.129, 339.133 and 340.045 and section 20, chapter 735, Oregon Laws 2013; repealing section
4 19, chapter 735, Oregon Laws 2013, and section 24, chapter 72, Oregon Laws 2018; and declaring
5 an emergency.

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

7 **SECTION 1. Section 24, chapter 72, Oregon Laws 2018, is repealed.**

8 **SECTION 2.** ORS 339.133 is amended to read:

9 339.133. (1) As used in this section:

10 (a)(A) "Foster care" means substitute care for children placed by the Department of Human
11 Services or a tribal child welfare agency away from their parents and for whom the department or
12 agency has placement and care responsibility, including placements in foster family homes, foster
13 homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and
14 preadoptive homes.

15 (B) "Foster care" does not mean care for children whose parent or guardian voluntarily placed
16 the child outside the child's home with a public or private agency and for whom the child's parent
17 or guardian retains legal guardianship.

18 (b)(A) "Person in parental relationship" means an adult who has physical custody of an indi-
19 vidual or resides in the same household as the individual, interacts with the individual daily, pro-
20 vides the individual with food, clothing, shelter and incidental necessities and provides the
21 individual with necessary care, education and discipline.

22 (B) "Person in parental relationship" does not mean a person with a power of attorney or other
23 written delegation of parental responsibilities if the person does not have other evidence of a par-
24 ental relationship.

25 (c) "School district of origin" means the school district where an individual was a resident be-
26 fore:

27 (A) The individual was placed into foster care; or

28 (B) The foster care placement of the individual changed.

29 (d) "School of origin" means the school that an individual attended before:

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (A) The individual was placed into foster care; or

2 (B) The foster care placement of the individual changed.

3 (2)(a) Except as provided in subsections (3) to (5) of this section, individuals between the ages
4 of 4 and 18 shall be considered resident for school purposes in the school district in which their
5 parents, their guardians or persons in parental relationship to them reside.

6 (b) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area
7 of the school district for such reasons as attending college, military service, hospital confinement
8 or employment away from home shall be considered resident in the district in which their parents,
9 their guardians or persons in parental relationship to them reside.

10 (c) Individuals living temporarily in a school district for the primary purpose of attending a
11 district school may not be considered resident in the district in which they are living temporarily,
12 but shall be considered resident in the district in which they, their parents, their guardians or per-
13 sons in parental relationship to them reside.

14 (3) Individuals considered legally emancipated from their parents shall be considered resident
15 in the district in which they actually reside, irrespective of the residence of their parents, their
16 guardians or persons in parental relationship.

17 (4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall
18 be considered a resident of:

19 (A) The school district of origin; or

20 (B) The school district where the individual resides due to placement by the Department of
21 Human Services or a tribal child welfare agency if a juvenile court determines it is not in the best
22 interest of the individual to continue attending the school of origin or any other school in the school
23 district of origin, based on consideration of all factors relating to the individual's best interests.

24 (b) If a juvenile court makes a determination that it is not in the best interest of the individual
25 to continue attending the school of origin, the individual shall be immediately enrolled in a new
26 school, even if the individual is unable to produce records normally required for enrollment.

27 (c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A)
28 of this subsection shall:

29 (A) Remain in the individual's school district of origin and, if applicable, the individual's school
30 of origin for the duration of the individual's time in foster care; and

31 (B) Be provided, free of charge, transportation between the individual's home and the
32 individual's school district of origin or, if applicable, the individual's school of origin.

33 (d) The Department of Education, the Department of Human Services, tribal child welfare
34 agencies and school districts shall collaborate to ensure that the provisions of this subsection are
35 implemented.

36 (5)(a) Except as provided in ORS 327.006 (6) and 335.090, an individual whose legal residence is
37 not within the district but who attends school in the district is considered a resident in the district
38 in which the individual attends school if the individual receives written consent from both of the
39 affected district school boards as provided by policies adopted by the boards.

40 (b) An individual whose legal residence is not within the district but who attends school in the
41 district is considered a resident in the district in which the individual attends school if:

42 (A) The legal residence of the individual had been in the district in which the individual attends
43 school before a boundary change was made to the district;

44 (B) The legal residence of the individual is no longer in the district in which the individual at-
45 tends school because of the boundary change; and

1 (C) The individual has had the same legal residence and has continuously been enrolled in a
 2 school in the district since the boundary change.

3 **(6)(a) Individuals who are foreign exchange students and who are residing in Oregon in
 4 a dormitory operated by a school district are considered to be residents of the school district
 5 in which the dormitory is located.**

6 **(b) For the purpose of this subsection:**

7 **(A) An individual may not be considered to be a foreign exchange student for more than
 8 one school year.**

9 **(B) An individual may be considered to be a resident of a school district as provided by
 10 this subsection only if, for the 2010-2011 school year, the school district had foreign exchange
 11 students who would have been considered residents under the provisions of this subsection.**

12 **(C) The number of individuals who may be considered residents under the provisions of
 13 this subsection may not increase relative to the number who would have been considered
 14 residents under the provisions of this subsection for the 2010-2011 school year.**

15 **(c) As used in this subsection, “foreign exchange student” means an individual who at-
 16 tends school in Oregon under a cultural exchange program and whose parent, guardian or
 17 person in parental relationship resides in another country.**

18 **SECTION 3. Section 19, chapter 735, Oregon Laws 2013, is repealed.**

19 **SECTION 4. Section 20, chapter 735, Oregon Laws 2013, as amended by section 1, chapter 299,
 20 Oregon Laws 2015, is amended to read:**

21 **Sec. 20.** The amendments to ORS 327.006, 327.008, 327.019, 327.125, 327.137, 339.129 and 340.045
 22 by sections 5, 7, 9, 11, 14, 16 and 18, chapter 735, Oregon Laws 2013, [*and the repeal of sections 1,
 23 2 and 3, chapter 735, Oregon Laws 2013, by section 19, chapter 735, Oregon Laws 2013,*] become op-
 24 erative on [*July 1, 2020*] **the effective date of this 2020 Act.**

25 **SECTION 5. ORS 327.006 is amended to read:**

26 327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731 **and sections 1 to 3, chapter
 27 735, Oregon Laws 2013:**

28 (1) “Aggregate days membership” means the sum of days present and absent, according to the
 29 rules of the State Board of Education, of all resident pupils when school is actually in session during
 30 a certain period. The aggregate days membership of kindergarten pupils shall be calculated on the
 31 basis of a half-day program for half-day kindergarten and on the basis of a full-day program for
 32 full-day kindergarten.

33 (2)(a) “Approved transportation costs” means those costs as defined by rule of the State Board
 34 of Education and is limited to those costs attributable to transporting or room and board provided
 35 in lieu of transporting:

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

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

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

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

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

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

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

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

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

11 (4) "Kindergarten" means a kindergarten program that conforms to the standards and rules
12 adopted by the State Board of Education.

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

19 (6)(a) "Resident pupil" means any pupil:

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

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

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

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

37 (d) "Resident pupil" includes a pupil who is:

38 (A) Admitted to a school district under ORS 339.115 (7); or

39 (B) Considered a resident under ORS 339.133 (5)(b).

40 (7) "Standard school" means a school meeting the standards set by the rules of the State Board
41 of Education.

42 (8) "Tax" and "taxes" includes all taxes on property, excluding exempt bonded indebtedness, as
43 those terms are defined in ORS 310.140.

44 **SECTION 6.** ORS 327.008 is amended to read:

45 327.008. (1)(a) There is established a State School Fund in the General Fund.

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

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

8 (d) The State School Fund is continuously appropriated to the Department of Education for the
 9 purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 336.575,
 10 336.580, 336.635, 343.243, 343.533, 343.941 and 343.961 **and sections 1 to 3, chapter 735, Oregon**
 11 **Laws 2013.**

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

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

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

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

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

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

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

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

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

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

44 (12)(a) Each biennium, the Department of Education shall transfer \$39.5 million from the State
 45 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.

(18) 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.

SECTION 7. ORS 327.019 is amended to read:

327.019. (1) As used in this section:

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

(b) “Local revenues of an education service district” means the total of the following:

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

(B) The amount of property taxes actually received by the district including penalties and interest on taxes;

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

(D) Any positive amount obtained by subtracting the operating property taxes actually imposed

1 by the district based on the rate certified pursuant to ORS 310.060 from the amount that would have
 2 been imposed by the district if the district had certified the maximum rate of operating property
 3 taxes allowed by law.

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

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

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

14 (c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent
 15 shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to
 16 327.133 and 327.348 **and sections 1 to 3, chapter 735, Oregon Laws 2013**, the total amount calcu-
 17 lated under paragraph (b) of this subsection as school district general purpose grants, facility grants,
 18 high cost disabilities grants and transportation grants to school districts.

19 (d) Based on the funding percentage calculated under paragraph (c) of this subsection, the su-
 20 perintendent shall calculate the general purpose grant, facility grant, transportation grant and high
 21 cost disabilities grant amounts for each school district.

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

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

25 (B) \$1,165,000, as adjusted each school year based on the same percentage by which the amount
 26 appropriated to the State School Fund for distribution to education service districts is increased or
 27 decreased as compared with the amount appropriated for the 2015-2016 school year, if the education
 28 service district received a general services grant of \$1 million for the 2010-2011 school year.

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

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

37 (B) A component education service district that received an amount as provided by paragraph
 38 (a)(B) of this subsection shall be entitled to receive that amount under the calculation provided by
 39 this paragraph.

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

42 (6)(a) After completing the calculations under subsections (2) to (5) of this section, the Super-
 43 intendent of Public Instruction shall apportion from the State School Fund to each education service
 44 district an amount = (funding percentage \times general services grant) – local revenues of the edu-
 45 cation service district.

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

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

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

6 (b) The State School Fund grant of an education service district shall be in an amount that,
 7 when combined with the local revenues of the education service district, equals \$1,165,000, as ad-
 8 justed each school year based on the same percentage by which the amount appropriated to the
 9 State School Fund for distribution to education service districts is increased or decreased as com-
 10 pared with the amount appropriated for the 2015-2016 school year.

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

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

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

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

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

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

27 (i) The school district;

28 (ii) The education service district from which the school district withdrew;

29 (iii) An education service district that is not the education service district from which the
 30 school district withdrew; or

31 (iv) Any other public entity with which the school district has entered into a contract to provide
 32 the services.

33 **SECTION 8.** ORS 327.125 is amended to read:

34 327.125. The Superintendent of Public Instruction shall administer the provisions of ORS 327.006
 35 to 327.133, 327.348 and 327.731 **and sections 1 to 3, chapter 735, Oregon Laws 2013.** The State
 36 Board of Education shall adopt all necessary rules not inconsistent with ORS 327.006 to 327.133,
 37 327.348 and 327.731 **and sections 1 to 3, chapter 735, Oregon Laws 2013,** to carry into effect the
 38 provisions of those statutes.

39 **SECTION 9.** ORS 327.137 is amended to read:

40 327.137. (1)(a) Every common or union high school district or education service district shall file
 41 a copy of its audit report with the Department of Education within six months of the end of the
 42 fiscal year for which the audit is required. The audit report shall include:

43 (A) Information necessary for the computation required in the administration of ORS 327.006 to
 44 327.133, 327.348, 327.731, 328.542 and 530.115 **and sections 1 to 3, chapter 735, Oregon Laws 2013,**
 45 and this section; and

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

3 (b) If the audit report, as submitted to the district, fails to provide the detail necessary for the
 4 computation required in the administration of ORS 327.006 to 327.133, 327.348, 327.731, 328.542 and
 5 530.115 **and sections 1 to 3, chapter 735, Oregon Laws 2013**, and this section, the district shall
 6 submit the necessary information on forms provided by the department within the time prescribed
 7 for filing the audit in this section.

8 (c) The Superintendent of Public Instruction may withhold any payments from the State School
 9 Fund for a public charter school that, pursuant to ORS 338.155, are due to a district under ORS
 10 327.095 if:

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

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

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

19 (e) Any district failing to file a copy of an audit report under this section or a report under ORS
 20 327.133 may not receive any payments from the State School Fund until the report is filed.

21 (2) Notwithstanding the timeline provided by this section and pursuant to rules adopted by the
 22 State Board of Education, the superintendent may waive a reporting date or specify an alternative
 23 date to provide the audit report or information if a human-created disaster or a natural disaster
 24 affects the ability of a school district or an education service district to provide the audit report
 25 or information by a specified date.

26 **SECTION 10.** ORS 339.129 is amended to read:

27 339.129. (1) A school district shall provide or cause to be provided appropriate education for
 28 children placed in a local or regional correctional facility located in the school district. The edu-
 29 cation may be provided by the school district or an education service district.

30 (2) The school district may claim State School Fund reimbursement under ORS 327.006 to
 31 327.133, 327.348 and 327.731 **and sections 1 to 3, chapter 735, Oregon Laws 2013**, for each child
 32 who is in a local or regional correctional facility.

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

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

41 (5) As used in this section:

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

43 (b) "Regional correctional facility" means a regional correctional facility as defined in ORS
 44 169.620.

45 **SECTION 11.** ORS 340.045 is amended to read:

1 340.045. (1) An eligible student enrolled in an eligible post-secondary course at an eligible post-
 2 secondary institution pursuant to ORS 340.030 shall continue to be considered a resident pupil of
 3 the student's school district for purposes of calculation of the State School Fund grant under ORS
 4 327.006 to 327.133, 327.348 and 327.731 **and sections 1 to 3, chapter 735, Oregon Laws 2013.**

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

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

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

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

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

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

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

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

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

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

38 **SECTION 12. This 2020 Act being necessary for the immediate preservation of the public**
 39 **peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect**
 40 **on its passage.**