

Senate Bill 648

Sponsored by Senator STARR (at the request of Therese Steward)

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**.

Directs State Board of Education to establish tiered certification requirements for persons providing special education services to students with autism spectrum disorder. Directs board to adopt rules governing development and implementation of educational programs for students with autism spectrum disorder. Specifies that child with autism spectrum disorder enrolled in private school is eligible for related services provided by school district.

Specifies that children with autism spectrum disorder who are eligible for special education are also eligible for services from Department of Human Services. Directs Mental Health and Developmental Disability Services Division to adopt certification requirements for persons providing intensive behavior intervention based on principles of applied behavior analysis. Directs division to provide intensive behavior intervention based on principles of applied behavior analysis. Directs division to contract with private persons to provide intensive behavior intervention.

Directs State Board of Education to adopt rules directing community colleges and state institutions of higher education to aid in training staff to provide intensive behavior intervention based on principles of applied behavior analysis.

Requires certain health insurance policies to cover diagnosis and treatment of autism spectrum disorder.

Modifies amount of school district general purpose grant for students with autism spectrum disorder. Requires school district to expend that amount on providing special education services to students with autism spectrum disorder.

Declares emergency, effective July 1, 2001.

A BILL FOR AN ACT

1
2 Relating to autism spectrum disorder; creating new provisions; amending ORS 327.013, 750.055 and
3 750.333; and declaring an emergency.

4 Whereas autism spectrum disorder is a very serious functional developmental disability that
5 typically appears during the first three years of life, is a spectrum disorder with severe to mild
6 levels of disability and is a spectrum disorder that affects each individual differently; and

7 Whereas individuals with autism spectrum disorder typically present symptoms of pervasive de-
8 velopmental disorders in most if not all areas of development and behavior including basic receptive
9 and expressive communication abilities and speech and language skills; social awareness and the
10 ability to relate to people or the environment; processing of sensory and motor information; and
11 memory, thinking, judgment and functional behavior; and

12 Whereas the breadth and depth of autism spectrum disorder includes significant to profound
13 disabilities in functions of the brain, often with unusually high and low splintering of skills, includ-
14 ing distortion of developmental and skill learning sequences; and

15 Whereas research indicates that intensive behavior intervention based on principles of applied
16 behavior analysis significantly helps children with autism spectrum disorder attain improved intel-
17 lectual, academic, communication, social and daily living skills; and

18 Whereas independent autism task forces in a number of states, including New York and Maine,
19 have concluded that applied behavior analysis is the most efficacious and statistically significant
20 intervention for children with autism spectrum disorder; and

21 Whereas reports indicate that intensive behavior intervention may result in various human re-

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 source cost savings ranging from \$187,000 to \$203,000 per person from ages 3 to 22 years, and from
 2 \$656,000 to \$1,082,000 per person from ages 3 to 55 years; and

3 Whereas the initial costs of providing intensive behavior intervention are outweighed by esti-
 4 mated long-term savings and cost avoidance; now, therefore,

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

6 **SECTION 1. Sections 2 to 4 of this 2001 Act are added to and made a part of ORS chapter**
 7 **343.**

8 **SECTION 2. (1) The State Board of Education by rule shall establish and administer**
 9 **tiered certification requirements for persons providing special education or related services**
 10 **to students with autism spectrum disorder, including but not limited to:**

- 11 (a) Special education teachers;
- 12 (b) Related service providers;
- 13 (c) Educational assistants; and
- 14 (d) Autism spectrum disorder specialists.

15 (2) A person described in subsection (1) of this section may not provide special education
 16 or related services to students with autism spectrum disorder unless the person is certified
 17 by the State Board of Education under the rules described in this section.

18 (3) In adopting the tiered certification requirements, the State Board of Education shall
 19 consider applied behavior analysis tiered certification requirements adopted in other states,
 20 best practices recommendations adopted by the Autism Society of America and tiered cer-
 21 tification requirements adopted by private organizations of providers of applied behavior
 22 analysis services, including the Association for Behavior Analysis.

23 (4) The tiered certification requirements adopted under this section shall include more
 24 stringent requirements for persons serving in supervisory, training or monitoring positions.

25 (5) Persons described in subsection (1) of this section providing intensive behavior inter-
 26 vention based on principles of applied behavior analysis to students with autism spectrum
 27 disorder shall also comply with the requirements of section 8 of this 2001 Act.

28 **SECTION 3. (1) The State Board of Education shall establish by rule provisions governing**
 29 **the content, development and implementation of educational programs for students with**
 30 **autism spectrum disorder.**

31 (2) The Superintendent of Public Instruction shall conduct an annual evaluation of the
 32 effectiveness of education programs for students with autism spectrum disorder. The evalu-
 33 ation shall use established scientific practices of data collection and analysis. The results
 34 of the evaluation shall be disseminated to the public.

35 **SECTION 4. Notwithstanding any other provision of this chapter:**

36 (1) A child with autism spectrum disorder who is eligible for special education services
 37 and who is enrolled in a private school shall be eligible for related services that shall be
 38 provided at no cost to the parents. The related services shall be provided as determined in
 39 an individualized education program developed pursuant to this chapter and rules of the
 40 State Board of Education.

41 (2) Subsection (1) of this section applies to children placed in a private school under an
 42 individualized education program and children enrolled in a private school without the con-
 43 sent of the school district.

44 **SECTION 5. (1) The requirements established by rule of the State Board of Education**
 45 **under section 2 of this 2001 Act shall specify a date by which persons providing special edu-**

1 cation or related services to students with autism spectrum disorder on the effective date
2 of this 2001 Act must satisfy tiered certification requirements.

3 (2) The State Board of Education shall adopt rules under section 2 of this 2001 Act not
4 later than January 1, 2002.

5 (3) The State Board of Education shall adopt rules under section 3 of this 2001 Act not
6 later than January 1, 2002.

7 **SECTION 6.** Sections 7 to 9 of this 2001 Act are added to and made a part of ORS chapter
8 430.

9 **SECTION 7.** (1) Any preschool child with a disability or child with a disability who is de-
10 termined to be eligible for early intervention services, early childhood special education ser-
11 vices or special education services under ORS chapter 343 because the child has been
12 evaluated as having autism spectrum disorder shall be eligible for services described in ORS
13 430.215 that are provided by the Mental Health and Developmental Disability Services Divi-
14 sion.

15 (2) The Department of Education and the Department of Human Services shall enter into
16 an interagency agreement to facilitate the coordination of educational and human resource
17 services to children with autism spectrum disorder.

18 **SECTION 8.** (1) The Mental Health and Developmental Disability Services Division shall
19 adopt by rule tiered certification requirements to ensure that only qualified persons provide
20 intensive behavior intervention based on principles of applied behavior analysis for persons
21 with autism spectrum disorder. Certification requirements shall include, for initial certif-
22 ication, examination of competencies in applying behavior analysis to persons with autism
23 spectrum disorder within established competency clusters. The competency clusters shall
24 include, but not be limited to, behavior assessments, observation, recording and behavior
25 program development, ethical guidelines and monitoring. Fees shall be charged for certif-
26 ication not to exceed the cost of development and administration of the examination and
27 periodic renewal of certification. The rules shall include procedures for certification and
28 certification renewal.

29 (2) A person may not provide intensive behavior intervention based on principles of ap-
30 plied behavior analysis to persons with autism spectrum disorder, at public expense, unless
31 the person has been certified to provide the intervention under rules adopted by the Mental
32 Health and Developmental Disability Services Division.

33 (3) In adopting rules under this section, the Mental Health and Developmental Disability
34 Services Division shall consider applied behavior analysis tiered certification requirements
35 adopted in other states, best practices recommendations adopted by the Autism Society of
36 America and tiered certification requirements adopted by private organizations of providers
37 of applied behavior analysis services, including the Association for Behavior Analysis. The
38 rules shall also include reciprocity provisions under which persons certified in other states
39 may provide services in this state.

40 (4) The tiered certification requirements adopted under this section shall include more
41 stringent requirements for persons serving in supervisory, training or monitoring positions.

42 **SECTION 9.** (1) In addition to the other functions and duties of the Mental Health and
43 Developmental Disability Services Division as specified by law, upon application, the division
44 shall provide up to 40 hours per week of intensive behavior intervention based on principles
45 of applied behavior analysis to persons up to 18 years of age who have been diagnosed as

1 meeting the criteria for autism spectrum disorder as contained in the Diagnostic and Sta-
2 tistical Manual of Mental Disorders, Fourth Edition (DSM-IV).

3 (2) The division shall apply for any waiver of Medicaid requirements that may be neces-
4 sary to aid the division in providing funding for participation by persons described in sub-
5 section (1) of this section in intensive behavior intervention based on principles of applied
6 behavior analysis.

7 (3) The division shall contract with private agencies or persons, including private
8 nonprofit agencies, to provide the intensive behavior intervention based on principles of ap-
9 plied behavior analysis required under this section.

10 (4) The intensive behavior intervention based on principles of applied behavior analysis
11 required under this section may be provided as part of an individualized education program
12 developed under ORS chapter 343. If the intervention is provided as part of an individualized
13 education program, payment for the intervention shall be provided as described in ORS
14 343.961.

15 (5) If the intensive behavior intervention based on principles of applied behavior analysis
16 required under this section is not provided as part of an individualized education program,
17 payment for the intervention shall be allocated between the Department of Human Services
18 and the Department of Education in the manner determined by an interagency agreement
19 entered into between the two departments under section 7 (2) of this 2001 Act.

20 (6) The Mental Health and Developmental Disability Services Division and the State
21 Board of Education shall adopt rules necessary to implement this section.

22 SECTION 10. (1) Rules adopted by the Mental Health and Developmental Disability Ser-
23 vices Division under section 8 of this 2001 Act shall specify a date by which persons providing
24 intensive behavior intervention based on principles of applied behavior analysis for persons
25 with autism spectrum disorder on the effective date of this 2001 Act must satisfy certif-
26 ication requirements.

27 (2) The Mental Health and Developmental Disability Services Division and the State
28 Board of Education shall adopt rules under sections 8 and 9 of this 2001 Act not later than
29 January 1, 2002.

30 SECTION 11. Section 12 of this 2001 Act is added to and made a part of ORS chapter 343.

31 SECTION 12. The State Board of Education shall adopt rules directing community col-
32 leges defined in ORS 341.005 to cooperate with the Mental Health and Developmental Disa-
33 bility Services Division, the Department of Education and private providers for purposes of
34 training staff to provide intensive behavior intervention based on principles of applied be-
35 havior analysis to persons with autism spectrum disorder as required under sections 8 and
36 9 of this 2001 Act.

37 SECTION 13. Section 14 of this 2001 Act is added to and made a part of ORS chapter 352.

38 SECTION 14. The State Board of Higher Education shall adopt rules directing state in-
39 stitutions of higher education listed in ORS 352.002 to cooperate with the Mental Health and
40 Developmental Disability Services Division, the Department of Education and private pro-
41 viders for purposes of training staff to provide intensive behavior intervention based on
42 principles of applied behavior analysis to persons with autism spectrum disorder as required
43 under sections 8 and 9 of this 2001 Act.

44 SECTION 15. Section 16 of this 2001 Act is added to and made a part of ORS chapter 352.

45 SECTION 16. The Oregon Health Sciences University Board of Directors and university

1 officials acting under the authority of the board shall cooperate with the Mental Health and
 2 Developmental Disability Services Division, the Department of Education and private pro-
 3 viders for purposes of training staff to provide intensive behavior intervention based on
 4 principles of applied behavior analysis to persons with autism spectrum disorder as required
 5 under sections 8 and 9 of this 2001 Act.

6 **SECTION 17.** Section 18 of this 2001 Act is added to and made a part of ORS chapter 743.

7 **SECTION 18.** (1) All individual and group health insurance policies, and all health benefit
 8 plans as defined in ORS 743.730, providing coverage for hospital, medical or surgical expenses,
 9 other than coverage limited to expenses from accidents or specific diseases, shall provide
 10 coverage for the diagnosis of autism spectrum disorder, and the treatment of autism spec-
 11 trum disorder prescribed by the referring physician, including treatment provided in the
 12 home of the person with autism spectrum disorder, under the same terms and conditions
 13 applied to other medical and mental conditions. Treatment covered under this section in-
 14 cludes, but is not limited to, coverage for therapeutic evaluations and interventions, speech
 15 therapy, occupational therapy, physical therapy, sensory integration therapy and intensive
 16 behavior intervention based on principles of applied behavior analysis.

17 (2) For purposes of this section, a person shall be considered to have autism spectrum
 18 disorder if the person has been diagnosed as meeting the criteria for autism as contained in
 19 the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV).

20 (3) ORS 743.700 does not apply to this section.

21 **SECTION 19.** Section 18 of this 2001 Act and the amendments to ORS 750.055 and 750.333
 22 by sections 20 and 21 of this 2001 Act apply to health insurance policies issued or renewed
 23 on or after the operative date of section 18 of this 2001 Act and the amendments to ORS
 24 750.055 and 750.333 by sections 20 and 21 of this 2001 Act.

25 **SECTION 20.** ORS 750.055 is amended to read:

26 750.055. (1) The following provisions of the Insurance Code shall apply to health care service
 27 contractors to the extent so applicable and not inconsistent with the express provisions of ORS
 28 750.005 to 750.095:

29 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398
 30 to 731.430, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to
 31 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.740, 731.750,
 32 731.804 and 731.844 to 731.992.

33 (b) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not
 34 including ORS 732.549 and 732.574 to 732.592.

35 (c)(A) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.620, 733.635 to
 36 733.680 and 733.695 to 733.780 apply to not-for-profit health care service contractors.

37 (B) ORS chapter 733, not including ORS 733.630, applies to for-profit health care service con-
 38 tractors.

39 (d) ORS chapter 734.

40 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
 41 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.412, 743.472,
 42 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to
 43 743.555, 743.556, 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.693, 743.697, 743.699, 743.701,
 44 743.704, 743.706 to 743.712, 743.721, 743.722, 743.726, 743.727, 743.728, 743.729, 743.804, 743.807,
 45 743.808, 743.809, 743.814 to 743.839, 743.842, 743.845 and 743.847 and section 18 of this 2001 Act.

- 1 (f) The provisions of ORS chapter 744 relating to the regulation of agents.
- 2 (g) ORS 746.005 to 746.140, 746.160, 746.180, 746.220 to 746.370 and 746.600 to 746.690.
- 3 (h) ORS 743.714, except in the case of group practice health maintenance organizations that are
4 federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is re-
5 ferred by a physician associated with a group practice health maintenance organization.
- 6 (i) ORS 735.600 to 735.650.
- 7 (j) ORS 743.680 to 743.689.
- 8 (k) ORS 744.700 to 744.740.
- 9 (L) ORS 743.730 to 743.773.
- 10 (m) ORS 731.485, except in the case of a group practice health maintenance organization that
11 is federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns
12 and operates an in-house drug outlet.
- 13 (2) For the purposes of this section only, health care service contractors shall be deemed
14 insurers.
- 15 (3) Any for-profit health care service contractor organized under the laws of any other state
16 which is not governed by the insurance laws of such state, will be subject to all requirements of
17 ORS chapter 732.
- 18 (4) The Director of the Department of Consumer and Business Services may, after notice and
19 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025
20 and 750.045 that are deemed necessary for the proper administration of these provisions.
- 21 **SECTION 21.** ORS 750.333 is amended to read:
- 22 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
23 tiple employer welfare arrangement:
- 24 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
25 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
26 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804 to 731.992.
- 27 (b) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.
- 28 (c) ORS chapter 734.
- 29 (d) ORS 742.001 to 742.009, 742.013, 742.061 and 742.400.
- 30 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
31 743.600, 743.601, 743.602, 743.610, 743.693, 743.699, 743.727, 743.728, 743.730 to 743.773 (except 743.760
32 to 743.773), 743.801, 743.804, 743.807, 743.808, 743.809, 743.814 to 743.839, 743.842, 743.845 and 743.847
33 **and section 18 of this 2001 Act.**
- 34 (f) ORS 743.556, 743.701, 743.703, 743.704, 743.706, 743.707, 743.709, 743.710, 743.712, 743.713,
35 743.714, 743.717, 743.718, 743.719, 743.721, 743.722, 743.725 and 743.726. Multiple employer welfare
36 arrangements to which ORS 743.730 to 743.773 apply are subject to the sections referred to in this
37 paragraph only as provided in ORS 743.730 to 743.773.
- 38 (g) Provisions of ORS chapter 744 relating to the regulation of agents and insurance consultants,
39 and ORS 744.700 to 744.740.
- 40 (h) ORS 746.005 to 746.140, 746.160, 746.180 and 746.220 to 746.370.
- 41 (i) ORS 731.592 and 731.594.
- 42 (2) For the purposes of this section:
- 43 (a) A trust carrying out a multiple employer welfare arrangement shall be considered an insurer.
- 44 (b) References to certificates of authority shall be considered references to certificates of mul-
45 tiple employer welfare arrangement.

1 (c) Contributions shall be considered premiums.

2 (3) The provision of health benefits under ORS 750.301 to 750.341 shall be considered to be the
3 transaction of health insurance.

4 **SECTION 22.** Section 23 of this 2001 Act is added to and made a part of ORS 327.006 to
5 **327.133.**

6 **SECTION 23. (1) The Department of Education shall calculate for each fiscal year the**
7 **amount of each school district’s general purpose grant under ORS 327.008 that is attributable**
8 **to the additional weighting described in ORS 327.013 (7)(a)(B).**

9 **(2) Each fiscal year, a school district shall expend the amount calculated under sub-**
10 **section (1) of this section on providing special education and related services to students with**
11 **autism spectrum disorder. The total amount expended may include moneys expended under**
12 **section 9 of this 2001 Act.**

13 **SECTION 24.** ORS 327.013 is amended to read:

14 327.013. The State School Fund distributions shall be computed as follows:

15 (1) General Purpose Grant = Funding Percentage × Target Grant × District extended ADMw.

16 (2) The funding percentage shall be calculated by the Superintendent of Public Instruction to
17 distribute as nearly as practicable the total sum available for distribution of money.

18 (3) Target Grant = Statewide Target per ADMw Grant + Teacher Experience Factor.

19 (4) Statewide Target per ADMw Grant = \$4,500.

20 (5) Teacher Experience Factor = \$25 × {District average teacher experience – statewide av-
21 erage teacher experience}. “Average teacher experience” means the average, in years, of teaching
22 experience of certified teachers as reported to the Department of Education.

23 (6) District extended ADMw = ADMw or ADMw of the prior year, whichever is greater.

24 (7)(a) Weighted average daily membership or ADMw = average daily membership + an addi-
25 tional amount computed as follows:

26 (A) 1.0 for each student in average daily membership eligible for special education as a child
27 with disabilities under ORS 343.035, applicable to not to exceed 11 percent of the district’s ADM
28 without review and approval of the Department of Education. Children with disabilities eligible for
29 special education in adult local correctional facilities as defined in ORS 169.005 or adult regional
30 correctional facilities as defined in ORS 169.620 shall not be included in the calculation of the 11
31 percent.

32 **(B) 5.0 for each student with autism spectrum disorder in average daily membership eli-**
33 **gible for special education as a child with a disability under ORS 343.035. Students included**
34 **in this subparagraph may not be included in the calculation under subparagraph (A) of this**
35 **paragraph.**

36 [(B)] (C) 0.5 for each student in average daily membership eligible for and enrolled in an English
37 as a Second Language program under ORS 336.079.

38 [(C)] (D) 0.2 for each student in average daily membership enrolled in a union high school dis-
39 trict or in an area of a unified school district where the district is only responsible for educating
40 students in grades 9 through 12 in that area.

41 [(D)] (E) -0.1 for each student in average daily membership enrolled in an elementary district
42 operating kindergarten through grade 6 or kindergarten through grade 8 or in an area of a unified
43 school district where the district is only responsible for educating students in kindergarten through
44 grade 8.

45 [(E)] (F) 0.25 times the sum of the following:

1 (i) The number of children 5 to 17 years of age in poverty families in the district, as determined
 2 by the Department of Education from a report of the federal Department of Education, as adjusted
 3 by the school district's proportion of students in the county receiving free or reduced price lunches
 4 under the United States Department of Agriculture's current Income Eligibility Guidelines if the
 5 number is higher than the number determined from census data and only if the school district had
 6 an average daily membership of 2,500 or less for the 1995-1996 school year, and as further adjusted
 7 by the number of students in average daily membership in June of the year of distribution divided
 8 by number of students in average daily membership in the district, or its predecessors, in June 1990;

9 (ii) The number of children in foster homes in the district as determined by the report of the
 10 Department of Human Services to the federal Department of Education, "Annual Statistical Report
 11 on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess of the
 12 Poverty Income Level," or its successor, for October 31 of the year prior to the year of distribution;
 13 and

14 (iii) The number of children in the district in state-recognized facilities for neglected and delin-
 15 quent children, based on information from the Department of Human Services for October 31 of the
 16 year prior to the year of distribution.

17 [(F)(i)] **(G)(i)** An additional amount as determined by ORS 327.077 (1997 Edition) shall be added
 18 to the ADMw for each remote small school in the district.

19 (ii) An additional amount as determined by section 23, chapter 1066, Oregon Laws 1999, for each
 20 small high school in the district that is equal to the small high school additional weighting amount.

21 [(G)] **(H)** All numbers of children used for the computation in this section must reflect any dis-
 22 trict consolidations that have occurred since the numbers were compiled.

23 (b) The total additional weight that shall be assigned to any student in average daily member-
 24 ship in a district, exclusive of students described in paragraph [(a)(E) and (F)] **(a)(B), (F) and (G)**
 25 of this subsection shall not exceed 2.0.

26 (8) Transportation Grant = 70 percent of Approved Transportation Costs.

27 (9) Local Revenues are the total of the following:

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

30 (b) The amount of property taxes actually received by the district including penalties and in-
 31 terest on taxes;

32 (c) The amount of revenue received by the district from the Common School Fund under ORS
 33 327.403 to 327.415;

34 (d) The amount of revenue received by the district from the county school fund;

35 (e) The amount of revenue received by the district from the 25 percent of federal forest reserve
 36 revenues required to be distributed to schools by ORS 294.060 (1);

37 (f) The amount of revenue received by the district from state managed forestlands under ORS
 38 530.115 (1)(b) and (c);

39 (g) The amount of revenue received under ORS 334.400 by a school district in an education
 40 service district that provides equalization under ORS 334.400;

41 (h) Moneys received in lieu of property taxes;

42 (i) Federal funds received without specific application by the school district and which are not
 43 deemed under federal law to be nonsupplantable; and

44 (j) Any positive amount obtained by subtracting the operating property taxes actually imposed
 45 by the district, based on the rate certified pursuant to ORS 310.060, from the amount that would

1 have been imposed by the district if the district had certified the maximum rate of operating prop-
 2 erty taxes allowed by law.

3 (10) Notwithstanding subsection (9) of this section, Local Revenues do not include:

4 (a) The amount of revenue actually received by the district, including penalties and interest on
 5 taxes, that is used for payment of bonds issued to finance or refinance an unfunded obligation for
 6 prior service costs under a contract of integration pursuant to ORS 238.685 (2)(a); and

7 (b) If a school district imposes local option taxes pursuant to ORS 280.040 to 280.145, an amount
 8 equal to the lesser of:

9 (A) The amount of revenue actually received by the district from local option taxes imposed
 10 pursuant to ORS 280.040 to 280.145;

11 (B) Ten percent of the combined total for the school district of the general purpose grant, the
 12 transportation grant and the facility grant of the district; or

13 (C) \$500 per district extended ADMw.

14 (11)(a) Facility Grant = 8 percent of total construction costs of new school buildings.

15 (b) A school district shall receive a Facility Grant in the distribution year that a new school
 16 building is first used.

17 (c) As used in this subsection:

18 (A) "New school building" includes new school buildings, adding structures onto existing school
 19 buildings and adding premanufactured structures to a school district if those buildings or structures
 20 are to be used for instructing students.

21 (B) "Construction costs" does not include costs for land acquisition.

22 **SECTION 25. The amendments to ORS 327.013 by section 24 of this 2001 Act affect State**
 23 **School Fund distributions commencing with the 2001-2002 distribution.**

24 **SECTION 26.** ORS 327.013, as amended by section 30, chapter 1066, Oregon Laws 1999, is
 25 amended to read:

26 327.013. The State School Fund distributions shall be computed as follows:

27 (1) General Purpose Grant = Funding Percentage × Target Grant × District extended ADMw.

28 (2) The funding percentage shall be calculated by the Superintendent of Public Instruction to
 29 distribute as nearly as practicable the total sum available for distribution of money.

30 (3) Target Grant = Statewide Target per ADMw Grant + Teacher Experience Factor.

31 (4) Statewide Target per ADMw Grant = \$4,500.

32 (5) Teacher Experience Factor = \$25 × {District average teacher experience – statewide av-
 33 erage teacher experience}. "Average teacher experience" means the average, in years, of teaching
 34 experience of certified teachers as reported to the Department of Education.

35 (6) District extended ADMw = ADMw or ADMw of the prior year, whichever is greater.

36 (7)(a) Weighted average daily membership or ADMw = average daily membership + an addi-
 37 tional amount computed as follows:

38 (A) 1.0 for each student in average daily membership eligible for special education as a child
 39 with disabilities under ORS 343.035, applicable to not to exceed 11 percent of the district's ADM
 40 without review and approval of the Department of Education. Children with disabilities eligible for
 41 special education in adult local correctional facilities as defined in ORS 169.005 or adult regional
 42 correctional facilities as defined in ORS 169.620 shall not be included in the calculation of the 11
 43 percent.

44 **(B) 5.0 for each student with autism spectrum disorder in average daily membership eli-**
 45 **gible for special education as a child with a disability under ORS 343.035. Students included**

1 **in this subparagraph may not be included in the calculation under subparagraph (A) of this**
 2 **paragraph.**

3 [(B)] (C) 0.5 for each student in average daily membership eligible for and enrolled in an English
 4 as a Second Language program under ORS 336.079.

5 [(C)] (D) 0.2 for each student in average daily membership enrolled in a union high school dis-
 6 trict or in an area of a unified school district where the district is only responsible for educating
 7 students in grades 9 through 12 in that area.

8 [(D)] (E) -0.1 for each student in average daily membership enrolled in an elementary district
 9 operating kindergarten through grade 6 or kindergarten through grade 8 or in an area of a unified
 10 school district where the district is only responsible for educating students in kindergarten through
 11 grade 8.

12 [(E)] (F) 0.25 times the sum of the following:

13 (i) The number of children 5 to 17 years of age in poverty families in the district, as determined
 14 by the Department of Education from a report of the federal Department of Education, as adjusted
 15 by the school district's proportion of students in the county receiving free or reduced price lunches
 16 under the United States Department of Agriculture's current Income Eligibility Guidelines if the
 17 number is higher than the number determined from census data and only if the school district had
 18 an average daily membership of 2,500 or less for the 1995-1996 school year, and as further adjusted
 19 by the number of students in average daily membership in June of the year of distribution divided
 20 by number of students in average daily membership in the district, or its predecessors, in June 1990;

21 (ii) The number of children in foster homes in the district as determined by the report of the
 22 Department of Human Services to the federal Department of Education, "Annual Statistical Report
 23 on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess of the
 24 Poverty Income Level," or its successor, for October 31 of the year prior to the year of distribution;
 25 and

26 (iii) The number of children in the district in state-recognized facilities for neglected and delin-
 27 quent children, based on information from the Department of Human Services for October 31 of the
 28 year prior to the year of distribution.

29 [(F)] (G) An additional amount as determined by ORS 327.077 shall be added to the ADMw for
 30 each remote small elementary school and for each small high school in the district.

31 [(G)] (H) All numbers of children used for the computation in this section must reflect any dis-
 32 trict consolidations that have occurred since the numbers were compiled.

33 (b) The total additional weight that shall be assigned to any student in average daily member-
 34 ship in a district, exclusive of students described in paragraph [(a)(E) and (F)] (a)(B), (F) and (G)
 35 of this subsection shall not exceed 2.0.

36 (8) Transportation Grant = 70 percent of Approved Transportation Costs.

37 (9) Local Revenues are the total of the following:

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

40 (b) The amount of property taxes actually received by the district including penalties and in-
 41 terest on taxes;

42 (c) The amount of revenue received by the district from the Common School Fund under ORS
 43 327.403 to 327.415;

44 (d) The amount of revenue received by the district from the county school fund;

45 (e) The amount of revenue received by the district from the 25 percent of federal forest reserve

1 revenues required to be distributed to schools by ORS 294.060 (1);

2 (f) The amount of revenue received by the district from state managed forestlands under ORS
3 530.115 (1)(b) and (c);

4 (g) The amount of revenue received under ORS 334.400 by a school district in an education
5 service district that provides equalization under ORS 334.400;

6 (h) Moneys received in lieu of property taxes;

7 (i) Federal funds received without specific application by the school district and which are not
8 deemed under federal law to be nonsupplantable; and

9 (j) Any positive amount obtained by subtracting the operating property taxes actually imposed
10 by the district, based on the rate certified pursuant to ORS 310.060, from the amount that would
11 have been imposed by the district if the district had certified the maximum rate of operating prop-
12 erty taxes allowed by law.

13 (10) Notwithstanding subsection (9) of this section, Local Revenues do not include:

14 (a) The amount of revenue actually received by the district, including penalties and interest on
15 taxes, that is used for payment of bonds issued to finance or refinance an unfunded obligation for
16 prior service costs under a contract of integration pursuant to ORS 238.685 (2)(a); and

17 (b) If a school district imposes local option taxes pursuant to ORS 280.040 to 280.145, an amount
18 equal to the lesser of:

19 (A) The amount of revenue actually received by the district from local option taxes imposed
20 pursuant to ORS 280.040 to 280.145;

21 (B) Ten percent of the combined total for the school district of the general purpose grant, the
22 transportation grant and the facility grant of the district; or

23 (C) \$500 per district extended ADMw.

24 (11)(a) Facility Grant = 8 percent of total construction costs of new school buildings.

25 (b) A school district shall receive a Facility Grant in the distribution year that a new school
26 building is first used.

27 (c) As used in this subsection:

28 (A) "New school building" includes new school buildings, adding structures onto existing school
29 buildings and adding premanufactured structures to a school district if those buildings or structures
30 are to be used for instructing students.

31 (B) "Construction costs" does not include costs for land acquisition.

32 **SECTION 27. The amendments to ORS 327.013 by section 26 of this 2001 Act become op-**
33 **erative July 1, 2005.**

34 **SECTION 28. The amendments to ORS 327.013 by section 26 of this 2001 Act affect State**
35 **School Fund distributions commencing with the 2005-2006 distribution.**

36 **SECTION 29. Except as provided in section 30 of this 2001 Act, sections 2 to 5, 7 to 10,**
37 **12, 14, 16, 18 and 19 of this 2001 Act and the amendments to ORS 750.055 and 750.333 by**
38 **sections 20 and 21 of this 2001 Act become operative January 1, 2002.**

39 **SECTION 30. The Superintendent of Public Instruction, the State Board of Education, the**
40 **Oregon Health Sciences University Board of Directors, the Director of the Department of**
41 **Consumer and Business Services, the Director of Human Services, the Assistant Director for**
42 **Mental Health and Developmental Disability Services, any district and any other state or**
43 **local public agency or body may take any action before the operative date of any section of**
44 **this 2001 Act that is necessary to enable the Superintendent of Public Instruction, the State**
45 **Board of Education, the Oregon Health Sciences University Board of Directors, the Director**

1 **of the Department of Consumer and Business Services, the Director of Human Services, the**
2 **Assistant Director for Mental Health and Developmental Disability Services, any district and**
3 **any other state or local public agency or body to exercise, on or after the operative date of**
4 **any section of this 2001 Act, the duties, functions and powers conferred and required under**
5 **any section of this 2001 Act.**

6 **SECTION 31. This 2001 Act being necessary for the immediate preservation of the public**
7 **peace, health and safety, an emergency is declared to exist, and this 2001 Act takes effect**
8 **July 1, 2001.**

9
