

CHAPTER 81

AN ACT

HB 4009

Relating to students admitted to pediatric nursing facilities; creating new provisions; amending ORS 327.008, 327.023, 329.488 and 339.137; appropriating money; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2014 Act is added to and made a part of ORS chapter 343.

SECTION 2. (1) As used in this section, "pediatric nursing facility" means a skilled nursing facility, as defined in ORS 442.015, that:

(a) Is licensed by the Department of Human Services; and

(b) Serves pediatric residents, of which 50 percent or more were admitted when 13 years of age or younger and of which 100 percent are 22 years of age or younger.

(2)(a) The Department of Education shall be responsible for the provision of educational services to students admitted to pediatric nursing facilities. Educational services must be provided in the least restrictive environment in which the student can be educated.

(b) The department and the school district in which a pediatric nursing facility is located shall enter into a contract for the purpose of providing educational services to the students admitted to the pediatric nursing facility.

(3)(a) The department shall be responsible for payment of the costs of educational services provided to students admitted to pediatric nursing facilities, including any services required under an individualized education program.

(b) The department shall make payments as required by this subsection from moneys available for that purpose in the Pediatric Nursing Facility Account established in section 5 of this 2014 Act. Except as provided by ORS 327.023, the department may not make payments from any other moneys in the State School Fund.

(4)(a) A student admitted to a pediatric nursing facility is not considered a resident of any school district.

(b) When a student is discharged from a pediatric nursing facility, the responsibilities imposed by this section terminate and become the responsibilities of the school district in which the student is a resident, as determined pursuant to ORS 339.133 and 339.134.

SECTION 3. The requirements of section 2 of this 2014 Act first apply to the 2014-2015 school year.

SECTION 4. Section 5 of this 2014 Act is added to and made a part of ORS chapter 327.

SECTION 5. (1) The Pediatric Nursing Facility Account is established within the State School Fund.

(2) The account shall consist of any moneys transferred as provided by ORS 327.008 and any other state or federal moneys available for the payments of the costs of educational services provided to students admitted to pediatric nursing facilities, as defined in ORS 442.015.

(3) Moneys in the account are continuously appropriated to the Department of Education for the purpose of making payments pursuant to section 2 of this 2014 Act for the costs of educational services provided to students admitted to pediatric nursing facilities.

(4) If the amount available in the account is not adequate to meet costs, the Department of Education shall submit a revised budget to the Legislative Assembly or, if the Legislative Assembly is not in session, to the Emergency Board.

SECTION 6. ORS 327.008 is amended to read:

327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist of moneys appropriated by the Legislative Assembly and moneys transferred from the Education Stability Fund. The State School Fund is continuously appropriated to the Department of Education for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961 and sections 1 to 3, chapter 735, Oregon Laws 2013, and section 2 of this 2014 Act.

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

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

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

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

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

(7) The total amount of the State School Fund that is distributed as facility grants may not exceed \$20 million in any biennium. If the total amount to be distributed as facility grants exceeds this limitation, the Department of Education shall prorate the amount of funds available for facility grants among

those school districts that qualified for a facility grant.

(8) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facility Account established in section 5 of this 2014 Act the amount necessary to pay the costs of educational services provided to students admitted to pediatric nursing facilities as provided in section 2 of this 2014 Act.

[(8)] **(9)** Each fiscal year, the Department of Education shall transfer the amount of \$18 million from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

[(9)(a)] **(10)(a)** Each biennium, the Department of Education shall transfer \$33 million from the State School Fund to the Network of Quality Teaching and Learning 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 \$5 million;

(B) The amount distributed to school districts from the State School Fund under this section and ORS 327.013 shall be reduced by \$14 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 \$14 million.

(c) For each biennium, the amounts identified in paragraph (b)(B) and (C) of this subsection shall be adjusted by the same percentage by which the amount appropriated to the State School Fund for that biennium is increased or decreased compared to the preceding biennium, as determined by the Department of Education after consultation with the Legislative Fiscal Officer.

[(10)] **(11)** 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.

[(11)] **(12)** 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.

[(12)] **(13)** 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.

[(13)] **(14)** 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 327.008, as amended by section 7, chapter 735, Oregon Laws 2013, is amended to read:

327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist of moneys appropriated by the Legislative Assembly and moneys transferred from the Education Stability Fund. The State School Fund is continuously appropriated to the Department of Education for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961 **and section 2 of this 2014 Act.**

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

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

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

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

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

(7) The total amount of the State School Fund that is distributed as facility grants may not exceed \$20 million in any biennium. If the total amount to be distributed as facility grants exceeds this limitation, the Department of Education shall prorate the amount of funds available for facility grants among those school districts that qualified for a facility grant.

(8) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facility Account established in section 5 of this 2014 Act the amount necessary to pay the costs of educational services provided to students admitted to pediatric nursing facilities as provided in section 2 of this 2014 Act.

[(8)] **(9)** Each fiscal year, the Department of Education shall transfer the amount of \$18 million from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

[(9)(a)] **(10)(a)** Each biennium, the Department of Education shall transfer \$33 million from the State School Fund to the Network of Quality Teaching and Learning 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 \$5 million;

(B) The amount distributed to school districts from the State School Fund under this section and ORS 327.013 shall be reduced by \$14 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 \$14 million.

(c) For each biennium, the amounts identified in paragraph (b)(B) and (C) of this subsection shall be adjusted by the same percentage by which the amount appropriated to the State School Fund for that biennium is increased or decreased compared to the preceding biennium, as determined by the Department of Education after consultation with the Legislative Fiscal Officer.

[(10)] (11) 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.

[(11)] (12) 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.

[(12)] (13) 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.

SECTION 8. ORS 327.023 is amended to read:

327.023. In addition to those moneys distributed through the State School Fund, the Department of Education shall provide from state funds appropriated therefor, grants in aid or support for special and compensatory education programs including:

(1) The Oregon School for the Deaf.

(2) Medicaid match for administration efforts to secure Medicaid funds for services provided to children with disabilities.

(3) Hospital programs for education services to children who are hospitalized for extended periods of time or who require hospitalization due to severe disabilities as described in ORS 343.261.

(4) Day treatment programs and residential treatment programs for education services to children who are placed by the state in long term care or treatment facilities as described in ORS 343.961.

(5) Regional services provided to children with low-incidence disabling conditions as described in ORS 343.236.

(6) Early childhood special education provided to preschool children with disabilities from age three until age of eligibility for kindergarten as described in ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534.

(7) Early intervention services for preschool children from birth until age three as described in

ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534.

(8) Evaluation services for children with disabilities to determine program eligibility and needs as described in ORS 343.146.

(9) Education services to children residing at state hospitals.

(10) Disadvantaged children program under ORS 343.680.

(11) Early childhood education under ORS 329.235.

(12) Child development specialist program under ORS 329.255.

(13) Youth care centers under ORS 420.885.

(14) Staff development and mentoring.

(15) Career and technical education grants.

(16) Special science education programs.

(17) Talented and Gifted children program under ORS 343.391 to 343.413.

(18) Pediatric nursing facility programs for educational services provided to students who are admitted to pediatric nursing facilities as provided in section 2 of this 2014 Act.

SECTION 9. The amendments to ORS 327.008 and 327.023 by sections 6 to 8 of this 2014 Act apply to State School Fund distributions commencing with the 2014-2015 school year distributions.

SECTION 10. ORS 329.488 is amended to read:

329.488. (1) The Department of Education shall contract with a nonprofit entity to administer a nationally normed assessment, in collaboration with the department, to all students in grade 10 who are enrolled in a public school. The purpose of the assessment is to predict the success of students on, and provide practice for students taking, college entrance exams.

(2) The department shall base the selection of the contractor under subsection (1) of this section on all of the following criteria:

(a) The contractor must be able to provide to the department statewide data containing the results of the assessment;

(b) The contractor shall provide an assessment that:

(A) Identifies students with high potential to excel in advanced placement (AP) or other honors courses based on a research-based correlation of scores on the grade 10 assessment to advanced placement examinations;

(B) Examines students in mathematics, reading and writing; and

(C) Provides results that can be used by Oregon's higher education institutions to recruit students to attend college;

(c) The contractor must be able to supply schools with an item-by-item analysis of student performance on the assessment; and

(d) The contractor must be able to make available to each student taking the assessment a free

career assessment and online exploration of colleges and career opportunities.

(3)(a) In lieu of using the contractor selected by the department under subsection (1) of this section, a school district may apply to the department for a waiver to allow the district to enter into a contract with a different nonprofit entity for the purpose of administering a nationally normed assessment to all students in grade 10 who are enrolled in the public schools operated by the district. The department shall grant the waiver if:

(A) The district had entered into a contract with the entity for the 2007-2008 school year to administer a grade 10 assessment;

(B) The entity, in coordination with the district, administered a grade 10 assessment during the 2007-2008 school year;

(C) For the most recent school year in which the entity administered a grade 10 assessment, the entity met the criteria set forth in subsection (2) of this section as in effect for the school year in which the entity administered the assessment; and

(D) The entity plans to meet the criteria set forth in subsection (2) of this section as in effect for the school year for which the school district seeks a waiver.

(b) A waiver granted by the department under this subsection:

(A) Is valid for one school year; and

(B) May be renewed each school year.

(c) The department shall reimburse a school district for the cost of assessments allowed under this subsection from funds available to the department under ORS 327.008 [(10)] (11).

(4) Notwithstanding subsections (1) and (3) of this section:

(a) The department may, under rules adopted by the State Board of Education, waive the assessment for specific groups of students; and

(b) Upon request from a student who is enrolled in a public school operated by a school district or the parent or guardian of the student, the school district shall waive the assessment for the student.

SECTION 11. ORS 339.137 is amended to read:

339.137. (1) A student described in ORS 336.580 shall be considered a resident of the school district in which the student resides by reason of the placement under ORS 336.580 for purposes of distribution of the State School Fund.

(2) A student described in subsection (1) of this section must be admitted to the public schools of the school district where the student is placed pursuant to ORS 336.580.

(3) Except as provided in ORS 343.261, 343.961 and 346.010 **and section 2 of this 2014 Act**, the school district shall provide or cause to be provided appropriate education to any student described in subsection (1) of this section, including the identification and evaluation of the student for purposes of determining eligibility as a child with a disability to receive special education and related services enumerated in ORS 343.035 and services related to a disadvantaged child as defined in ORS 343.650. Suspension or expulsion of a student from the regular school program does not relieve the district of the obligation to provide instruction in the residential program in which the child resides or in another appropriate facility.

SECTION 12. (1) The Department of Education, in cooperation with the Department of Human Services, shall review methods and responsibilities for payment of the costs of educational services provided to students who:

(a) Are admitted to pediatric nursing facilities in this state; and

(b) Are not residents of this state for educational purposes.

(2) The Department of Education shall submit a report on the review described in subsection (1) of this section to the interim legislative committees on education no later than December 1, 2014.

SECTION 13. This 2014 Act takes effect July 1, 2014.

Approved by the Governor April 1, 2014

Filed in the office of Secretary of State April 2, 2014

Effective date July 1, 2014