

House Bill 2301

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Education)

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**.

Allows school district, group of school districts or education service districts to provide part-time online instruction or full-time online instruction. Establishes requirements and process by which online instruction may be approved by State Board of Education.

Allows for certification and establishment of three virtual public schools. Describes requirements.

A BILL FOR AN ACT

1
2 Relating to public online education; creating new provisions; amending ORS 174.117, 326.603,
3 326.607, 327.077, 327.109, 327.355, 327.365, 329.007, 329.045, 329.085, 329.115, 329.451, 329.485,
4 329.840, 332.016, 332.207, 334.175, 336.631, 337.150, 337.285, 337.288, 338.005, 338.025, 338.035,
5 338.125, 338.135, 339.141, 339.147, 339.155, 339.250, 339.326, 339.370, 339.505, 340.073, 342.143,
6 342.144, 342.176, 342.177, 342.180, 342.232, 342.549, 342.650, 343.287, 348.283, 418.691, 419A.305,
7 433.235, 444.310, 659.855, 659.860, 659A.033, 680.205 and 681.230 and section 1, chapter 40,
8 Oregon Laws 2008, section 1, chapter 53, Oregon Laws 2010, and sections 1 and 2, chapter 62,
9 Oregon Laws 2010; and repealing ORS 338.120 and sections 6 and 11, chapter 72, Oregon Laws
10 2010.

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

12 **SECTION 1. As used in sections 1 to 22 of this 2011 Act:**

13 (1) **“Approved online instruction” means online instruction that is offered by a school**
14 **district, a group of school districts or an education service district and that is approved by**
15 **the Department of Education under section 8 of this 2011 Act.**

16 (2) **“Contracting school district” means the board of the common school district or the**
17 **union high school district with which the governing body of a virtual public school enters**
18 **into a contract to operate a virtual public school.**

19 (3) **“Full-time online instruction” means online instruction that is provided as 60 percent**
20 **or more of the total coursework for a student during a school term.**

21 (4) **“Governing body” means a person or group of persons who have controlling authority**
22 **of a virtual public school or proposed virtual public school.**

23 (5) **“Part-time online instruction” means online instruction that is provided as less than**
24 **60 percent of the total coursework for a student during a school term.**

25 (6) **“Virtual public school” means a comprehensive instructional program offered in any**
26 **grade from kindergarten through grade 12 that:**

27 (a) **Provides full-time online instruction;**

28 (b) **Offers instruction to students under a contract with a school district board; and**

29 (c) **Is certified as provided by section 9 of this 2011 Act.**

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 **SECTION 2.** (1) The State Board of Education may adopt any rules necessary for the
2 implementation of sections 1 to 22 of this 2011 Act.

3 (2) The State Board of Education may not waive any provision of sections 1 to 22 of this
4 2011 Act.

5 **SECTION 3.** (1) A school district may offer part-time online instruction as provided by
6 this section and section 7 of this 2011 Act.

7 (2) Part-time online instruction may be offered by a school district by:

8 (a) Using school district employees to provide the instruction; or

9 (b) Contracting with a vendor to provide the instruction.

10 (3) A school district may offer part-time online instruction to any student in this state.

11 (4)(a) If a student enrolls in part-time online instruction that is offered by a school dis-
12 trict where the student is not a resident:

13 (A) The student shall remain a resident of the school district where the student is a
14 resident; and

15 (B) The school district where the student is a resident and the school district offering
16 the part-time online instruction shall establish by agreement the amount of moneys to be
17 transferred to the school district offering the instruction.

18 (b) If an agreement cannot be reached under paragraph (a)(B) of this subsection, either
19 party may appeal the issue to the State Board of Education. Failure to reach an agreement
20 prior to the beginning of any part-time online instruction does not result in the denial of the
21 student's enrollment in the instruction.

22 (5) Nothing in this section requires a school district to offer part-time online instruction
23 or to offer part-time online instruction to all grades.

24 **SECTION 4.** (1) A group of school districts or an education service district may offer
25 part-time online instruction as provided by this section and section 7 of this 2011 Act.

26 (2) A group of school districts or an education service district may offer part-time online
27 instruction only if the instruction is approved online instruction.

28 (3) Part-time online instruction may be offered by a group of school districts or an edu-
29 cation service district by:

30 (a) Using district employees to provide the instruction; or

31 (b) Contracting with a vendor to provide the instruction.

32 (4) A group of school districts or an education service district may offer part-time online
33 instruction to any student in this state.

34 (5)(a) If a student enrolls in part-time online instruction that is offered by a group of
35 school districts or an education service district where the student is not a resident:

36 (A) The student shall remain a resident of the school district where the student is a
37 resident; and

38 (B) The school district where the student is a resident and the group of school districts
39 or the education service district offering the part-time online instruction shall establish by
40 agreement the amount of moneys to be transferred to the school districts or education ser-
41 vice district offering the instruction.

42 (b) If an agreement cannot be reached under paragraph (a)(B) of this subsection, either
43 party may appeal the issue to the State Board of Education. Failure to reach an agreement
44 prior to the beginning of any part-time online instruction does not result in the denial of the
45 student's enrollment in the instruction.

1 (c) If a group of school districts provide part-time online instruction, the school districts
2 shall establish by agreement the disbursement of any moneys transferred to the school dis-
3 tricts under this subsection.

4 (d) If an education service district provides part-time online instruction, the component
5 school districts shall establish by agreement with the education service district the dis-
6 bursement of any moneys transferred to the education service district under this subsection.

7 (6) Nothing in this section requires a group of school districts or an education service
8 district to offer part-time online instruction or to offer part-time online instruction to all
9 grades.

10 **SECTION 5.** (1) A school district may offer full-time online instruction as provided by this
11 section and section 7 of this 2011 Act.

12 (2) Full-time online instruction may be offered by a school district by:

13 (a) Using school district employees to provide the instruction; or

14 (b) Contracting with a vendor to provide the instruction.

15 (3)(a) A school district may offer full-time online instruction to any student in this state
16 if the school district complies with the requirements described in paragraph (b) of this sub-
17 section.

18 (b) A school district may offer full-time online instruction to a student who is not a
19 resident of the school district only if:

20 (A) No more than 20 percent of the students enrolled in the full-time online instruction
21 reside in another school district; or

22 (B) The full-time online instruction is approved online instruction.

23 (4)(a) If a student enrolls in full-time online instruction that is offered by a school dis-
24 trict where the student is not a resident:

25 (A) The student shall remain a resident of the school district where the student is a
26 resident; and

27 (B) The school district where the student is a resident and the school district offering
28 the full-time online instruction shall establish by agreement the amount of moneys to be
29 transferred to the school district offering the instruction.

30 (b) If an agreement cannot be reached under paragraph (a)(B) of this subsection, either
31 party may appeal the issue to the State Board of Education. Failure to reach an agreement
32 prior to the beginning of any full-time online instruction does not result in the denial of the
33 student's enrollment in the instruction.

34 (5) Full-time online instruction provided by a school district must comply with:

35 (a) Any statute or rule that establishes requirements for instructional time provided by
36 a school during each day or during a year; and

37 (b) Any requirements necessary to ensure that a student who is in any grade from nine
38 through 12 has access to the resources necessary to earn a high school diploma, a modified
39 diploma, an extended diploma or an alternative certificate while enrolled in the full-time on-
40 line instruction.

41 (6) Nothing in this section requires a school district to offer full-time online instruction
42 or to offer full-time online instruction to all grades.

43 **SECTION 6.** (1) A group of school districts or an education service district may offer
44 full-time online instruction as provided by this section and section 7 of this 2011 Act.

45 (2) A group of school districts or an education service district may offer full-time online

1 instruction only if the instruction is approved online instruction.

2 (3) Full-time online instruction may be offered by a group of school districts or an edu-
3 cation service district by:

4 (a) Using district employees to provide the instruction; or

5 (b) Contracting with a vendor to provide the instruction.

6 (4) A group of school districts or an education service district may offer full-time online
7 instruction to any student in this state.

8 (5)(a) If a student enrolls in full-time online instruction that is offered by a group of
9 school districts or an education service district where the student is not a resident:

10 (A) The student shall remain a resident of the school district where the student is a
11 resident; and

12 (B) The school district where the student is a resident and the group of school districts
13 or the education service district offering the full-time online instruction shall establish by
14 agreement the amount of moneys to be transferred to the school districts or education ser-
15 vice district offering the instruction.

16 (b) If an agreement cannot be reached under paragraph (a)(B) of this subsection, either
17 party may appeal the issue to the State Board of Education. Failure to reach an agreement
18 prior to the beginning of any full-time online instruction does not result in the denial of the
19 student's enrollment in the instruction.

20 (c) If a group of school districts provide full-time online instruction, the school districts
21 shall establish by agreement the amount of moneys to be transferred among the school dis-
22 tricts.

23 (d) If an education service district provides full-time online instruction, the component
24 school districts shall establish by agreement with the education service district the amount
25 of any moneys to be transferred to the education service district.

26 (6) Full-time online instruction provided by a group of school districts or an education
27 service district must comply with:

28 (a) Any statute or rule that establishes requirements for instructional time provided by
29 a school during each day or during a year; and

30 (b) Any requirements necessary to ensure that a student who is in any grade from nine
31 through 12 has access to the resources necessary to earn a high school diploma, a modified
32 diploma, an extended diploma or an alternative certificate while enrolled in the full-time on-
33 line instruction.

34 (7) Nothing in this section requires a group of school districts or an education service
35 district to offer full-time online instruction or to offer full-time online instruction to all
36 grades.

37 **SECTION 7. (1) If part-time online instruction or full-time online instruction is provided**
38 **under sections 3 to 6 of this 2011 Act, the school district, group of school districts or edu-**
39 **cation service district providing the online instruction must:**

40 (a) **Ensure that any necessary special education and related services are provided to**
41 **children with disabilities.**

42 (b) Arrange meetings of students and teachers at least twice a week during the school
43 year, either in person or through the use of conference calls or other technology.

44 (c) Provide equitable access to the online instruction by ensuring that each student:

45 (A) Has access to and use of computer and printer equipment as needed;

1 (B) Is offered an Internet service cost reimbursement arrangement under which the
2 district reimburses the parent or guardian of the student, at a rate set by the school district
3 or education service district, for the costs of obtaining Internet service at the minimum
4 connection speed required to effectively access the online instruction; or

5 (C) Has access to and use of computer and printer equipment and is offered Internet
6 service cost reimbursement.

7 (d) Take measures to provide access to computer and printer equipment and the Internet
8 service cost reimbursement as described in paragraph (c) of this subsection to students en-
9 rolled in the online instruction who are from families that qualify as low-income under Title
10 I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

11 (e) Be able to monitor and track student progress and attendance and provide student
12 assessments in a manner that ensures that an individual student is being assessed and that
13 the assessment is valid.

14 (f) For full-time online instruction, establish a school calendar that provides:

15 (A) At least six school-sponsored optional educational events during the school year at
16 locations selected to provide convenient access to all students enrolled in the full-time online
17 instruction who want to participate; and

18 (B) At least six opportunities during the school year for face-to-face meetings between
19 teachers and students enrolled in the full-time online instruction.

20 (g) Meet any other requirements established by the State Board of Education by rule.

21 (h) Provide the notices required by section 22 of this 2011 Act.

22 (2) Unless otherwise provided by law, the provisions of subsection (1) of this section apply
23 only to students enrolled in part-time online instruction or full-time online instruction under
24 sections 3 to 6 of this 2011 Act.

25 (3) A school district, a group of school districts or an education service district may apply
26 to the State Board of Education for a waiver of any statutes or rules that apply to school
27 district boards, boards of directors of education service districts, school districts, education
28 service districts or other public education providers. The State Board of Education may
29 grant a waiver if the waiver:

30 (a) Is necessary for the school district, group of school districts or education service
31 district to provide the part-time online instruction or the full-time online instruction;

32 (b) Is not for a statute or rule listed in section 15 of this 2011 Act; and

33 (c) Is not for any provision of sections 1 to 22 of this 2011 Act or any provision of a rule
34 adopted as provided in section 2 of this 2011 Act.

35 **SECTION 8.** (1) Upon application by a school district, a group of school districts or an
36 education service district, the State Board of Education may approve:

37 (a) The full-time online instruction provided by the school district, the group of school
38 districts or the education service district; or

39 (b) The part-time online instruction provided by the group of school districts or the ed-
40 ucation service district.

41 (2) When a school district receives approval of the full-time online instruction provided
42 by the school district, the enrollment restrictions imposed by section 5 (3)(b)(A) of this 2011
43 Act no longer apply to the full-time online instruction.

44 (3) When determining whether to approve the online instruction offered by a school dis-
45 trict, a group of school districts or an education service district, the State Board of Educa-

1 **tion:**

2 (a) Must determine if the school district, group of school districts or education service
3 district is capable of meeting the requirements described in section 7 (1) of this 2011 Act on
4 a statewide level; and

5 (b) May not impose any grade level, enrollment or geographic restrictions not imposed
6 by statute.

7 (4) The State Board of Education shall establish by rule the process and standards by
8 which the board may:

9 (a) Approve online instruction under this section;

10 (b) Determine if the requirements for providing approved online education are being met;
11 and

12 (c) Rescind approval of full-time online instruction.

13 (5) Denial of approval or rescission of approval under this section may be appealed as a
14 contested case under ORS chapter 183.

15 (6) The State Board of Education may not charge a fee in relation to the approval process
16 described in this section.

17 **SECTION 9.** (1) As provided by sections 9 to 21 of this 2011 Act, the State Board of Ed-
18 ucation shall certify virtual public schools. The board may not allow the operation of more
19 than three virtual public schools at any time.

20 (2) A virtual public school must be certified by the State Board of Education and operate
21 under a contract with a school district board.

22 (3) The instructional program of a virtual public school may be offered:

23 (a) As full-time online instruction;

24 (b) To every student in this state; and

25 (c) To students in any grade from kindergarten to grade 12.

26 (4)(a) Except as provided by paragraph (b) of this subsection, a student who wishes to
27 enroll in a virtual public school does not need the approval of the school district where the
28 student is a resident before the student enrolls in the school.

29 (b) If more than three percent of the students in a school district are enrolled in a virtual
30 public school, a student who is a resident of the school district must receive approval from
31 the school district before enrolling in the virtual public school.

32 (c) If the school district does not give approval under paragraph (b) of this subsection:

33 (A) The school district must allow the student to enroll in any other approved online in-
34 struction, part-time online instruction or full-time online instruction offered in this state;
35 and

36 (B) The student may appeal the decision of the State Board of Education, which must
37 issue a decision within 30 days of the submission of the appeal.

38 (5) A virtual public school must:

39 (a) Be established as a nonprofit organization under the laws of Oregon;

40 (b) Qualify as an exempt organization under section 501(c)(3) of the Internal Revenue
41 Code; and

42 (c) Operate as a nonprofit and exempt organization.

43 (6)(a) A member of the school district board that will become the contracting school
44 district for a virtual public school may not serve on the school district board and be:

45 (A) An employee of the virtual public school;

1 (B) A member of the governing body of the virtual public school; or

2 (C) An employee or other representative of any third-party entity with which the virtual
3 public school enters into a contract to provide educational services.

4 (b) A member of the governing body of a virtual public school may not be an employee
5 of a third-party entity with which the virtual public school enters, or intends to enter, into
6 a contract to provide educational services.

7 (c) The requirements of this subsection apply from the time that information is provided
8 to the State Board of Education under section 10 of this 2011 Act until the virtual public
9 school is no longer in operation.

10 **SECTION 10. To become certified as a virtual public school, the governing body of the**
11 **proposed virtual public school and the school district board with which the governing body**
12 **will enter into a contract to provide online instruction must provide the following informa-**
13 **tion to the State Board of Education:**

14 **(1) The following basic information about the proposed virtual public school:**

15 (a) Identification of the governing body of the proposed virtual public school.

16 (b) The governance structure of the school.

17 (c) The proposed terms of the contract.

18 (d) The statutes and rules that will apply to the school.

19 (e) The methods by which the school district board will hold the governing body of the
20 virtual public school accountable to the terms of the contract.

21 (f) The address and physical location of the administrative offices of the school and the
22 address of any facilities used for the instruction of students of the school.

23 (g) The plan for performance bonding or insuring the school, including liabilities and any
24 buildings used as facilities for instruction.

25 **(2) The following information about the students of the proposed virtual public school:**

26 (a) The projected enrollment to be maintained and the ages or grades to be served.

27 (b) The standards for behavior and the procedures for the discipline, suspension or ex-
28 pulsion of students, both online and in any facilities used for instruction.

29 **(c) The arrangements for any necessary special education and related services provided**
30 **pursuant to section 20 of this 2011 Act for children with disabilities.**

31 (d) The methods by which students and teachers may meet at least twice a week during
32 the school year, either in person or through the use of conference calls or other technology.

33 (e) The measures taken to provide equitable access to the education program of the
34 school by ensuring that each student:

35 (A) Has access to and use of computer and printer equipment as needed;

36 (B) Is offered an Internet service cost reimbursement arrangement under which the
37 school reimburses the parent or guardian of the student, at a rate set by the school, for the
38 costs of obtaining Internet service at the minimum connection speed required to effectively
39 access the education program provided by the school; or

40 (C) Has access to and use of computer and printer equipment and is offered Internet
41 service cost reimbursement.

42 (f) The measures taken to provide access to computer and printer equipment and the
43 Internet service cost reimbursement as described in paragraph (e) of this subsection by
44 students enrolled in the school who are from families that qualify as low-income under Title
45 I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

1 **(3) The following information about the academics of the proposed virtual public school:**

2 **(a) The school calendar, including the length of the school day and school year, and the**
3 **proposed dates during the school year for when the school will conduct:**

4 **(A) At least six school-sponsored optional educational events at locations selected to**
5 **provide convenient access to all students enrolled in the school who want to participate; and**

6 **(B) At least six face-to-face meetings between teachers and students enrolled in the**
7 **school.**

8 **(b) The curriculum.**

9 **(c) The expected results of the curriculum and the verified methods of measuring and**
10 **reporting objective results that will show the growth of knowledge of students attending the**
11 **school.**

12 **(d) A plan for academic achievement that addresses how the school will improve student**
13 **learning and meet academic content standards required by ORS 329.045.**

14 **(e) Academic goals for the first three years of operation of the school, and performance**
15 **criteria the school will use to measure the progress of the school in meeting the academic**
16 **performance goals.**

17 **(f) A plan to monitor and track student progress and attendance and to provide student**
18 **assessments in a manner that ensures that an individual student is being assessed and that**
19 **the assessment is valid.**

20 **(g) A plan for implementing the proposed education program of the school by directly and**
21 **significantly involving parents and guardians of students enrolled in the school and involving**
22 **the professional employees of the school.**

23 **(4) The following information about the staff of the proposed virtual public school:**

24 **(a) A description of the proposed staff positions and required qualifications of teachers,**
25 **which must satisfy the requirements described in section 17 (4) of this 2011 Act.**

26 **(b) A plan for the placement of teachers, employees and students of the school upon**
27 **termination or nonrenewal of a contract.**

28 **(5) The following information about the finances of the proposed virtual public school:**

29 **(a) The proposed budget and financial plan for the school and evidence that the proposed**
30 **budget and financial plan are financially sound.**

31 **(b) The financial management systems for the school and a plan for having the financial**
32 **management systems in place at the time the school begins operating.**

33 **(c) A description of a budget and accounting system that is compatible with the budget**
34 **and accounting system of the contracting school district and that is in compliance with the**
35 **requirements of the uniform budget and accounting system adopted by rule of the State**
36 **Board of Education under ORS 327.511.**

37 **(d) The manner in which the program review and fiscal audit will be conducted.**

38 **(6) The following information about student records and school records at the proposed**
39 **virtual public school:**

40 **(a) The address of the office located within the school district of the contracting school**
41 **district where student records and school records will be maintained, and the methods by**
42 **which those records will be maintained.**

43 **(b) The process for providing the notices required by section 22 of this 2011 Act.**

44 **(c) An agreement to provide a student's education records to the student's resident**
45 **school district or, if different, to the contracting school district upon request of the resident**

1 school district or contracting school district.

2 **SECTION 11. (1) Using the information provided under section 10 of this 2011 Act, the**
 3 **State Board of Education may certify a virtual public school based on a good faith evaluation**
 4 **of:**

5 (a) The extent to which the information required in section 10 of this 2011 Act has been
 6 addressed;

7 (b) The demonstrated financial stability of the virtual public school, including the dem-
 8 onstrated ability of the school to have a sound financial management system in place at the
 9 time the school begins operating;

10 (c) The capability of the virtual public school, in terms of support and planning, to pro-
 11 vide comprehensive instructional programs to students;

12 (d) The capability of the virtual public school, in terms of support and planning, to spe-
 13 cifically provide comprehensive instructional programs to students identified by the school
 14 as academically low achieving;

15 (e) Whether the value of the virtual public school is outweighed by any directly identifi-
 16 able, significant and adverse impact on the quality of public education in this state; and

17 **(f) Whether there are arrangements for any necessary special education and related**
 18 **services for children with disabilities pursuant to section 20 of this 2011 Act.**

19 (2) Denial of certification under this section may be appealed as a contested case under
 20 ORS chapter 183.

21 (3) The State Board of Education shall establish by rule the process and timelines for
 22 submitting an application to become certified as a virtual public school.

23 **SECTION 12. (1)(a) After a virtual public school has been certified as provided by section**
 24 **11 of this 2011 Act, the school district board that jointly submitted the request for certif-**
 25 **ication shall enter into a contract with the governing body of the virtual public school. The**
 26 **school district board and governing body shall develop a written contract that contains the**
 27 **information provided to the State Board of Education under section 10 of this 2011 Act and**
 28 **any other information agreed to by the school district board and the governing body.**

29 (b) The contract for a virtual public school, when duly executed by the contracting school
 30 district and the governing body of the virtual public school, shall act as the legal authori-
 31 zation for the establishment of the virtual public school. The contract shall be legally binding
 32 on both the contracting school district and the governing body of the virtual public school.

33 (c) The contract must provide the circumstances under which the contracting school
 34 district may require a change to the curriculum of the virtual public school or a change of
 35 a third-party entity that provides educational services for the school.

36 (2) The contracting school district and the governing body of the virtual public school
 37 may amend a contract by joint agreement.

38 (3)(a) The initial contract for a virtual public school shall be for a period of not more
 39 than three years and shall be renewed upon the authorization of the contracting school dis-
 40 trict using the process established under this section.

41 (b) The first renewal of a contract for a virtual public school shall be for the same time
 42 period as the initial contract.

43 (c) Subsequent renewals of a contract for a virtual public school shall be for a minimum
 44 of three years and may not exceed five years.

45 (4)(a) The contracting school district shall base the contract renewal decision on a good

1 faith evaluation of whether the virtual public school:

2 (A) Is in compliance with sections 9 to 21 of this 2011 Act and all other applicable state
3 and federal laws;

4 (B) Is in compliance with the contract of the virtual public school;

5 (C) Is meeting or working toward meeting the student performance goals and agreements
6 specified in the contract or any other written agreements between the contracting school
7 district and the governing body of the virtual public school;

8 (D) Is fiscally stable and has used the sound financial management system described in
9 the information provided under section 10 of this 2011 Act and incorporated into the written
10 contract under this section; and

11 (E) Is in compliance with any renewal criteria specified in the contract of the virtual
12 public school.

13 (b) The contracting school district shall base the renewal evaluation described in para-
14 graph (a) of this subsection primarily on:

15 (A) The virtual public school's annual performance reports, audit of accounts and review
16 required by section 13 of this 2011 Act; and

17 (B) Any other information mutually agreed upon by the contracting school district and
18 the governing body of the virtual public school.

19 **SECTION 13.** (1)(a) A virtual public school shall report to the contracting school district
20 and the State Board of Education at least annually on the performance of the school and its
21 students. The report shall include information necessary for a contracting school district to
22 determine if the virtual public school is in compliance with the contract for the virtual public
23 school and with the requirements of sections 9 to 21 of this 2011 Act.

24 (b) The contracting school district, or a designee of the contracting school district, at
25 least annually shall visit any facilities of the school used for instruction and review the vir-
26 tual public school's compliance with the contract for the virtual public school and with the
27 requirements of sections 9 to 21 of this 2011 Act.

28 (2) The virtual public school shall have an annual audit of the accounts of the school
29 prepared in accordance with ORS 297.405 to 297.555. The audit also shall determine if
30 amounts received by the virtual public school under section 20 of this 2011 Act for students
31 eligible for special education or eligible for and enrolled in an English as a second language
32 program were used for those students.

33 (3) After an audit, the following shall be forwarded to the contracting school district and
34 the Department of Education:

35 (a) A copy of the annual audit;

36 (b) Any statements from the virtual public school that show the results of all operations
37 and transactions affecting the financial status of the school during the preceding annual
38 audit period for the school; and

39 (c) A balance sheet containing a summary of the assets and liabilities of the virtual
40 public school as of the closing date of the preceding annual audit period for the school.

41 (4) The State Board of Education may require virtual public schools to file reports with
42 the Department of Education as necessary to enable the department to gather information
43 on virtual public schools for inclusion in the Oregon Report Card issued pursuant to ORS
44 329.115.

45 **SECTION 14.** (1) During the term of a contract for a virtual public school, the contract-

1 ing school district may terminate the contract on any of the following grounds:

2 (a) Failure to meet the terms of an approved contract or sections 9 to 21 of this 2011 Act.

3 (b) Failure to meet the requirements for student performance stated in the contract.

4 (c) Failure to correct a violation of a federal or state law that is described in section 15
5 of this 2011 Act.

6 (d) Failure to maintain insurance as described in the contract.

7 (e) Failure to maintain financial stability.

8 (f) Failure to maintain, for two or more consecutive years, a sound financial management
9 system.

10 (2) If a contract is terminated under subsection (1) of this section, the contracting school
11 district shall notify the governing body of the virtual public school at least 60 days prior to
12 the proposed effective date of the termination. The notice shall state the grounds for the
13 termination. The governing body of the virtual public school may request a hearing by the
14 contracting school district.

15 (3) The governing body of a virtual public school may appeal any decision of a contracting
16 school district under subsection (2) of this section to the State Board of Education. The State
17 Board of Education shall adopt by rule procedures to ensure a timely appeals process to
18 prevent disruption of students' education.

19 (4)(a) Notwithstanding subsection (2) of this section, a contracting school district may
20 terminate a contract immediately and close a virtual public school if the virtual public school
21 is endangering the health or safety of the students enrolled in the school.

22 (b) The governing body of a virtual public school may request a hearing from the con-
23 tracting school district on the termination of the contract under this subsection. The con-
24 tracting school district shall hold a hearing within 10 days after receiving the request.

25 (c) The governing body of a virtual public school may appeal a decision of a contracting
26 school district under this subsection to the State Board of Education. The State Board of
27 Education shall hold a hearing within 10 days after receiving the appeal request.

28 (d) Throughout the appeals process, the virtual public school shall remain closed at the
29 discretion of the contracting school district unless the State Board of Education orders the
30 contracting school district to open the school and not terminate the contract.

31 (5) If a contract is terminated or a virtual public school is dissolved, the assets of the
32 school that were purchased with public funds shall be given to the State Board of Education.
33 The State Board of Education may disburse the assets of the virtual public school to school
34 districts or other virtual public schools.

35 (6) The governing body of a virtual public school may terminate a contract or dissolve
36 or close a school only at the end of a semester. If the governing body of the virtual public
37 school terminates a contract or dissolves or closes a virtual public school, the governing
38 body shall notify the contracting school district at least 180 days prior to the proposed ef-
39 fective date of the termination, dissolution or closure.

40 **SECTION 15.** (1) Except as provided by subsection (2) of this section, statutes and rules
41 that apply to school district boards, school districts or other public schools do not apply to
42 virtual public schools.

43 (2) The following laws apply to virtual public schools:

44 (a) Federal law;

45 (b) ORS 30.260 to 30.300 (tort claims);

- 1 (c) ORS 192.410 to 192.505 (public records law);
- 2 (d) ORS 192.610 to 192.690 (public meetings law);
- 3 (e) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- 4 (f) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);
- 5 (g) ORS 329.045 (academic content standards and instruction);
- 6 (h) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative
- 7 certificate);
- 8 (i) The statewide assessment system developed by the Department of Education for
- 9 mathematics, science and English under ORS 329.485 (2);
- 10 (j) ORS 337.150 (textbooks);
- 11 (k) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- 12 (L) ORS 339.250 (12) (prohibition on infliction of corporal punishment);
- 13 (m) ORS 339.326 (notice concerning students subject to juvenile court petitions);
- 14 (n) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on
- 15 prevention and identification of child abuse);
- 16 (o) ORS chapter 657 (Employment Department Law);
- 17 (p) ORS 659.850, 659.855 and 659.860 (discrimination);
- 18 (q) Any statute or rule that establishes requirements for instructional time provided by
- 19 a school during each day or during a year;
- 20 (r) Health and safety statutes and rules;
- 21 (s) Any statute or rule that is listed in the contract;
- 22 (t) Section 1, chapter 53, Oregon Laws 2010 (consideration for educational services); and
- 23 (u) Sections 9 to 21 of this 2011 Act.
- 24 (3) Notwithstanding subsection (1) of this section, a contract may specify that statutes
- 25 and rules that apply to school district boards, school districts and other public schools apply
- 26 to a virtual public school.
- 27 (4) If a statute or rule applies to a virtual public school, then the terms “school district
- 28 board,” “school district” or “public school” include virtual public school as those terms are
- 29 used in that statute or rule.
- 30 (5) In any advertising or other promotional materials of a virtual public school, the
- 31 school must clearly state that the school is a publicly funded school.
- 32 (6) A virtual public school may sue or be sued as a separate legal entity.
- 33 (7) The contracting school district, members of the governing board of the contracting
- 34 school district acting in their official capacities and employees of a contracting school dis-
- 35 trict acting in their official capacities are immune from civil liability with respect to all ac-
- 36 tivities related to a virtual public school within the scope of their duties or employment.
- 37 (8)(a) A virtual public school may enter into contracts, lease facilities and secure services
- 38 from a school district, education service district, state institution of higher education, other
- 39 governmental unit or any other person or legal entity.
- 40 (b) A virtual public school may receive services from an education service district in the
- 41 same manner as a nonvirtual public school located in the school district that is the con-
- 42 tracting school district.
- 43 (9) A virtual public school may not levy taxes or issue bonds under which the public in-
- 44 curs liability.
- 45 (10) A virtual public school may receive and accept gifts, grants and donations from any

1 source for expenditure to carry out the lawful functions of the school.

2 (11)(a) The contracting school district of a virtual public school shall offer a high school
3 diploma, a modified diploma, an extended diploma or an alternative certificate to any virtual
4 public school student who meets the district's and state's standards for a high school di-
5 ploma, a modified diploma, an extended diploma or an alternative certificate.

6 (b) A high school diploma, a modified diploma, an extended diploma or an alternative
7 certificate issued by a virtual public school grants to the holder the same rights and privi-
8 leges as a high school diploma, a modified diploma, an extended diploma or an alternative
9 certificate issued by a public school.

10 (12) Prior to beginning operation, the virtual public school shall show proof of insurance
11 to the contracting school district as specified in the contract.

12 (13) A virtual public school may conduct fund-raising activities but may not require a
13 student to participate in fund-raising activities as a condition of enrollment.

14 (14) A virtual public school may not limit enrollment based on race, religion, sex, sexual
15 orientation, ethnicity, national origin, disability, income level or proficiency in the English
16 language.

17 **SECTION 16.** (1) If a virtual public school enters into a contract with a third-party entity
18 to provide educational services for the school:

19 (a) No employee or member of the governing board of the third-party entity may attend
20 an executive session of the school district board of the contracting school district;

21 (b) An employee of the virtual public school may not promote the sale or benefits of
22 private supplemental services or classes offered by the third-party entity;

23 (c) The educational services provided by the third-party entity must be consistent with
24 state standards and requirements, and must be changed on the same timelines that changes
25 are imposed on the nonvirtual public schools of this state; and

26 (d) The virtual public school must have on file the third-party entity's budget for the
27 provision of educational services and that budget must itemize:

28 (A) The salaries of supervisory and management personnel and consultants who are
29 providing educational or related services for a virtual public school in this state; and

30 (B) The annual operating expenses and profit margin of the third-party entity for pro-
31 viding educational services to a virtual public school in this state.

32 (2)(a) The contracting school district or a member of the public may request access to
33 any of the documents described in subsection (1)(d) of this section that are public records,
34 as provided by ORS 192.410 to 192.505.

35 (b) Upon request by the contracting school district or a member of the public, a virtual
36 public school must provide reasonable access to the documents described in subsection (1)(d)
37 of this section that are public records, as provided by ORS 192.410 to 192.505. The documents
38 may be provided electronically.

39 **SECTION 17.** (1) Employee assignment to a virtual public school is voluntary.

40 (2)(a) A virtual public school is considered the employer of the employees of the virtual
41 public school. The governing body of the virtual public school shall control the selection of
42 employees at the school.

43 (b) If the virtual public school contracts with a third-party entity to provide educational
44 services through the virtual public school, the third-party entity may not be the employer
45 of any employees of the school.

1 (3)(a) A school district board shall grant a leave of absence to any employee who chooses
 2 to work in a virtual public school. The length and terms of the leave of absence shall be set
 3 by negotiated agreement or by board policy, but may not be less than two years unless:

4 (A) The contract for the virtual public school is terminated or the virtual public school
 5 is dissolved or closed during the leave of absence; or

6 (B) The employee and the school district board have mutually agreed to a different length
 7 of time.

8 (b) Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an
 9 employee of a virtual public school may make provisions for the return of the employee to
 10 employment with the school district.

11 (4)(a) Any person employed as an administrator of a virtual public school must be li-
 12 censed to administer by the Teacher Standards and Practices Commission.

13 (b) Any person employed as a teacher for the virtual public school must be licensed to
 14 teach by the Teacher Standards and Practices Commission and be highly qualified as de-
 15 scribed in the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425).

16 (5)(a) For teacher licensing, the Teacher Standards and Practices Commission shall de-
 17 termine to what extent employment experience in a virtual public school is considered
 18 equivalent to employment experience in public schools.

19 (b) Notwithstanding paragraph (a) of this subsection, if a teacher is teaching students
 20 at a facility for a virtual public school, that employment experience is equivalent to em-
 21 ployment experience in public schools.

22 (6) For purposes of ORS chapters 238 and 238A, a virtual public school is considered a
 23 public employer and as such shall participate in the Public Employees Retirement System.

24 (7) Notwithstanding ORS 243.650, a virtual public school is considered a school district for
 25 purposes of ORS 243.650 to 243.782. An employee of a virtual public school may be a member
 26 of a labor organization or organize with other employees to bargain collectively. Bargaining
 27 units at the virtual public school may be separate from other bargaining units of the con-
 28 tracting school district. Employees of a virtual public school may be part of the bargaining
 29 units of the contracting school district.

30 (8) A school district may not waive the right to become a contracting school district in
 31 a collective bargaining agreement.

32 **SECTION 18.** (1) Students who attend virtual public schools may use existing bus routes
 33 and transportation services of the school district in which any facilities of the virtual public
 34 school are located.

35 (2) A virtual public school may negotiate with any school district of this state for the
 36 provision of transportation to students attending the virtual public school that is in addition
 37 to the existing bus routes of the school district.

38 (3) Nothing in subsections (1) or (2) of this section requires a school district to add or
 39 extend existing bus routes or other transportation services pursuant to this section.

40 (4) Any transportation costs incurred by a school district under this section are consid-
 41 ered approved transportation costs for purposes of ORS 327.013 in the same manner as
 42 transportation costs incurred by the school district for transporting students who attend
 43 nonvirtual public schools are considered approved transportation costs for purposes of ORS
 44 327.013.

45 **SECTION 19.** (1) A virtual public school is considered to be a school district for the pur-

1 pose of the distribution of State School Fund moneys. When a student enrolls in a virtual
 2 public school, the student becomes a resident of the virtual public school for the purpose of
 3 the distribution of State School Fund moneys.

4 (2)(a) In accordance with the provisions of ORS 327.095, distributions from the State
 5 School Fund shall be made to virtual public schools for the provision of educational services
 6 to the virtual public school's students. The payment shall be based on an amount per
 7 weighted average daily membership (ADMw) of the virtual public school except that:

8 (a) The average daily membership of the virtual public school shall be multiplied by 0.8.

9 (b) The weighted amounts used in the calculation under ORS 327.013 must be based on
 10 the average weighted amounts for the state and must be multiplied by 0.8.

11 (c) The virtual public school may not receive any additional amounts determined under
 12 ORS 327.077 for remote small elementary schools or small high schools.

13 (3) The governing body of a virtual public school and the school district board of the
 14 contracting school district may negotiate for payment by the virtual public school to the
 15 contracting school district for administrative costs incurred by the contracting school dis-
 16 trict related to the virtual public school. The amount of the payment may not exceed five
 17 percent of the amount per weighted average daily membership (ADMw) of the virtual public
 18 school.

19 (4) A virtual public school may apply for any grant that is available to school districts
 20 or nonvirtual public schools from the Department of Education. The department shall con-
 21 sider the application of the virtual public school in the same manner as an application from
 22 a school district or nonvirtual public school.

23 **SECTION 20. (1) A virtual public school is considered to be a school district for the pur-**
 24 **pose of special education and related services. When a student enrolls in a virtual public**
 25 **school, the student becomes a resident of the virtual public school for the purpose of special**
 26 **education and related services.**

27 **(2) For students who attend virtual public schools and are eligible for special education**
 28 **and related services:**

29 **(a) The virtual public school is responsible for identifying, locating and evaluating stu-**
 30 **dents who may have disabilities and be in need of special education and related services;**

31 **(b) The virtual public school is responsible for providing any required special education**
 32 **and related services; and**

33 **(c) Amounts from the State School Fund for those students shall be distributed to the**
 34 **virtual public school.**

35 **(3) A virtual public school may enter into a contract with a school district, education**
 36 **service district or other entity for the purpose of providing special education and related**
 37 **services to a student eligible for special education and related services.**

38 **(4) A virtual public school shall provide for face-to-face meetings with the parents,**
 39 **guardians or persons in parental relationship with a student when:**

40 **(a) A meeting is held as provided by ORS 343.155 (1); or**

41 **(b) An individualized education program is developed, reviewed or revised.**

42 **SECTION 21. (1) The Department of Education may award grants and loans to virtual**
 43 **public schools that have entered into a contract with a contracting school district or to ap-**
 44 **plicants that wish to establish or expand a virtual public school. The purpose of the grants**
 45 **and loans is to promote the development of high quality virtual public schools.**

1 (2) Pursuant to rules adopted by the State Board of Education, the Department of Edu-
 2 cation shall award grants and loans on the basis of need. Priority for awarding grants and
 3 loans shall be to those virtual public schools serving at-risk youth.

4 (3) The State Board of Education shall adopt by rule criteria for awarding grants and
 5 loans under this section.

6 **SECTION 22.** (1) The parent, legal guardian or person in parental relationship with a
 7 student shall provide the following notices to the school district where the student is a res-
 8 ident:

9 (a) Intent to enroll the student in a virtual public school; and

10 (b) Enrollment of the student in a virtual public school.

11 (2) When a school district receives notices under subsection (1) of this section and more
 12 than three percent of the students of the school district are enrolled in a virtual public
 13 school, the school district must provide notice to the parent, guardian or person in parental
 14 relationship with the student whether the school district approves the enrollment. If the
 15 school district does not approve enrollment, the school district must provide information
 16 about the student's right to appeal the decision to the State Board of Education and the
 17 student's right to enroll in any other approved online instruction, part-time online instruc-
 18 tion or full-time online instruction offered in this state.

19 (3)(a) For students who enroll in part-time online instruction, full-time online instruc-
 20 tion, or a virtual public school, when a school district enrolls a student who is not a resident
 21 of the school district, a group of school districts enrolls a student who is not a resident of
 22 any of the school districts or an education service district or a virtual public school enrolls
 23 any student, the school district, group of school districts, education service district or vir-
 24 tual public school shall provide written notice of the enrollment to the school district where
 25 the student is a resident. The notice must be provided within 10 days after enrollment and
 26 must include:

27 (A) The name, age and address of the student; and

28 (B) The name of the school in which the student was formerly enrolled or maintains
 29 part-time enrollment.

30 (b) When a student described in paragraph (a) of this subsection no longer is enrolled in
 31 part-time online instruction, or full-time online instruction or a virtual public school, the
 32 school district, group of school districts, education service district or virtual public school
 33 shall provide written notice to the school district where the student is a resident. The notice
 34 must be provided within 10 days after the student no longer is enrolled and must include:

35 (A) The name, age and address of the student;

36 (B) If known, the name of the school in which the student will enroll or has maintained
 37 part-time enrollment;

38 (C) The reason the student no longer is enrolled, if known; and

39 (D) Information about the student's education record.

40 **SECTION 23.** ORS 338.005 is amended to read:

41 338.005. As used in this chapter, unless the context requires otherwise:

42 (1) "Applicant" means any person or group that develops and submits a written proposal for a
 43 public charter school to a sponsor.

44 (2) "Public charter school" means an elementary or secondary school offering a comprehensive
 45 instructional program operating under a written agreement entered into between a sponsor and an

1 applicant and operating pursuant to this chapter.

2 (3) "Remote and necessary school district" means a school district that offers kindergarten
3 through grade 12 and has:

4 (a) An average daily membership (ADM), as defined in ORS 327.006, in the prior fiscal year of
5 less than 110; and

6 (b) A school that is located, by the nearest traveled road, more than 20 miles from the nearest
7 school or from a city with a population of more than 5,000.

8 (4) "Sponsor" means:

9 (a) The board of the common school district or the union high school district in which the public
10 charter school is located that has developed a written charter with an applicant to create a public
11 charter school.

12 (b) The State Board of Education pursuant to ORS 338.075.

13 [(5)(a) "Virtual public charter school" means a public charter school that provides online
14 courses.]

15 [(b) "Virtual public charter school" does not include a public charter school that primarily serves
16 students in a physical location.]

17 **SECTION 24.** ORS 338.025, as amended by section 4, chapter 53, Oregon Laws 2010, and section
18 3, chapter 72, Oregon Laws 2010, is amended to read:

19 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
20 of this chapter. The rules shall follow the intent of this chapter.

21 (2) Upon application by a public charter school, the State Board of Education may grant a
22 waiver of any provision of this chapter if the waiver promotes the development of programs by
23 providers, enhances the equitable access by underserved families to the public education of their
24 choice, extends the equitable access to public support by all students or permits high quality pro-
25 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
26 chapter or any provision under ORS 338.115 (1)(a) to (t) [or 338.120].

27 **SECTION 25.** ORS 338.025, as amended by section 8, chapter 839, Oregon Laws 2007, section
28 14, chapter 50, Oregon Laws 2008, section 5, chapter 53, Oregon Laws 2010, and section 4, chapter
29 72, Oregon Laws 2010, is amended to read:

30 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
31 of this chapter. The rules shall follow the intent of this chapter.

32 (2) Upon application by a public charter school, the State Board of Education may grant a
33 waiver of any provision of this chapter if the waiver promotes the development of programs by
34 providers, enhances the equitable access by underserved families to the public education of their
35 choice, extends the equitable access to public support by all students or permits high quality pro-
36 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
37 chapter or any provision under ORS 338.115 (1)(a) to (u) [or 338.120].

38 **SECTION 26.** ORS 338.035 is amended to read:

39 338.035. (1)(a) A public charter school may be established:

40 [(a)] (A) As a new public school;

41 [(b)] As a virtual public charter school;]

42 [(c)] (B) From an existing public school or a portion of the school; or

43 [(d)] (C) From an existing alternative education program, as defined in ORS 336.615.

44 (b) A public charter school may not be established as a school that provides 60 percent
45 or more of the instruction program through online courses.

1 (2)(a) Before a public charter school may operate as a public charter school, it must:

2 (A) Be approved by a sponsor;

3 (B) Be established as a nonprofit organization under the laws of Oregon; and

4 (C) Have applied to qualify as an exempt organization under section 501(c)(3) of the Internal
5 Revenue Code.

6 (b) Notwithstanding paragraph (a) of this subsection, the requirements of paragraph (a)(B) and
7 (C) of this subsection do not apply to:

8 (A) A school in a school district that is composed of only one school; and

9 (B) A school in a school district that is a remote and necessary school district on the date the
10 school first begins operation as a public charter school.

11 (3) An applicant seeking to establish a public charter school shall submit a proposal pursuant
12 to ORS 338.045 to the school district board of the school district within which the public charter
13 school will be located at least 120 days prior to the date upon which the public charter school would
14 begin operating. However, it is recommended that an applicant consult with the school district
15 board prior to submitting a proposal.

16 (4) An applicant seeking to establish a public charter school shall provide to the State Board
17 of Education a copy of any proposal submitted to a school district board under ORS 338.045 and a
18 copy of any subsequent approval by the school district board.

19 (5)(a) One or more, but not all, schools in a school district may become public charter schools.

20 (b) Notwithstanding paragraph (a) of this subsection, a school in a school district that is com-
21 posed of only one school may become a public charter school.

22 (6)(a) A school district board or the State Board of Education may not approve a public charter
23 school proposal that authorizes the conversion of any private school that is tuition based to a public
24 charter school.

25 (b) Notwithstanding paragraph (a) of this subsection, a school district board or the State Board
26 of Education may authorize the conversion of an existing alternative education program, as defined
27 in ORS 336.615, to a public charter school.

28 (7) A school district board or the State Board of Education may not approve a public charter
29 school proposal that is affiliated with a nonpublic sectarian school or a religious institution.

30 **SECTION 27. The amendments to ORS 338.035 by section 26 of this 2011 Act apply to**
31 **public charter schools that are established on or after the effective date of this 2011 Act or**
32 **that have charters renewed on or after the effective dates of this 2011 Act.**

33 **SECTION 28.** ORS 338.125 is amended to read:

34 338.125. (1) Student enrollment in a public charter school shall be voluntary. All students who
35 reside within the school district where the public charter school is located are eligible for enroll-
36 ment at a public charter school. If the number of applications from students who reside within the
37 school district exceeds the capacity of a program, class, grade level or building, the public charter
38 school shall select students through an equitable lottery selection process. However, after a public
39 charter school has been in operation for one or more years, the public charter school may give
40 priority for admission to students:

41 (a) Who were enrolled in the school in the prior year; or

42 (b) Who have siblings who are presently enrolled in the school and who were enrolled in the
43 school in the prior year.

44 (2)[(a)] If space is available a public charter school may admit students who do not reside in the
45 school district in which the public charter school is located.

1 *[(b) Notwithstanding paragraph (a) of this subsection, if a public charter school offers any online*
 2 *courses as part of the curriculum of the school, then 50 percent or more of the students who attend the*
 3 *public charter school must reside in the school district in which the public charter school is located.]*

4 (3) A public charter school may not limit student admission based on race, religion, sex, sexual
 5 orientation, ethnicity, national origin, disability, income level, proficiency in the English language
 6 or athletic ability, but may limit admission to students within a given age group or grade level.

7 (4) A public charter school may conduct fund-raising activities. However, a public charter school
 8 may not require a student to participate in fund-raising activities as a condition of admission to the
 9 public charter school.

10 **SECTION 29.** ORS 338.135 is amended to read:

11 338.135. (1) Employee assignment to a public charter school shall be voluntary.

12 (2)*[(a)]* A public charter school or the sponsor of the public charter school is considered the
 13 employer of any employees of the public charter school. If a school district board is not the sponsor
 14 of the public charter school, the school district board may not be the employer of the employees of
 15 the public charter school and the school district board may not collectively bargain with the em-
 16 ployees of the public charter school. The public charter school governing body shall control the
 17 selection of employees at the public charter school.

18 *[(b) If a virtual public charter school or the sponsor of a virtual public charter school contracts*
 19 *with a for-profit entity to provide educational services through the virtual public charter school, the*
 20 *for-profit entity may not be the employer of any employees of the virtual public charter school.]*

21 (3) The school district board of the school district within which the public charter school is lo-
 22 cated shall grant a leave of absence to any employee who chooses to work in the public charter
 23 school. The length and terms of the leave of absence shall be set by negotiated agreement or by
 24 board policy. However, the length of the leave of absence may not be less than two years unless:

25 (a) The charter of the public charter school is terminated or the public charter school is dis-
 26 solved or closed during the leave of absence; or

27 (b) The employee and the school district board have mutually agreed to a different length of
 28 time.

29 (4) An employee of a public charter school operating within a school district who is granted a
 30 leave of absence from the school district and returns to employment with the school district shall
 31 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.
 32 Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of
 33 a public charter school not operating within the school district may make provisions for the return
 34 of the employee to employment with the school district.

35 (5) For purposes of ORS chapters 238 and 238A, a public charter school shall be considered a
 36 public employer and as such shall participate in the Public Employees Retirement System.

37 (6) For teacher licensing, employment experience in public charter schools shall be considered
 38 equivalent to experience in public schools.

39 (7)(a) Any person employed as an administrator in a public charter school shall be licensed or
 40 registered to administer by the Teacher Standards and Practices Commission.

41 (b) Any person employed as a teacher in a public charter school shall be licensed or registered
 42 to teach by the commission.

43 (c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-time
 44 equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed by
 45 the commission pursuant to ORS 342.135, 342.136, 342.138 or 342.140.

1 (8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district
 2 for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member
 3 of a labor organization or organize with other employees to bargain collectively. Bargaining units
 4 at the public charter school may be separate from other bargaining units of the sponsor or of the
 5 school district in which the public charter school is located. Employees of a public charter school
 6 may be part of the bargaining units of the sponsor or of the school district in which the public
 7 charter school is located.

8 (9) A school district or the State Board of Education may not waive the right to sponsor a public
 9 charter school in a collective bargaining agreement.

10 **SECTION 30.** ORS 174.117 is amended to read:

11 174.117. (1) Subject to ORS 174.108, as used in the statutes of this state “special government
 12 body” means any of the following:

13 (a) A public corporation created under a statute of this state and specifically designated as a
 14 public corporation.

15 (b) A school district.

16 (c) A public charter school established under ORS chapter 338.

17 **(d) A virtual public school established under sections 9 to 21 of this 2011 Act.**

18 [(d)] (e) An education service district.

19 [(e)] (f) A community college district or community college service district established under
 20 ORS chapter 341.

21 [(f)] (g) An intergovernmental body formed by two or more public bodies.

22 [(g)] (h) Any entity that is created by statute, ordinance or resolution that is not part of state
 23 government or local government.

24 [(h)] (i) Any entity that is not otherwise described in this section that is:

25 (A) Not part of state government or local government;

26 (B) Created pursuant to authority granted by a statute, ordinance or resolution, but not directly
 27 created by that statute, ordinance or resolution; and

28 (C) Identified as a governmental entity by the statute, ordinance or resolution authorizing the
 29 creation of the entity, without regard to the specific terms used by the statute, ordinance or resolu-
 30 tion.

31 (2) Subject to ORS 174.108, as used in the statutes of this state “special government body” in-
 32 cludes:

33 (a) An entity created by statute for the purpose of giving advice only to a special government
 34 body;

35 (b) An entity created by a special government body for the purpose of giving advice to the
 36 special government body, if the document creating the entity indicates that the entity is a public
 37 body; and

38 (c) Any entity created by a special government body described in subsection (1) of this section,
 39 other than an entity described in paragraph (b) of this subsection, unless the document creating the
 40 entity indicates that the entity is not a governmental entity or the entity is not subject to any
 41 substantial control by the special government body.

42 **SECTION 31.** ORS 326.603 is amended to read:

43 326.603. (1) For the purposes of requesting a state or nationwide criminal records check under
 44 ORS 181.534, the Department of Education may require the fingerprints of:

45 (a) A school district or private school contractor, whether part-time or full-time, or an employee

1 of a contractor, whether part-time or full-time, who has direct, unsupervised contact with students,
2 as determined by the district or private school.

3 (b) A person newly hired, whether part-time or full-time, by a school district or private school
4 in a capacity not described in ORS 342.223 (1).

5 (c) A person who is a community college faculty member providing instruction at a kindergarten
6 through grade 12 school site during the regular school day.

7 (d) A person who is an employee of a public charter school.

8 **(e) A person who is an employee of a virtual public school who has direct, unsupervised**
9 **contact with students, as determined by the virtual public school.**

10 (2)(a) A school district shall send to the Department of Education for purposes of a criminal
11 records check any information, including fingerprints, for each person described in subsection (1)
12 of this section.

13 (b) A private school may send to the Department of Education for purposes of a criminal records
14 check any information, including fingerprints, for each person described in subsection (1)(a), (b) or
15 (c) of this section.

16 (3) The Department of Education shall request that the Department of State Police conduct a
17 criminal records check as provided in ORS 181.534 and may charge the school district or private
18 school a fee as established by rule under ORS 181.534. The school district or private school may
19 recover its costs or a portion thereof from the person described in subsection (1) of this section. If
20 the person described in subsection (1)(b), [or] (d) **or** (e) of this section requests, the school district
21 shall and a private school may withhold the amount from amounts otherwise due the person, in-
22 cluding a periodic payroll deduction rather than a lump sum payment.

23 (4) Notwithstanding subsection (1) of this section, the Department of Education may not require
24 fingerprints of a person described in subsection (1) of this section if the person or the person's em-
25 ployer was checked in one school district or private school and is currently seeking to work in an-
26 other district or private school unless the person lived outside this state during the interval between
27 the two periods of time of working in the district or private school.

28 (5) Nothing in this section requires a person described in subsection (1)(a), (b), [or] (d) **or** (e)
29 of this section to submit to fingerprinting until the person has been offered employment or a con-
30 tract by a school district or private school. Contractor employees may not be required to submit to
31 fingerprinting until the contractor has been offered a contract.

32 (6) If a person described in subsection (1) of this section states on a criminal history form pro-
33 vided by the Department of Education that the person has not been convicted of a crime but the
34 criminal records check indicates that the person has a conviction, the department shall determine
35 whether the person knowingly made a false statement as to the conviction. The department shall
36 develop a process and criteria to use for appeals of a determination under this subsection.

37 (7)(a) The Superintendent of Public Instruction shall inform a school district or private school
38 if a person described in subsection (1) of this section has been convicted of a crime listed in ORS
39 342.143 (3) or has knowingly made a false statement on a criminal history form provided by the
40 Department of Education as to the conviction of any crime.

41 (b) If a person described in subsection (1) of this section has been convicted of a crime listed in
42 ORS 342.143 (3), a school district may not employ or contract with the person and a private school
43 may choose not to employ or contract with the person. Notification by the superintendent that the
44 school district may not employ or contract with the person shall remove the person from any school
45 district policies, collective bargaining provisions regarding dismissal procedures and appeals and the

1 provisions of ORS 342.805 to 342.937.

2 (c) If a person described in subsection (1) of this section has knowingly made a false statement
 3 on a criminal history form provided by the Department of Education as to the conviction of a crime
 4 not listed in ORS 342.143 (3), a school district or private school may choose to employ or contract
 5 with the person.

6 (8) If a person described in subsection (1) of this section refuses to consent to the criminal re-
 7 cords check or refuses to be fingerprinted, the school district shall terminate the employment or
 8 contract status of the person. Termination under this subsection removes the person from any school
 9 district policies, collective bargaining provisions regarding dismissal procedures and appeals and the
 10 provisions of ORS 342.805 to 342.937.

11 (9) A school district may not hire or continue to employ or contract with or allow the contractor
 12 to continue to assign a person to the school project if the person described in subsection (1) of this
 13 section has been convicted of a crime according to the provisions of ORS 342.143.

14 (10) As used in this section and ORS 326.607:

15 (a) “Private school” means a school that provides educational services as defined in ORS 345.505
 16 and is registered as a private school under ORS 345.505 to 345.575.

17 (b) “School district” means:

18 (A) A school district as defined in ORS 330.003.

19 (B) The Oregon School for the Deaf.

20 (C) An educational program under the Youth Corrections Education Program.

21 (D) A public charter school as defined in ORS 338.005.

22 **(E) A virtual public school as defined in section 1 of this 2011 Act.**

23 ~~[(E)]~~ **(F)** An education service district.

24 **SECTION 32.** ORS 326.607 is amended to read:

25 326.607. (1) Upon request from a school district, a private school, [*or*] a public charter school
 26 **or a virtual public school** or a school district, private school, [*or*] public charter school **or virtual**
 27 **public school** contractor and with consent from the individual, the Department of Education may
 28 conduct an Oregon criminal records check using the Law Enforcement Data System for screening
 29 an individual who is a volunteer for the school district, private school, [*or*] public charter school
 30 **or virtual public school** and who has direct, unsupervised contact with school children, or for
 31 screening applicants for employment.

32 (2) The department may charge the requesting school district, private school, public charter
 33 school **or virtual public school** or **the** school district, private school, [*or*] public charter school **or**
 34 **virtual public school** contractor a fee not to exceed \$5 for each request under subsection (1) of this
 35 section.

36 **SECTION 33.** ORS 327.077 is amended to read:

37 327.077. (1) For purposes of this section:

38 (a) The “adjusted average daily membership” or “ADMa” for an elementary school is the aver-
 39 age daily membership for the school, but no less than 25.

40 (b) The “adjusted average daily membership” or “ADMa” for a high school is the average daily
 41 membership for the school, but no less than 60.

42 (2) A school may qualify as a remote small elementary school if the average daily membership
 43 in grades one through eight for an elementary school teaching:

44 (a) Eight grades is below 224.

45 (b) Seven grades is below 196.

- 1 (c) Six grades is below 168.
- 2 (d) Five grades is below 140.
- 3 (e) Four grades is below 112.
- 4 (f) Three grades is below 84.
- 5 (g) Two grades is below 56.
- 6 (h) One grade is below 28.
- 7 (3) A school may qualify as a small high school if:
 - 8 (a) The school is in a school district that has an ADMw of less than 8,500; and
 - 9 (b) The average daily membership in grades 9 through 12 for a high school teaching:
 - 10 (A) Four grades is below 350.
 - 11 (B) Three grades is below 267.
- 12 (4) An elementary school does not qualify as a remote small elementary school under subsection
 - 13 (2) of this section if it is within eight miles by the nearest traveled road from another elementary
 - 14 school unless there are physiographic conditions that make transportation to another school not
 - 15 feasible.
 - 16 (5)(a) If an elementary school in a school district qualifies as a remote small elementary school,
 - 17 the district shall have an additional amount added to the district's ADMw.
 - 18 (b) The additional amount = $\{224 - (\text{ADM}_a \div (\text{number of grades in the school} \div \text{eight}))\} \times$
 - 19 $0.0045 \times \text{ADM}_a \times \text{distance adjustment}$.
 - 20 (6)(a) If a high school in a district qualifies as a small high school, the district shall have an
 - 21 additional amount added to the district's ADMw.
 - 22 (b) The additional amount = $\{350 - (\text{ADM}_a \div (\text{number of grades in the school} \div \text{four}))\} \times$
 - 23 $0.0029 \times \text{ADM}_a$.
 - 24 (7) The distance adjustment for an elementary school = 0.025 for each 10th of a mile more than
 - 25 eight miles that a school is away from the nearest elementary school measured by the nearest
 - 26 traveled road or 1.0, whichever is less.
 - 27 (8)(a) A school may qualify as a remote small elementary school under this section only if the
 - 28 location of the school has not changed since January 1, 1995, and if the school qualified as a remote
 - 29 small school on July 18, 1995.
 - 30 (b) A school may qualify as a small high school under this section only if:
 - 31 (A) The location of the school has not changed since January 1, 1995;
 - 32 (B) The school qualified as a small high school on July 23, 2009; and
 - 33 (C) On or after October 23, 1999, and prior to July 23, 2009, the school was not part of a high
 - 34 school that divided or otherwise reorganized into two or more high schools in the same city.
 - 35 (c) A public charter school as defined in ORS 338.005 may qualify as a remote small elementary
 - 36 school under this section only if the location of the school has not changed since January 1, 1995,
 - 37 and if the school qualified as a nonchartered public remote small school on July 18, 1995.
 - 38 (d) A public charter school as defined in ORS 338.005 may qualify as a small high school under
 - 39 this section only if the location of the school has not changed since January 1, 1995, and if the
 - 40 school qualified as a nonchartered public remote small school on July 18, 1995.
 - 41 (e) The Superintendent of Public Instruction may waive the requirements of paragraph (a), (b),
 - 42 (c) or (d) of this subsection if the superintendent determines that exceptional circumstances exist.
 - 43 (f) An alternative education program as defined in ORS 336.615 may not qualify as a small high
 - 44 school under this section.
 - 45 (9) The opening of a public charter school **or the establishment of facilities used for in-**

1 **struction by a virtual public school** shall not disqualify a school as a remote small elementary
 2 school under subsection (4) of this section or change the distance adjustment for a school under
 3 subsection (7) of this section.

4 (10)(a) Notwithstanding subsections (2), (4), (5) and (8)(a) and (c) of this section, if two elemen-
 5 tary schools merge and prior to the merger at least one of the elementary schools qualified as a
 6 remote small elementary school under this section, the Department of Education shall continue to
 7 add an additional amount pursuant to subsection (5) of this section to the ADMw of the school dis-
 8 trict in which the new merged elementary school is located. The amount added under this subsection
 9 shall equal the additional amount that each of the former remote small elementary schools would
 10 have received under this section for the remote small elementary school based on the ADMA of each
 11 of the elementary schools prior to the merger.

12 (b) This subsection applies only to elementary schools located in counties with a population of
 13 less than 2,000 and a total area of not more than 1,000 square miles.

14 (11)(a) Notwithstanding subsections (3), (6) and (8)(b) and (d) of this section, if two high schools
 15 merge and prior to the merger at least one of the high schools qualified as a small high school under
 16 this section, the Department of Education shall continue to add an additional amount pursuant to
 17 subsection (6) of this section to the ADMw of the school district in which the new merged high
 18 school is located that is equal to the higher of:

19 (A) The additional amount the school district of each of the former small high schools would
 20 have received under this section for the small high school based on the ADMA of each of the high
 21 schools prior to the merger; or

22 (B) In the case of a high school that remains qualified as a small high school under subsection
 23 (3) of this section after a merger, the ADMA of the merged small high school.

24 (b) The department shall add the additional amount under this subsection only for the first four
 25 fiscal years after the merger of the two high schools is final. If the merger of the two high schools
 26 becomes final on or before September 1, for purposes of this paragraph the merger shall be consid-
 27 ered final in the prior fiscal year.

28 **SECTION 34.** ORS 327.077, as amended by section 7, chapter 705, Oregon Laws 2009, is
 29 amended to read:

30 327.077. (1) For purposes of this section:

31 (a) The “adjusted average daily membership” or “ADMA” for an elementary school is the aver-
 32 age daily membership for the school, but no less than 25.

33 (b) The “adjusted average daily membership” or “ADMA” for a high school is the average daily
 34 membership for the school, but no less than 60.

35 (2) A school may qualify as a remote small elementary school if the average daily membership
 36 in grades one through eight for an elementary school teaching:

37 (a) Eight grades is below 224.

38 (b) Seven grades is below 196.

39 (c) Six grades is below 168.

40 (d) Five grades is below 140.

41 (e) Four grades is below 112.

42 (f) Three grades is below 84.

43 (g) Two grades is below 56.

44 (h) One grade is below 28.

45 (3) A school may qualify as a small high school if:

- 1 (a) The school is in a school district that has an ADMw of less than 8,500; and
 2 (b) The average daily membership in grades 9 through 12 for a high school teaching:
 3 (A) Four grades is below 350.
 4 (B) Three grades is below 267.
 5 (4) An elementary school does not qualify as a remote small elementary school under subsection
 6 (2) of this section if it is within eight miles by the nearest traveled road from another elementary
 7 school unless there are physiographic conditions that make transportation to another school not
 8 feasible.
 9 (5)(a) If an elementary school in a school district qualifies as a remote small elementary school,
 10 the district shall have an additional amount added to the district's ADMw.
 11 (b) The additional amount = $\{224 - (\text{ADM}_a \div (\text{number of grades in the school} \div \text{eight}))\} \times$
 12 $0.0045 \times \text{ADM}_a \times \text{distance adjustment}$.
 13 (6)(a) If a high school in a district qualifies as a small high school, the district shall have an
 14 additional amount added to the district's ADMw.
 15 (b) The additional amount = $\{350 - (\text{ADM}_a \div (\text{number of grades in the school} \div \text{four}))\} \times$
 16 $0.0029 \times \text{ADM}_a$.
 17 (7) The distance adjustment for an elementary school = 0.025 for each 10th of a mile more than
 18 eight miles that a school is away from the nearest elementary school measured by the nearest
 19 traveled road or 1.0, whichever is less.
 20 (8)(a) A school may qualify as a remote small elementary school under this section only if the
 21 location of the school has not changed since January 1, 1995, and if the school qualified as a remote
 22 small school on July 18, 1995.
 23 (b) A school may qualify as a small high school under this section only if:
 24 (A) The location of the school has not changed since January 1, 1995;
 25 (B) The school qualified as a small high school on July 23, 2009; and
 26 (C) On or after October 23, 1999, and prior to July 23, 2009, the school was not part of a high
 27 school that divided or otherwise reorganized into two or more high schools in the same city.
 28 (c) A public charter school as defined in ORS 338.005 may qualify as a remote small elementary
 29 school under this section only if the location of the school has not changed since January 1, 1995,
 30 and if the school qualified as a nonchartered public remote small school on July 18, 1995.
 31 (d) A public charter school as defined in ORS 338.005 may qualify as a small high school under
 32 this section only if the location of the school has not changed since January 1, 1995, and if the
 33 school qualified as a nonchartered public remote small school on July 18, 1995.
 34 (e) The Superintendent of Public Instruction may waive the requirements of paragraph (a), (b),
 35 (c) or (d) of this subsection if the superintendent determines that exceptional circumstances exist.
 36 (f) An alternative education program as defined in ORS 336.615 may not qualify as a small high
 37 school under this section.
 38 (9) The opening of a public charter school **or the establishment of facilities used for in-**
 39 **struction by a virtual public school** shall not disqualify a school as a remote small elementary
 40 school under subsection (4) of this section or change the distance adjustment for a school under
 41 subsection (7) of this section.
 42 (10)(a) Notwithstanding subsections (3), (6) and (8)(b) and (d) of this section, if two high schools
 43 merge and prior to the merger at least one of the high schools qualified as a small high school under
 44 this section, the Department of Education shall continue to add an additional amount pursuant to
 45 subsection (6) of this section to the ADMw of the school district in which the new merged high

1 school is located that is equal to the higher of:

2 (A) The additional amount the school district of each of the former small high schools would
 3 have received under this section for the small high school based on the ADMA of each of the high
 4 schools prior to the merger; or

5 (B) In the case of a high school that remains qualified as a small high school under subsection
 6 (3) of this section after a merger, the ADMA of the merged small high school.

7 (b) The department shall add the additional amount under this subsection only for the first four
 8 fiscal years after the merger of the two high schools is final. If the merger of the two high schools
 9 becomes final on or before September 1, for purposes of this paragraph the merger shall be consid-
 10 ered final in the prior fiscal year.

11 **SECTION 35.** ORS 327.109 is amended to read:

12 327.109. (1) Upon receipt from a citizen of Oregon of a complaint that on its face is colorable
 13 that a school district, [or] public charter school **or virtual public school** sponsors, financially sup-
 14 ports or is actively involved with religious activity, the Superintendent of Public Instruction or the
 15 superintendent's designated representative shall undertake promptly a preliminary investigation of
 16 the facts alleged in the complaint.

17 (2) If, after the preliminary investigation, the superintendent finds that there is a substantial
 18 basis to believe that the school district, [or] public charter school **or virtual public school** spon-
 19 sors, financially supports or is actively involved with religious activity, the superintendent shall:

20 (a) In the case of a school district:

21 (A) Notify the complainant and the school district;

22 (B) Withhold immediately all funds due the school district under ORS 327.095; and

23 (C) Schedule a contested case hearing to be conducted in accordance with ORS 183.413 to
 24 183.470.

25 (b) In the case of a public charter school:

26 (A) Notify the complainant, the public charter school, the school district in which the public
 27 charter school is located and the sponsor of the public charter school;

28 (B) Withhold immediately all funds for the public charter school that, pursuant to ORS 338.155,
 29 are due under ORS 327.095 to the school district in which the public charter school is located;

30 (C) Order the school district in which the public charter school is located to withhold imme-
 31 diately all funds due the public charter school under ORS 338.155; and

32 (D) Schedule a contested case hearing to be conducted in accordance with ORS 183.413 to
 33 183.470.

34 (c) **In the case of a virtual public school:**

35 (A) **Notify the complainant, the virtual public school and the contracting school district;**

36 (B) **Withhold immediately all funds for the virtual public school that, pursuant to section**
 37 **19 of this 2011 Act, are due to the virtual public school; and**

38 (C) **Schedule a contested case hearing to be conducted in accordance with ORS 183.413**
 39 **to 183.470.**

40 (3)(a) In the case of a school district if, after the preliminary investigation, the superintendent
 41 finds that there is no substantial basis to believe that the school district sponsors, financially sup-
 42 ports or is actively involved with religious activity, the superintendent shall notify the complainant
 43 and the district of that finding and shall not withhold funds due the district under ORS 327.095 or
 44 schedule a hearing.

45 (b) In the case of a public charter school if, after the preliminary investigation, the superinten-

1 dent finds that there is no substantial basis to believe that the public charter school sponsors, fi-
 2 nancially supports or is actively involved with religious activity, the superintendent shall notify the
 3 complainant, the public charter school, the school district in which the public charter school is lo-
 4 cated and the sponsor of the public charter school of that finding and shall not schedule a hearing
 5 or withhold funds for the public charter school that, pursuant to ORS 338.155, are due under ORS
 6 327.095 to the school district in which the public charter school is located. The superintendent shall
 7 also order the school district in which the public charter school is located not to withhold funds due
 8 the public charter school under ORS 338.155.

9 **(c) In the case of a virtual public school if, after the preliminary investigation, the su-
 10 perintendent finds that there is no substantial basis to believe that the virtual public school
 11 sponsors, financially supports or is actively involved with religious activity, the superinten-
 12 dent shall notify the complainant, the virtual public school and the contracting school dis-
 13 trict of that finding and shall not schedule a hearing or withhold funds for the virtual public
 14 school that, pursuant to section 19 of this 2011 Act, are due to the virtual public school.**

15 (4) During the preliminary investigation, the school district, [or] public charter school **or virtual
 16 public school** shall cooperate to a reasonable degree with the superintendent and provide any evi-
 17 dence that the superintendent considers necessary for the investigation. If the school district, [or]
 18 public charter school **or virtual public school** fails or refuses to cooperate to a reasonable degree
 19 with the superintendent during the investigation, the superintendent shall presume that there is a
 20 substantial basis to believe that the school district, [or] public charter school **or virtual public
 21 school** sponsors, financially supports or is actively involved with religious activity and shall proceed
 22 as provided in subsection (2) of this section.

23 (5) If the superintendent makes a finding under subsection (2) or (4) of this section, the school
 24 district, [or] public charter school **or virtual public school** shall receive no funds under ORS
 25 327.095 or 338.155 from the date of the superintendent's finding until the superintendent finds that
 26 the school district, [or] public charter school **or virtual public school** is no longer sponsoring, fi-
 27 nancially supporting or actively involved with religious activity.

28 (6) The funds withheld under this section shall be held in an escrow account and shall be re-
 29 moved from that account only as follows:

30 (a) If the superintendent determines, after a contested case hearing, or a court on appeal rules,
 31 that the school district, [or] public charter school **or virtual public school** never sponsored, finan-
 32 cially supported or was actively involved with religious activity, the entire amount, including in-
 33 terest thereon, in the escrow account shall be released to the school district, [or] public charter
 34 school **or virtual public school**.

35 (b) If the superintendent determines, after a contested case hearing, or a court on appeal rules,
 36 that the school district, [or] public charter school **or virtual public school** sponsored, financially
 37 supported or was actively involved with religious activity in the past but has ceased to do so, that
 38 portion of the amount, including interest thereon, in the escrow account that accrued to the school
 39 district, [or] public charter school **or virtual public school** after the school district, [or] public
 40 charter school **or virtual public school** ceased the proscribed conduct shall be paid to the school
 41 district, [or] public charter school **or virtual public school**. Any amount, including interest thereon,
 42 permanently withheld from the school district, [or] public charter school **or virtual public school**
 43 shall revert to the State School Fund or to the General Fund, if the biennium has ended.

44 (c) If the school district, [or] public charter school **or virtual public school** does not cease the
 45 proscribed conduct by the beginning of the next school year, the superintendent shall notify the

1 State Treasurer who shall cause the amount in the escrow account, including interest thereon, to
 2 revert to the State School Fund or to the General Fund, if the biennium has ended.

3 (7) If the superintendent schedules a contested case hearing, as provided in subsection (2) of this
 4 section, the superintendent may conduct such further investigation of the facts relevant to the
 5 complaint as the superintendent considers necessary. In conducting the investigation, the super-
 6 intendent shall have the power of subpoena to compel production of documents and attendance of
 7 witnesses at depositions and may do all things necessary to secure a full and thorough investigation.

8 (8) If a person, [or] school district, [or] public charter school **or virtual public school** fails to
 9 comply with any subpoena issued under subsection (7) of this section, a judge of the circuit court
 10 of any county, on application of the superintendent, shall compel obedience by proceedings for con-
 11 tempt as in the case of disobedience of the requirements of a subpoena issued from circuit court.

12 **SECTION 36.** ORS 327.355 is amended to read:

13 327.355. As used in this section and ORS 327.357:

14 (1)(a) “Small high school” means a public school that is operated by a small school district and
 15 that has students in:

16 (A) Grades 9 through 12, with an ADM of less than 350 in grades 9 through 12; or

17 (B) Grades 10 through 12 only, with an ADM of less than 267.

18 (b) “Small high school” does not include an alternative education program, [or] a public charter
 19 school **or a virtual public school**.

20 (2) “Small school district” means a school district with a weighted average daily membership
 21 (ADMw) of less than 8,500.

22 **SECTION 37.** ORS 327.365 is amended to read:

23 327.365. (1) As used in this section, “public school facility” means a building or premanufactured
 24 structure used by a school district, [or] public charter school **or virtual public school** to provide
 25 educational services to children.

26 (2) In addition to those moneys distributed through the State School Fund, the Department of
 27 Education may award grants to school districts, [and] public charter schools **and virtual public**
 28 **schools** to provide automated external defibrillators in public school facilities.

29 (3) The goal of the grant program is to provide automated external defibrillators in at least two
 30 public school facilities in each school district.

31 (4) Each school district, [and] public charter school **and virtual public school** may apply for a
 32 grant under this section. The amount of any grant received by a school district, [or] public charter
 33 school **or virtual public school** under this section may not exceed 60 percent of the actual costs
 34 for which grant funds may be used under subsection (5) of this section.

35 (5) Any school district, [or] public charter school **or virtual public school** that receives grant
 36 funds under this section shall use the funds for:

37 (a) Purchasing or leasing automated external defibrillators to be placed in public school facili-
 38 ties;

39 (b) Providing training to school district, [and] public charter school **and virtual public school**
 40 employees and volunteers on the use of automated external defibrillators; and

41 (c) Any other expense related to providing automated external defibrillators in public school
 42 facilities if the expense is approved by the Department of Education.

43 (6) The State Board of Education may adopt rules:

44 (a) To establish criteria for awarding grants based on the goal set forth in subsection (3) of this
 45 section;

1 (b) To determine the amount of each grant pursuant to subsection (4) of this section; and

2 (c) That are necessary for the administration of this section.

3 (7) The Department of Education shall seek federal grant funds for the purposes of the grant
4 program.

5 (8) For purposes of the grant program, the Department of Education may accept contributions
6 of funds and assistance from the United States Government and its agencies or from any other
7 source, public or private, and agree to conditions placed on the funds not inconsistent with the
8 purposes of the grant program.

9 (9) All funds received by the Department of Education under this section shall be paid into the
10 Department of Education Account established in ORS 326.115 to the credit of the grant program.

11 **SECTION 38.** ORS 329.007 is amended to read:

12 329.007. As used in this chapter, unless the context requires otherwise:

13 (1) “Academic content standards” means expectations of student knowledge and skills adopted
14 by the State Board of Education under ORS 329.045.

15 (2) “Administrator” includes all persons whose duties require an administrative license.

16 (3) “Board” or “state board” means the State Board of Education.

17 (4) “Community learning center” means a school-based or school-linked program providing in-
18 formal meeting places and coordination for community activities, adult education, child care, infor-
19 mation and referral and other services as described in ORS 329.157. “Community learning center”
20 includes, but is not limited to, a community school program as defined in ORS 336.505, family re-
21 source centers as described in ORS 417.725, full service schools, lighted schools and 21st century
22 community learning centers.

23 (5) “Department” means the Department of Education.

24 (6) “English” includes, but is not limited to, reading and writing.

25 (7) “History, geography, economics and civics” includes, but is not limited to, Oregon Studies.

26 (8) “Oregon Studies” means history, geography, economics and civics specific to the State of
27 Oregon. Oregon Studies instruction in Oregon government shall include municipal, county, tribal
28 and state government, as well as the electoral and legislative processes.

29 (9) “Parents” means parents or guardians of students who are covered by this chapter.

30 (10) “Public charter school” has the meaning given that term in ORS 338.005.

31 (11) “School district” means a school district as defined in ORS 332.002, a state-operated school
32 or any legally constituted combination of such entities.

33 (12) “Second languages” means any foreign language or American Sign Language.

34 (13) “Teacher” means any licensed employee of a school district who has direct responsibility
35 for instruction, coordination of educational programs or supervision of students and who is com-
36 pensated for such services from public funds. “Teacher” does not include a school nurse, as defined
37 in ORS 342.455, or a person whose duties require an administrative license.

38 (14) “The arts” includes, but is not limited to, literary arts, performing arts and visual arts.

39 **(15) “Virtual public school” has the meaning given that term in section 1 of this 2011 Act.**

40 *[(15)]* **(16) “21st Century Schools Council” means a council established pursuant to ORS 329.704.**

41 **SECTION 39.** ORS 329.045 is amended to read:

42 329.045. (1) In order to achieve the goals contained in ORS 329.025, the State Board of Education
43 shall regularly and periodically review and revise its Common Curriculum Goals, performance indi-
44 cators and diploma requirements. This includes Essential Learning Skills and rigorous academic
45 content standards in mathematics, science, English, history, geography, economics, civics, physical

1 education, health, the arts and second languages. School districts, *[and]* public charter schools **and**
 2 **virtual public schools** shall maintain control over course content, format, materials and teaching
 3 methods. The regular review shall involve teachers and other educators, parents of students and
 4 other citizens and shall provide ample opportunity for public comment.

5 (2) The State Board of Education shall continually review and revise all adopted academic con-
 6 tent standards necessary for students to successfully transition to the next phase of their education.

7 (3) School districts, *[and]* public charter schools **and virtual public schools** shall offer students
 8 instruction in mathematics, science, English, history, geography, economics, civics, physical educa-
 9 tion, health, the arts and second languages that meets the academic content standards adopted by
 10 the State Board of Education and meets the requirements adopted by the State Board of Education
 11 and the board of the school district, *[or]* **sponsor of the public charter school or the contracting**
 12 **school district of the virtual public school.**

13 **SECTION 40.** ORS 329.085 is amended to read:

14 329.085. (1) To facilitate the attainment and successful implementation of educational standards
 15 under ORS 326.051 (1)(a) and 329.025, the State Board of Education or its designee shall assess the
 16 effectiveness of each public school, public charter school, **virtual public school** and school district.
 17 The findings of the assessment shall be reported to the school or school district within six months.

18 (2) The board shall establish the standards, including standards of accessibility to educational
 19 opportunities, upon which the assessment is based.

20 (3) On a periodic basis, the board shall review school and school district standards and credit
 21 and performance requirements. The board shall seek public input in this process.

22 **SECTION 41.** ORS 329.115 is amended to read:

23 329.115. (1) Prior to December 1 of each year, the Superintendent of Public Instruction shall is-
 24 sue an Oregon Report Card on the state of the public schools and progress toward achieving the
 25 goals contained in ORS 329.025. The purpose of the Oregon Report Card is to monitor trends among
 26 school districts and Oregon’s progress toward achieving the goals stated in this chapter and the
 27 Department of Education key performance measures established by the Oregon Progress Board.

28 (2) The Oregon Report Card shall include information on the following:

- 29 (a) Student performance on Oregon state assessments and national assessments;
- 30 (b) Data required by the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425);
- 31 (c) Public school funding, expenditures and employee salary information;
- 32 (d) Instructional hours;
- 33 (e) School staff information;
- 34 (f) District size, student demographics and student enrollment;
- 35 (g) Dropout rates;
- 36 (h) Alternative education programs;
- 37 (i) Public charter schools;
- 38 **(j) Virtual public schools;**
- 39 *[(j)] (k)* Early childhood education and Oregon prekindergarten; and
- 40 *[(k)] (L)* Programs for students with special needs.

41 **SECTION 42.** ORS 329.451 is amended to read:

42 329.451. (1)(a) At or before grade 12, a school district, *[or]* public charter school **or virtual**
 43 **public school** shall award a high school diploma to a student who completes the requirements es-
 44 tablished by subsection (2) of this section.

45 (b) A school district, *[or]* public charter school **or virtual public school** shall award a modified

1 diploma to a student who satisfies the requirements established by subsection (7) of this section, an
 2 extended diploma to a student who satisfies the requirements established by subsection (8) of this
 3 section or an alternative certificate to a student who satisfies the requirements established by sub-
 4 section (9) of this section.

5 (c) A school district, *[or]* public charter school **or virtual public school** may not deny a student
 6 who has the documented history described in subsection (7)(b) or (8)(b) and (c) of this section the
 7 opportunity to pursue a diploma with more stringent requirements than a modified diploma or an
 8 extended diploma for the sole reason that the student has the documented history.

9 (d) A school district, *[or]* public charter school **or virtual public school** may award a modified
 10 diploma or extended diploma to a student only upon the consent of the parent or guardian of the
 11 student.

12 (2) In order to receive a high school diploma from a school district, *[or]* public charter school
 13 **or virtual public school**, a student must satisfy the requirements established by the State Board
 14 of Education and the *[school]* district or *[public charter]* school and, while in grades 9 through 12,
 15 must complete at least:

- 16 (a) Twenty-four total credits;
- 17 (b) Three credits of mathematics; and
- 18 (c) Four credits of English.

19 (3) Notwithstanding subsection (2) of this section, a school district, *[or]* public charter school
 20 **or virtual public school** may award a high school diploma to a student who does not satisfy the
 21 requirements of subsection (2)(b) or (c) of this section if the student:

- 22 (a) Has met or exceeded the academic content standards for mathematics or English established
 23 by the board, as demonstrated on Oregon state assessments; or
- 24 (b) Displays proficiency in mathematics or English at a level established by the board.

25 (4) A student may satisfy the requirements of subsection (2) of this section in less than four
 26 years. If a student satisfies the requirements of subsection (2) of this section and a school district,
 27 *[or]* public charter school **or virtual public school** has the consent of the student's parent or
 28 guardian, the *[school]* district or *[public charter]* school shall award a high school diploma to the
 29 student upon request from the student.

30 (5) If a school district, *[or]* public charter school **or virtual public school** has the consent of
 31 a student's parent or guardian, the *[school]* district or *[public charter]* school may advance the stu-
 32 dent to the next grade level if the student has satisfied the requirements for the student's current
 33 grade level.

34 (6) The requirement for obtaining the consent of a student's parent or guardian under sub-
 35 sections (4) and (5) of this section does not apply to a student who is:

- 36 (a) Emancipated pursuant to ORS 419B.550 to 419B.558; or
- 37 (b) 18 years of age or older.

38 (7) A school district, *[or]* public charter school **or virtual public school** shall award a modified
 39 diploma only to students who have demonstrated the inability to meet the full set of academic con-
 40 tent standards for a high school diploma with reasonable modifications and accommodations. To be
 41 eligible for a modified diploma, a student must:

42 (a) Satisfy the requirements for a modified diploma established by the State Board of Education;
 43 and

44 (b) Have a documented history of an inability to maintain grade level achievement due to sig-
 45 nificant learning and instructional barriers or have a documented history of a medical condition that

1 creates a barrier to achievement.

2 (8) A school district, [or] public charter school **or virtual public school** shall award an ex-
 3 tended diploma only to students who have demonstrated the inability to meet the full set of aca-
 4 demic content standards for a high school diploma with reasonable modifications and
 5 accommodations. To be eligible for an extended diploma, a student must:

6 (a) While in grade nine through completion of high school, complete 12 credits, which may not
 7 include more than six credits earned in a self-contained special education classroom and shall in-
 8 clude:

- 9 (A) Two credits of mathematics;
- 10 (B) Two credits of English;
- 11 (C) Two credits of science;
- 12 (D) Three credits of history, geography, economics or civics;
- 13 (E) One credit of health;
- 14 (F) One credit of physical education; and
- 15 (G) One credit of the arts or a second language;

16 (b) Have a documented history of an inability to maintain grade level achievement due to sig-
 17 nificant learning and instructional barriers or have a documented history of a medical condition that
 18 creates a barrier to achievement; and

19 (c)(A) Participate in an alternate assessment beginning no later than grade six and lasting for
 20 two or more assessment cycles; or

21 (B) Have a serious illness or injury that occurs after grade eight, that changes the student's
 22 ability to participate in grade level activities and that results in the student participating in alter-
 23 nate assessments.

24 (9) A school district, [or] public charter school **or virtual public school** shall award an alter-
 25 native certificate to a student who does not satisfy the requirements for a high school diploma, a
 26 modified diploma or an extended diploma if the student meets requirements established by the board
 27 of the school district, [or] **sponsor of the public charter school or the contracting school district**
 28 **of the virtual public school.**

29 (10) A student who receives a modified diploma, an extended diploma or an alternative certif-
 30 icate shall have the option of participating in a high school graduation ceremony with the class of
 31 the student.

32 (11) A school district, [or] public charter school **or virtual public school** shall:

33 (a) Ensure that students have access to the appropriate resources to achieve a high school di-
 34 ploma, a modified diploma, an extended diploma or an alternative certificate at each high school in
 35 the school district or at the public charter school **or virtual public school.**

36 (b) Provide literacy instruction to all students until graduation.

37 (c) Beginning in grade five, annually provide information to the parents or guardians of a stu-
 38 dent taking an alternate assessment of the availability of a modified diploma, an extended diploma
 39 and an alternative certificate and the requirements for the diplomas and certificate.

40 (12) The State Board of Education shall submit for review by the legislative committees on ed-
 41 ucation or the interim legislative committees on education, as appropriate, any proposed rules to
 42 implement requirements for a high school diploma, a modified diploma, an extended diploma or an
 43 alternative certificate prior to the adoption of those rules by the board.

44 **SECTION 43.** ORS 329.485 is amended to read:

45 329.485. (1) As used in this section:

1 (a) "Content-based assessment" means testing of the understanding of a student of a predeter-
 2 mined body of knowledge.

3 (b) "Criterion-referenced assessment" means testing of the knowledge or ability of a student with
 4 respect to some standard.

5 (c) "Performance-based assessment" means testing of the ability of a student to use knowledge
 6 and skills to create a complex or multifaceted product or complete a complex task.

7 (2)(a) The Department of Education shall implement statewide a valid and reliable assessment
 8 system for all students that meets technical adequacy standards. The assessment system shall in-
 9 clude criterion-referenced assessments including performance-based assessments, content-based as-
 10 ssesments, and other valid methods to measure the academic content standards and to identify
 11 students who meet or exceed the standards.

12 (b) The department shall develop the statewide assessment system in mathematics, science,
 13 English, history, geography, economics and civics.

14 (3) In addition to the assessment system implemented under subsection (2) of this section, the
 15 department may make available to school districts, [and] public charter schools **and virtual public**
 16 **schools** an assessment system that uses criterion-referenced assessments including performance-
 17 based assessments and content-based assessments to:

18 (a) Measure a student's progress in achieving the academic content standards for the student's
 19 current grade level;

20 (b) Determine the grade level of the understanding, knowledge or ability of a student, which
 21 shall be determined regardless of the actual grade level of the student and may be determined by
 22 adapting the assessment during the assessment process as a result of the performance of the student;

23 (c) Track and provide reports on the progress of a student based on the information provided
 24 under paragraphs (a) and (b) of this subsection; and

25 (d) Provide predictions of anticipated student progress that are based on the information pro-
 26 vided under this subsection and not on the current grade level of the student.

27 (4)(a) School districts, [and] public charter schools **and virtual public schools** shall implement
 28 the statewide assessment system in mathematics, science and English. In addition, school districts,
 29 [and] public charter schools **and virtual public schools** may implement the statewide assessment
 30 system in history, geography, economics and civics.

31 (b) School districts, [and] public charter schools **and virtual public schools** may implement the
 32 assessment system described in subsection (3) of this section.

33 (5) Each year the resident district shall be accountable for determining the student's progress
 34 toward achieving the academic content standards. Progress toward the academic content standards
 35 shall be measured in a manner that clearly enables the student and parents to know whether the
 36 student is making progress toward meeting or exceeding the academic content standards. In addi-
 37 tion, the district shall adopt a grading system based on the local school district board adopted
 38 course content of the district's curriculum. The grading system shall clearly enable the student and
 39 parents to know how well the student is achieving course requirements.

40 (6) If a student has not met or has exceeded all of the academic content standards, the school
 41 district shall make additional services or alternative educational or public school options available
 42 to the student.

43 (7) If the student to whom additional services or alternative educational options have been made
 44 available does not meet or exceed the academic content standards within one year, the school dis-
 45 trict, with the consent of the parents, shall make an appropriate placement, which may include an

1 alternative education program or the transfer of the student to another public school in the district
 2 or to a public school in another district that agrees to accept the student. The district that receives
 3 the student shall be entitled to payment. The payment shall consist of:

4 (a) An amount equal to the district expenses from its local revenues for each student in average
 5 daily membership, payable by the resident district in the same year; and

6 (b) Any state and federal funds the attending district is entitled to receive payable as provided
 7 in ORS 339.133 (2).

8 **SECTION 44.** ORS 329.840 is amended to read:

9 329.840. (1) There is created the Oregon Virtual School District within the Department of Edu-
 10 cation. The purpose of the Oregon Virtual School District is to provide online courses to
 11 kindergarten through grade 12 public school students.

12 (2) The Oregon Virtual School District shall provide online courses that meet academic content
 13 standards as defined in ORS 329.007 and meet other criteria adopted by the State Board of Educa-
 14 tion. Any person who teaches an online course must be properly licensed or registered as required
 15 by ORS 338.135 **or section 17 of this 2011 Act** and ORS 342.173 for a person employed by a school
 16 district, [or] public charter school **or virtual public school**. All school districts, [and] public charter
 17 schools **and virtual public schools** may allow students to access the online courses offered by the
 18 Oregon Virtual School District.

19 (3) The Superintendent of Public Instruction may contract with education service districts,
 20 school districts, public charter schools, **virtual public schools**, community colleges, state insti-
 21 tutions of higher education or any other public entity to provide online courses through the Oregon
 22 Virtual School District.

23 (4) Statutes and rules that apply to other school districts do not apply to the Oregon Virtual
 24 School District except as provided under this section or by rule of the State Board of Education.
 25 The Oregon Virtual School District is not considered a school district for purposes of apportionment
 26 of the State School Fund and the department may not receive a direct apportionment under ORS
 27 327.008 from the State School Fund for the Oregon Virtual School District.

28 (5) The board may adopt the rules necessary for the administration of the Oregon Virtual School
 29 District and shall adopt rules to establish:

30 (a) The procedure and criteria to be used for the selection of online courses to be offered
 31 through the Oregon Virtual School District;

32 (b) The qualifications of students who may access online courses through the Oregon Virtual
 33 School District;

34 (c) The number of credits for which students may access online courses through the Oregon
 35 Virtual School District; and

36 (d) The student-to-teacher ratio for online courses offered through the Oregon Virtual School
 37 District.

38 **SECTION 45.** ORS 332.016 is amended to read:

39 332.016. (1) A person who is an employee of a school district may not serve as a member of the
 40 district school board for the district by which the employee is employed.

41 (2) A person who is an employee of a public charter school may not serve as a member of the
 42 district school board of the district in which the public charter school that employs the person is
 43 located.

44 (3) **A person who is an employee of a virtual public school may not serve as a member**
 45 **of the district school board of the contracting school district of the virtual public school.**

1 [(3)] (4) Notwithstanding [subsection (1) or (2)] **subsections (1) to (3)** of this section, a person
 2 who is an employee of a school district, [or a] public charter school **or virtual public school** may
 3 serve as a member of the district school board for the district by which the employee is employed,
 4 [or] the district in which the public charter school that employs the person is located **or the con-**
 5 **tracting school district of the virtual public school** if:

6 (a) The person is employed by the district, [or] public charter school **or virtual public school**
 7 as a substitute school bus driver; and

8 (b) The district has an average daily membership (ADM), as defined in ORS 327.006, of 50 or
 9 less.

10 [(4)] (5) A district school board member who was eligible to serve on a district school board
 11 under subsection [(3)] (4) of this section at the beginning of the member’s term of office may con-
 12 tinue to serve on the board for the remainder of the member’s term of office regardless of any
 13 change to the ADM of the district.

14 **SECTION 46.** ORS 332.207 is amended to read:

15 332.207. (1) As used in this section:

16 (a) “School” means a school operated by a school district, [or] a public charter school **or a fa-**
 17 **ility used for the instruction of students of a virtual public school.**

18 (b) “T type light bulb” means a metal halide or mercury vapor light bulb that has an internal
 19 mechanism that shuts off the light within 15 minutes after the bulb is broken.

20 (2) A school may use only a T type light bulb in a light fixture that is designed for metal halide
 21 or mercury vapor light bulbs.

22 (3) This section does not apply to light fixtures used to light a stadium field, an outdoor athletic
 23 field or any other outdoor light fixtures except outdoor light fixtures in covered areas used by per-
 24 sons for recreational or educational activities.

25 **SECTION 47.** ORS 334.175 is amended to read:

26 334.175. (1) An education service district shall provide regionalized core services to component
 27 school districts. The goals of these services are to:

28 (a) Assist component school districts in meeting the requirements of state and federal law;

29 (b) Improve student learning;

30 (c) Enhance the quality of instruction provided to students;

31 (d) Provide professional development to component school district employees;

32 (e) Enable component school districts and the students who attend schools in those districts to
 33 have equitable access to resources; and

34 (f) Maximize operational and fiscal efficiencies for component school districts.

35 (2) The services provided by an education service district shall be provided according to a local
 36 service plan developed by the education service district and component school districts. The educa-
 37 tion service district and component school districts shall develop the local service plan to meet the
 38 goals specified in subsection (1) of this section. The local service plan must include services in at
 39 least the following areas:

40 (a) Programs for children with special needs, including but not limited to special education ser-
 41 vices, services for at-risk students and professional development for employees who provide those
 42 services.

43 (b) Technology support for component school districts and the individual technology plans of
 44 those districts, including but not limited to technology infrastructure services, data services, in-
 45 structional technology services, distance learning and professional development for employees who

1 provide those services.

2 (c) School improvement services for component school districts, including but not limited to:

3 (A) Services designed to support component school districts in meeting the requirements of state
4 and federal law;

5 (B) Services designed to allow the education service district to participate in and facilitate a
6 review of the state and federal standards related to the provision of a quality education by compo-
7 nent school districts;

8 (C) Services designed to support and facilitate continuous school improvement planning;

9 (D) Services designed to address schoolwide behavior and climate issues;

10 (E) Services designed to support career and technical education; and

11 (F) Professional development for employees who provide the services described in this para-
12 graph.

13 (d) Administrative and support services for component school districts, including but not limited
14 to services designed to consolidate component school district business functions, liaison services
15 between the Department of Education and component school districts and registration of children
16 being taught by private teachers, parents or legal guardians pursuant to ORS 339.035.

17 (e) Other services that an education service district is required to provide by state or federal
18 law, including but not limited to services required under ORS 339.005 to 339.090.

19 (3) In addition to the services specified in subsection (2) of this section, a local service plan may
20 include other services that are designed to meet regional needs.

21 (4) A local service plan shall also contain annual performance measures for the education ser-
22 vice district.

23 (5) A local service plan must:

24 (a) Be adopted by the board of the education service district.

25 (b) After being adopted by the board of the education service district, be approved on or before
26 March 1 by resolution of two-thirds of the component school districts that are a part of the educa-
27 tion service district and that have at least a majority of the pupils included in the average daily
28 membership of the education service district, as determined by the reports of such school districts
29 for the preceding year, enrolled in the schools of the school districts.

30 (6) Notwithstanding the process for approval and adoption required by subsection (5) of this
31 section, if the component school districts approve an amendment to a local service plan pursuant
32 to subsection (5)(b) of this section, the board of an education service district may amend a local
33 service plan that has been previously adopted by the board and approved by the component school
34 districts. An amendment to a local service plan may be done at any time.

35 (7) An education service district may provide the services required by the local service plan
36 directly through the staff of the district. In addition, an education service district may provide ser-
37 vices required by the local service plan through the operation of a public school, a public charter
38 school pursuant to ORS chapter 338, **a virtual public school pursuant to sections 9 to 21 of this**
39 **2011 Act**, an alternative school or a preschool.

40 (8) An education service district may provide the services required by the local service plan in
41 cooperation with another education service district or with a school district. In addition, an educa-
42 tion service district may contract with a public or private entity for the provision of services.

43 **SECTION 48.** ORS 336.631, as amended by section 7, chapter 72, Oregon Laws 2010, is amended
44 to read:

45 336.631. (1) Prior to contracting with or distributing any public funds to a private alternative

1 education program, a district school board shall:

2 (a) Annually approve the private alternative education program;

3 (b) Determine that the private alternative education program is registered with the Department
4 of Education; and

5 (c) Determine that the private alternative education program complies with the requirements
6 of subsection (2) of this section and ORS 336.625 (3)(c).

7 (2) The following laws apply to private alternative education programs that are registered with
8 the Department of Education under ORS 336.635 in the same manner as the laws apply to school
9 districts and public schools:

10 (a) Federal law;

11 (b) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

12 (c) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

13 (d) ORS 659.850, 659.855 and 659.860 (discrimination);

14 [(e) Section 6, chapter 72, Oregon Laws 2010 (advertisement requirements);]

15 **(e) Section 15 (5) of this 2011 Act (advertisement requirements);**

16 (f) Health and safety statutes and rules; and

17 (g) Any statute, rule or school district policy that is specified in a contract between the school
18 district board and the private alternative education program.

19 (3) Prior to placement of a student in a private alternative education program, the resident
20 district shall determine whether the proposed placement best serves the student's educational needs
21 and interests and assists the student in achieving the district and state academic standards.

22 (4) Contracts between a school district and a private alternative education program shall be
23 included in the assessment of effectiveness provided for in ORS 329.085.

24 **SECTION 49.** ORS 336.631, as amended by section 6, chapter 839, Oregon Laws 2007, and sec-
25 tion 8, chapter 72, Oregon Laws 2010, is amended to read:

26 336.631. (1) Prior to contracting with or distributing any public funds to a private alternative
27 education program, a district school board shall:

28 (a) Annually approve the private alternative education program;

29 (b) Determine that the private alternative education program is registered with the Department
30 of Education; and

31 (c) Determine that the private alternative education program complies with the requirements
32 of subsection (2) of this section and ORS 336.625 (3)(c).

33 (2) The following laws apply to private alternative education programs that are registered with
34 the Department of Education under ORS 336.635 in the same manner as the laws apply to school
35 districts and public schools:

36 (a) Federal law;

37 (b) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

38 (c) ORS 329.496 (physical education);

39 (d) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

40 (e) ORS 659.850, 659.855 and 659.860 (discrimination);

41 [(f) Section 6, chapter 72, Oregon Laws 2010 (advertisement requirements);]

42 **(f) Section 15 (5) of this 2011 Act (advertisement requirements);**

43 (g) Health and safety statutes and rules; and

44 (h) Any statute, rule or school district policy that is specified in a contract between the school
45 district board and the private alternative education program.

1 (3) Prior to placement of a student in a private alternative education program, the resident
 2 district shall determine whether the proposed placement best serves the student’s educational needs
 3 and interests and assists the student in achieving the district and state academic standards.

4 (4) Contracts between a school district and a private alternative education program shall be
 5 included in the assessment of effectiveness provided for in ORS 329.085.

6 **SECTION 50.** ORS 337.150 is amended to read:

7 337.150. (1) Subject to ORS 339.155, each district school board shall provide textbooks, pre-
 8 scribed or authorized by law, for free use by all resident public school pupils enrolled in
 9 kindergarten through grade 12.

10 (2) Subject to ORS 339.155, each public charter school as defined in ORS 338.005 shall provide
 11 textbooks, prescribed or authorized by law, for free use by all pupils enrolled in the public charter
 12 school.

13 **(3) Subject to ORS 339.155, each virtual public school as defined in section 1 of this 2011**
 14 **Act shall provide textbooks, prescribed or authorized by law, for free use by all pupils en-**
 15 **rolled at the virtual public school.**

16 **SECTION 51.** ORS 337.285 is amended to read:

17 337.285. As used in ORS 337.288:

18 (1) “Participating school” means a public school, public charter school, **virtual public school**
 19 or private school that collects donated books from students, civic groups and members of the com-
 20 munity for distribution to children who have few books at home.

21 (2) “Recipient school” means a public school, [or] public charter school **or virtual public school**
 22 that receives donated books for distribution to students attending the school.

23 **SECTION 52.** ORS 337.288 is amended to read:

24 337.288. (1) There is created the Spread the Word Program in the Department of Education. The
 25 purpose of the program is to provide books to elementary school children in kindergarten through
 26 grade five who have few books at home. Under the program, participating schools, individuals and
 27 civic groups may collect children’s books that shall be donated to recipient schools for distribution
 28 to eligible children.

29 (2) The department shall:

30 (a) Establish assessment criteria to identify children eligible to receive books under the pro-
 31 gram; and

32 (b) Develop an informational brochure on the program and distribute the brochure to public
 33 schools, [and] public charter schools **and virtual public schools** in this state.

34 (3) Participating schools that are not private schools shall:

35 (a) Conduct book drives;

36 (b) Review donated books to ensure that they are appropriate for elementary school children
 37 and in satisfactory condition for distribution;

38 (c) Count, sort and pack the books; and

39 (d) Contact the school district to report the approximate number of books to be collected by the
 40 school district for distribution to elementary school children who have few books at home.

41 (4) Participating schools that are private schools and individuals and civic groups may deliver
 42 donated books to a participating school that is a public school, [or] public charter school **or virtual**
 43 **public school** for review and collection as provided in subsection (3) of this section.

44 (5) School districts shall:

45 (a) Collect donated books from participating schools within the district; and

1 (b) Arrange for the donated books to be transported to the recipient school.

2 (6) A recipient school shall distribute books to those children identified as eligible under criteria
3 developed by the department under subsection (2) of this section.

4 (7) Records of children who receive books pursuant to this section are not public records.

5 **SECTION 53.** ORS 339.141 is amended to read:

6 339.141. (1) For the purposes of this section:

7 (a) “Public charter school” has the meaning given that term in ORS 338.005.

8 (b) “Regular school program” means the regular curriculum provided in the required full-time
9 day sessions in the schools of the district, including public charter schools **and virtual public**
10 **schools**, for grades 1 through 12 and the school program for kindergarten during the period of ap-
11 proximately nine months each year when the schools of the district, [or] public charter schools **or**
12 **virtual public schools** are normally in operation and does not include summer sessions or evening
13 sessions.

14 (c) “Tuition” means payment for the cost of instruction and does not include fees authorized
15 under ORS 339.155.

16 **(d) “Virtual public school” has the meaning given that term in section 1 of this 2011 Act.**

17 (2) Except as provided in subsection (3) of this section, district school boards, [and] public
18 charter schools **and virtual public schools** may establish tuition rates to be paid by pupils receiv-
19 ing instruction in educational programs, classes or courses of study, including traffic safety educa-
20 tion, which are not a part of the regular school program. Tuition charges, if made, shall not exceed
21 the estimated cost to the district, [or] public charter school **or virtual public school** of furnishing
22 the program, class or course of study.

23 (3) Except as provided in ORS 336.805 for traffic safety education:

24 (a) No tuition shall be charged to any resident pupil regularly enrolled in the regular school
25 program for special instruction received at any time in connection therewith.

26 (b) No program, class or course of study for which tuition is charged, except courses of study
27 beyond the 12th grade, shall be eligible for reimbursement from state funds.

28 **SECTION 54.** ORS 339.147 is amended to read:

29 339.147. (1)(a) Notwithstanding ORS 339.141, [no] **a** district school board, [or] public charter
30 school as defined in ORS 338.005 [shall] **or virtual public school as defined in section 1 of this**
31 **2011 Act may not** require tuition for courses not part of the regular school program, except for
32 traffic safety education, from a pupil who is a member of a low-income family in an amount in excess
33 of what the low-income family may receive as money specifically to be used for payment of such
34 tuition.

35 (b) As used in this subsection, “low-income family” means a family whose children qualify for
36 free or reduced price school meals under a federal program, including but not limited to the Na-
37 tional School Lunch Act and the Child Nutrition Act of 1966, and all their subsequent amendments.

38 (2) A family that does not qualify under subsection (1) of this section but believes the payment
39 of school tuition is a severe hardship may request the district school board, [or] public charter
40 school **or virtual public school** to waive in whole or in part the payment of such tuition.

41 (3) Any parent or guardian who believes that payment of any fee authorized under ORS 339.155
42 is a severe hardship may request the district school board, [or] public charter school **or virtual**
43 **public school** to waive payment of the fee and the board or [public charter] school shall waive in
44 whole or in part the fee upon a finding of hardship. Consideration shall be given to any funds spe-
45 cifically available to the parent, guardian or child for the payment of fees or other school expenses.

1 (4) [No] A district school board, [or] public charter school [shall] **or virtual public school may**
 2 **not** impose or collect fees authorized under ORS 339.155 from any student who is a ward of a ju-
 3 venile court or of the Oregon Youth Authority or the Department of Human Services unless funds
 4 are available therefor in the court's, authority's or department's budget.

5 (5) [No] A district school board, [or] public charter school **or virtual public school** is **not** re-
 6 quired to waive any fee imposed under ORS 339.155 (5)(a) or (d).

7 **SECTION 55.** ORS 339.155 is amended to read:

8 339.155. (1) A district school board, [or] public charter school as defined in ORS 338.005 **or**
 9 **virtual public school as defined in section 1 of this 2011 Act** may not require payment of fees
 10 as a condition of admission to those pupils entitled under the law to free admission. However, the
 11 following are not considered as conditions of admission:

12 (a) Pursuant to ORS 339.141, but subject to ORS 339.147, tuition may be charged for courses not
 13 part of the regular school program.

14 (b) A charge may not be made for a standard, prescribed textbook but a security deposit may
 15 be required, which may be refunded if the textbook is returned in usable condition. Supplemental
 16 texts shall be made available on loan.

17 (c) A deposit may be charged for a lock for a locker.

18 (2) A district school board, [or] public charter school **or virtual public school** may require pu-
 19 pils who do not furnish their own attire for physical education classes to pay an appropriate fee for
 20 uniforms provided by the district or [public charter] school.

21 (3) A district school board, [or] public charter school **or virtual public school** may require pu-
 22 pils who do not provide appropriate towels for physical education classes to pay a fee for use of
 23 towels provided by the district or [public charter] school.

24 (4)(a) A district school board, [or] public charter school **or virtual public school** may require
 25 payment of fees for the use of musical instruments owned or rented by the district or [public
 26 charter] school. The district school board, [or] public charter school **or virtual public school** may
 27 not charge a fee that exceeds the rental cost of the instrument to the district or [public charter]
 28 school or the annual depreciation plus actual maintenance cost for each instrument.

29 (b) Notwithstanding paragraph (a) of this subsection, a district school board, [or] public charter
 30 school **or virtual public school** may not require payment of fees for the use of a musical instrument
 31 from children exempt from tuition under ORS 339.147. The district school board, [or] public charter
 32 school **or virtual public school** shall lend musical instruments, without charge, to children exempt
 33 from tuition under ORS 339.147.

34 (5) Subject to ORS 339.147, a district school board, [or] public charter school **or virtual public**
 35 **school** may require payments of fees in any of the following:

36 (a) In any program where the resultant product, in excess of minimum course requirements and
 37 at the pupil's option, becomes the personal property of the pupil.

38 (b) Admission fees or charges for extracurricular activities where pupil attendance is optional.

39 (c) A security deposit conditioned on the return of materials, supplies or equipment including
 40 athletic equipment.

41 (d) Items of personal use or products which a pupil may purchase such as student publications,
 42 class rings, annuals and graduation announcements.

43 (e) Field trips considered optional to [a district's or public charter school's] **the** regular school
 44 program **of the district or school**.

45 (f) Any authorized voluntary pupil health and accident benefit plan.

1 (g) As used in this subsection, “minimum course requirements” means any product required to
2 be produced to meet the goals of the course.

3 **SECTION 56.** ORS 339.250 is amended to read:

4 339.250. (1) Public school students shall comply with rules for the government of such schools,
5 pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers’ au-
6 thority.

7 (2) Pursuant to the written policies of a district school board, an individual who is a teacher,
8 administrator, school employee or school volunteer may use reasonable physical force upon a stu-
9 dent when and to the extent the individual reasonably believes it necessary to maintain order in the
10 school or classroom or at a school activity or event, whether or not it is held on school property.
11 The district school board shall adopt written policies to implement this subsection and shall inform
12 such individuals of the existence and content of these policies.

13 (3) The district school board may authorize the discipline, suspension or expulsion of any
14 refractory student and may suspend or expel any student who assaults or menaces a school em-
15 ployee or another student. The age of a student and the past pattern of behavior of a student shall
16 be considered prior to a suspension or expulsion of a student. As used in this subsection “menace”
17 means by word or conduct the student intentionally attempts to place a school employee or another
18 student in fear of imminent serious physical injury.

19 (4)(a) Willful disobedience, willful damage or injury to school property, use of threats, intim-
20 idation, harassment or coercion against any fellow student or school employee, open defiance of a
21 teacher’s authority or use or display of profane or obscene language is sufficient cause for discipline,
22 suspension or expulsion from school.

23 (b) District school boards shall develop policies on managing students who threaten violence or
24 harm in public schools. The policies adopted by a school district shall include staff reporting meth-
25 ods and shall require an administrator to consider:

26 (A) Immediately removing from the classroom setting any student who has threatened to injure
27 another person or to severely damage school property.

28 (B) Placing the student in a setting where the behavior will receive immediate attention, in-
29 cluding, but not limited to, the office of the school principal, vice principal, assistant principal or
30 counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or
31 the office of any licensed mental health professional.

32 (C) Requiring the student to be evaluated by a licensed mental health professional before al-
33 lowing the student to return to the classroom setting.

34 (c) The administrator shall notify the parent or legal guardian of the student’s behavior and the
35 school’s response.

36 (d) District school boards may enter into contracts with licensed mental health professionals to
37 perform the evaluations required under paragraph (b) of this subsection.

38 (e) District school boards shall allocate any funds necessary for school districts to implement
39 the policies adopted under paragraph (b) of this subsection.

40 (5) Expulsion of a student shall not extend beyond one calendar year and suspension shall not
41 extend beyond 10 school days.

42 (6)(a) Notwithstanding subsection (5) of this section, a school district shall have a policy that
43 requires the expulsion from school for a period of not less than one year of any student who is de-
44 termined to have:

45 (A) Brought a weapon to a school, to school property under the jurisdiction of the district or

1 to an activity under the jurisdiction of the school district;

2 (B) Possessed, concealed or used a weapon in a school or on school property or at an activity
3 under the jurisdiction of the district; or

4 (C) Brought to or possessed, concealed or used a weapon at an interscholastic activity admin-
5 istered by a voluntary organization approved by the State Board of Education under ORS 339.430.

6 (b) The policy shall allow an exception for courses, programs and activities approved by the
7 school district that are conducted on school property, including but not limited to hunter safety
8 courses, Reserve Officer Training Corps programs, weapons-related sports or weapons-related voca-
9 tional courses. In addition, the State Board of Education may adopt by rule additional exceptions
10 to be included in school district policies.

11 (c) The policy shall allow a superintendent to modify the expulsion requirement for a student
12 on a case-by-case basis.

13 (d) The policy shall require a referral to the appropriate law enforcement agency of any student
14 who is expelled under this subsection.

15 (e) For purposes of this subsection, "weapon" includes a:

16 (A) "Firearm" as defined in 18 U.S.C. 921;

17 (B) "Dangerous weapon" as defined in ORS 161.015; or

18 (C) "Deadly weapon" as defined in ORS 161.015.

19 (7) The Department of Education shall collect data on any expulsions required pursuant to
20 subsection (6) of this section including:

21 (a) The name of each school;

22 (b) The number of students expelled from each school; and

23 (c) The types of weapons involved.

24 (8) Notwithstanding ORS 336.010, a school district may require a student to attend school during
25 nonschool hours as an alternative to suspension.

26 (9) Unless a student is under expulsion for an offense that constitutes a violation of a school
27 district policy adopted pursuant to subsection (6) of this section, a school district board shall con-
28 sider and propose to the student prior to expulsion or leaving school, and document to the parent,
29 legal guardian or person in parental relationship, alternative programs of instruction or instruction
30 combined with counseling for the student that are appropriate and accessible to the student in the
31 following circumstances:

32 (a) When a student is expelled pursuant to subsection (4) of this section;

33 (b) Following a second or subsequent occurrence within any three-year period of a severe dis-
34 ciplinary problem with a student;

35 (c) When it has been determined that a student's attendance pattern is so erratic that the stu-
36 dent is not benefiting from the educational program; or

37 (d) When a parent or legal guardian applies for a student's exemption from compulsory attend-
38 ance on a semiannual basis as provided in ORS 339.030 (2).

39 (10) A school district board may consider and propose to a student who is under expulsion or
40 to a student prior to expulsion for an offense that constitutes a violation of a school district policy
41 adopted pursuant to subsection (6) of this section, and document to the parent, legal guardian or
42 person in parental relationship, alternative programs of instruction or instruction combined with
43 counseling for the student that are appropriate and accessible to the student.

44 (11) Information on alternative programs provided under subsections (9) and (10) of this section
45 shall be in writing. The information need not be given to the student and the parent, guardian or

1 person in parental relationship more often than once every six months unless the information has
 2 changed because of the availability of new programs.

3 (12)(a) The authority to discipline a student does not authorize the infliction of corporal pun-
 4 ishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public
 5 charter school, **a virtual public school** or the Department of Education that permits or authorizes
 6 the infliction of corporal punishment upon a student is void and unenforceable.

7 (b) As used in this subsection, “corporal punishment” means the willful infliction of, or willfully
 8 causing the infliction of, physical pain on a student.

9 (c) As used in this subsection, “corporal punishment” does not mean:

10 (A) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or

11 (B) Physical pain or discomfort resulting from or caused by participation in athletic competition
 12 or other such recreational activity, voluntarily engaged in by a student.

13 **SECTION 57.** ORS 339.326 is amended to read:

14 339.326. (1) As used in this section:

15 (a) “School administrator” has the meaning given that term in ORS 419A.305.

16 (b) “School personnel” means a person who is employed by or under contract with a school
 17 district, public charter school, **virtual public school** or private school to provide services to stu-
 18 dents, including but not limited to:

19 (A) Teachers and school staff.

20 (B) Transportation providers.

21 (C) Food service workers.

22 (D) Daytime building maintenance workers.

23 (E) Health center workers or nurses.

24 (F) Library personnel.

25 (G) Translators.

26 (2) Within 48 hours after receiving notice under ORS 419A.305, a school administrator shall
 27 notify school personnel who the school administrator determines need the information in order to:

28 (a) Safeguard the safety and security of the school, students and school personnel;

29 (b) Arrange appropriate counseling or education for the person who is the subject of the notice;

30 or

31 (c) If the notice states that the court has set aside or dismissed the petition, or that the court
 32 has determined it does not have jurisdiction over the person who is the subject of the notice, inform
 33 school personnel previously notified of the petition under this subsection that the court has set aside
 34 or dismissed the petition or determined that the person who is the subject of the notice is not within
 35 the jurisdiction of the juvenile court and direct the appropriate school personnel to remove and
 36 destroy the notice and any documents or information related to the notice from the person’s edu-
 37 cational records.

38 (3) When a student transfers to a school in this state from a school outside the state, the school
 39 administrator of the school in this state shall, when requesting the transfer student’s education re-
 40 cords as provided under ORS 326.575, request any information that the transfer student’s former
 41 school may have relating to the transfer student’s history of engaging in activity that is likely to
 42 place at risk the safety of school personnel or students or that requires arrangement of appropriate
 43 counseling or education for the transfer student. Upon receipt of information that the transfer stu-
 44 dent has a history of engaging in activity that is likely to place at risk the safety of school per-
 45 sonnel or students, the school administrator shall notify school personnel who the school

1 administrator determines need the information in order to:

2 (a) Safeguard the safety and security of the school, students and school personnel; or

3 (b) Arrange appropriate counseling or education for the transfer student.

4 (4) When a school administrator receives notice under ORS 419A.305 and determines that the
5 youth is not enrolled in the school administrator's school but is enrolled in a school or program
6 referred to in this subsection, the school administrator shall, within 48 hours of receiving notice,
7 send a copy of the notice to:

8 (a) The director of the Oregon School for the Deaf if the youth attends the Oregon School for
9 the Deaf.

10 (b) The director of the Oregon School for the Blind if the youth attends the Oregon School for
11 the Blind.

12 (c) The Superintendent of Public Instruction if the youth is in an educational program under the
13 Youth Corrections Education Program.

14 (d) The principal of the public charter school if the youth attends a public charter school.

15 **(e) The principal of the virtual public school if the youth attends a virtual public school.**

16 [(e)] (f) The principal of the private school if the youth attends a private school.

17 [(f)] (g) The appropriate school administrator if the youth attends a school in another school
18 district.

19 (5) A school district, public charter school, **virtual public school** or private school may adopt
20 policies and procedures for providing notification to school personnel under this section.

21 (6)(a) Except as provided in this section, information contained in a notice required under ORS
22 419A.305 or obtained from an out-of-state school under subsection (3) of this section is confidential.

23 (b) Persons receiving information contained in a notice required under ORS 419A.305 or ob-
24 tained from an out-of-state school under subsection (3) of this section may not disclose any infor-
25 mation received with anyone other than:

26 (A) The person who is the subject of the notice or the transfer student;

27 (B) The parent or guardian of the person who is the subject of the notice or the transfer student;

28 (C) A school administrator;

29 (D) School personnel notified under subsection (2) or (3) of this section;

30 (E) Law enforcement personnel;

31 (F) The probation officer or juvenile counselor of the person who is the subject of the notice
32 or the transfer student; and

33 (G) The attorney for the person who is the subject of the notice or the transfer student.

34 (c) School personnel are not subject to discipline for disclosing the existence of a notice under
35 ORS 419A.305 or for disclosing the contents of the notice, unless the disclosure was made in bad
36 faith, with malicious intent or in a manner exhibiting a willful, wanton disregard of the rights, safety
37 or property of another.

38 (7)(a) Information obtained under this section or under ORS 419A.305 may not be used for ad-
39 missions or disciplinary decisions concerning the person who is the subject of a notice or the
40 transfer student unless the violation occurred in the school or classroom or at a school activity or
41 event, whether or not the violation took place on school property.

42 (b) Notwithstanding paragraph (a) of this subsection, information obtained under this section or
43 under ORS 419A.305 may be used for making an educational placement for the person who is the
44 subject of a notice or the transfer student, if necessary for arranging appropriate counseling or ed-
45 ucation for the person or transfer student. Placement procedures and decisions under this section

1 regarding a person or transfer student who is receiving special education and related services must
 2 comply with the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.

3 (c) The receipt of a notice under ORS 419A.305 does not deprive the school of the authority to
 4 institute or continue a disciplinary action against the person who is the subject of the notice or the
 5 transfer student based on the same conduct alleged in the notice if the disciplinary proceedings are
 6 based on information obtained by the school or school district that is not derived from the notice.

7 (8) A person is not civilly or criminally liable for giving or failing to give the notice required
 8 under this section. Nothing in this section creates a new cause of action or enlarges an existing
 9 cause of action for compensation or damages.

10 **SECTION 58.** ORS 339.370 is amended to read:

11 339.370. As used in ORS 339.370 to 339.400:

12 (1) "Abuse" has the meaning given that term in ORS 419B.005.

13 (2) "Disciplinary records" means the records related to a personnel discipline action or materi-
 14 als or documents supporting that action.

15 (3) "Education provider" means:

16 (a) A school district, as defined in ORS 332.002.

17 (b) The Oregon School for the Deaf.

18 (c) An educational program under the Youth Corrections Education Program.

19 (d) A public charter school, as defined in ORS 338.005.

20 (e) **A virtual public school, as defined in section 1 of this 2011 Act.**

21 [(e)] (f) An education service district, as defined in ORS 334.003.

22 [(f)] (g) Any state-operated program that provides educational services to kindergarten through
 23 grade 12 students.

24 [(g)] (h) A private school.

25 (4) "Investigation" means a detailed inquiry into the factual allegations of a report of suspected
 26 child abuse or sexual conduct that:

27 (a) Is based on interviews with the complainant, witnesses and the school employee who is the
 28 subject of the report; and

29 (b) Meets any negotiated standards of an employment contract or agreement.

30 (5) "Law enforcement agency" has the meaning given that term in ORS 419B.005.

31 (6) "Private school" means a school that provides educational services, as defined in ORS
 32 345.505, to kindergarten through grade 12 students.

33 (7) "School board" means the governing board or governing body of an education provider.

34 (8) "School employee" means an employee of an education provider.

35 (9)(a) "Sexual conduct" means any verbal or physical conduct by a school employee that:

36 (A) Is sexual in nature;

37 (B) Is directed toward a kindergarten through grade 12 student;

38 (C) Has the effect of unreasonably interfering with a student's educational performance; and

39 (D) Creates an intimidating, hostile or offensive educational environment.

40 (b) "Sexual conduct" does not include abuse.

41 (10) "Substantiated report" means a report of child abuse or sexual conduct that:

42 (a) An education provider has reasonable cause to believe is founded based on the available
 43 evidence after conducting an investigation; and

44 (b) Involves conduct that the education provider determines is sufficiently serious to be docu-
 45 mented in the school employee's personnel file.

1 **SECTION 59.** ORS 339.505 is amended to read:

2 339.505. (1) For purposes of the student accounting system required by ORS 339.515, the follow-
3 ing definitions shall be used:

4 (a) “Graduate” means an individual who has:

5 (A) Not reached 21 years of age or whose 21st birthday occurs during the current school year;

6 (B) Met all state requirements and local requirements for attendance, competence and units of
7 credit for high school; and

8 (C) Received one of the following:

9 (i) A high school diploma issued by a school district, [*or a*] public charter school **or virtual**
10 **public school.**

11 (ii) A high school diploma issued by an authorized community college.

12 (iii) A modified diploma issued by a school district, [*or a*] public charter school **or virtual public**
13 **school.**

14 (iv) An extended diploma issued by a school district, [*or a*] public charter school **or virtual**
15 **public school.**

16 (v) An alternative certificate issued by a school district, [*or a*] public charter school **or virtual**
17 **public school.**

18 (b) “School dropout” means an individual who:

19 (A) Has enrolled for the current school year, or was enrolled in the previous school year and
20 did not attend during the current school year;

21 (B) Is not a high school graduate;

22 (C) Has not received a General Educational Development (GED) certificate; and

23 (D) Has withdrawn from school.

24 (c) “School dropout” does not include a student described by at least one of the following:

25 (A) A student who has transferred to another educational system or institution that leads to
26 graduation and the school district has received a written request for the transfer of the student’s
27 records or transcripts.

28 (B) A student who is deceased.

29 (C) A student who is participating in home instruction paid for by the district.

30 (D) A student who is being taught by a private teacher, parent or legal guardian pursuant to
31 ORS 339.030 (1)(d) or (e).

32 (E) A student who is participating in a Department of Education approved public or private
33 education program, an alternative education program as defined in ORS 336.615 or a hospital edu-
34 cation program, or is residing in a Department of Human Services or an Oregon Health Authority
35 facility.

36 (F) A student who is temporarily residing in a shelter care program certified by the Oregon
37 Youth Authority or in a juvenile detention facility.

38 (G) A student who is enrolled in a foreign exchange program.

39 (H) A student who is temporarily absent from school because of suspension, a family emergency,
40 or severe health or medical problems that prohibit the student from attending school.

41 (I) A student who has received a General Educational Development (GED) certificate.

42 (2) The State Board of Education shall prescribe by rule when an unexplained absence becomes
43 withdrawal, when a student is considered enrolled in school, acceptable alternative education pro-
44 grams under ORS 336.615 to 336.675 and the standards for excused absences for purposes of ORS
45 339.065 for family emergencies and health and medical problems.

1 **SECTION 60.** ORS 340.073 is amended to read:

2 340.073. (1)(a) A public charter school may elect to participate in the Expanded Options Pro-
3 gram by amending its charter under ORS 338.065.

4 **(b) A virtual public school may elect to participate in the Expanded Options Program by**
5 **amending its contract under section 12 of this 2011 Act.**

6 (2) Actual instructional costs associated with participating eligible students shall be negotiated
7 and paid directly to the eligible post-secondary institution by the public charter school **or virtual**
8 **public school.**

9 (3)(a) The participating public charter school may not require funding from the sponsor of the
10 school for payment of Expanded Options Program costs that is in addition to funding that already
11 has been contractually established pursuant to ORS 338.155 (2)(b) or (3)(b) or 338.165 (3)(b).

12 **(b) The participating virtual public school may not request funding for payment of Ex-**
13 **anded Options Program costs that is in addition to funding that already is provided to the**
14 **virtual public school pursuant to section 19 of this 2011 Act.**

15 **SECTION 61.** ORS 342.143 is amended to read:

16 342.143. (1) No teaching, personnel service or administrative license shall be issued to any per-
17 son until the person has attained the age of 18 years and has furnished satisfactory evidence of
18 proper educational training.

19 (2) The Teacher Standards and Practices Commission may require an applicant for a teaching,
20 personnel service or administrative license or for registration as a public charter school teacher or
21 administrator to furnish evidence satisfactory to the commission of good moral character, mental
22 and physical health, and such other evidence as it may deem necessary to establish the applicant's
23 fitness to serve as a teacher or administrator.

24 (3) Without limiting the powers of the Teacher Standards and Practices Commission under sub-
25 section (2) of this section:

26 (a) No teaching, personnel service or administrative license or registration as a public charter
27 school teacher or administrator shall be issued to any person who:

28 (A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355,
29 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432, 163.433,
30 163.435, 163.445, 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part),
31 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087,
32 167.007, 167.012, 167.017, 167.054, 167.057, 167.062, 167.075, 167.080, 167.090, 475.848, 475.852, 475.858,
33 475.860, 475.862, 475.864 (4), 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892,
34 475.904 or 475.906.

35 (B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in
36 subparagraph (A) of this paragraph.

37 (C) Has been convicted in another jurisdiction of a crime that is substantially equivalent, as
38 defined by rule, to any of the crimes listed in subparagraphs (A) and (B) of this paragraph.

39 (D) Has had a teaching, personnel service or administrative license or registration revoked in
40 another jurisdiction for a reason that is substantially equivalent, as defined by rule, to a reason
41 described in ORS 342.175 and the revocation is not subject to further appeal. A person whose priv-
42 ilege to apply for a license or registration is denied under this subparagraph may apply for rein-
43 statement of the privilege as provided in ORS 342.175 (4).

44 (b) The Teacher Standards and Practices Commission may refuse to issue a license or registra-
45 tion to any person who has been convicted of a crime involving the illegal use, sale or possession

1 of controlled substances.

2 (4) In denying the issuance of a license or registration under this section, the commission shall
3 follow the procedure set forth in ORS 342.176 and 342.177.

4 (5) The Department of Education shall provide school districts, [and] public charter schools **and**
5 **virtual public schools** a copy of the list contained in subsection (3) of this section.

6 **SECTION 62.** ORS 342.144 is amended to read:

7 342.144. (1) As used in this section, "American Indian tribe" means an Indian tribe as that term
8 is defined in ORS 97.740.

9 (2) The Legislative Assembly declares that teaching American Indian languages is essential to
10 the proper education of American Indian children.

11 (3) The Teacher Standards and Practices Commission shall establish an American Indian lan-
12 guages teaching license.

13 (4) Each American Indian tribe may develop a written and oral test that must be successfully
14 completed by an applicant for an American Indian languages teaching license in order to determine
15 whether the applicant is qualified to teach the tribe's native language. When developing the test, the
16 tribe shall determine:

17 (a) Which dialects will be used on the test;

18 (b) Whether the tribe will standardize the tribe's writing system; and

19 (c) How the teaching methods will be evaluated in the classroom.

20 (5) The test shall be administered at an appropriate location that does not create hardship for
21 the tribal members administering the test.

22 (6) The commission may not require an applicant to hold a specific academic degree, to complete
23 a specific amount of education or to complete a teacher education program to receive an American
24 Indian languages teaching license.

25 (7)(a) An American Indian languages teaching license qualifies the holder to accept a teaching
26 position in a school district, a public charter school, a **virtual public school**, an education service
27 district, a community college or a state institution of higher education.

28 (b) A holder of an American Indian languages teaching license who does not also have a
29 teaching license issued under ORS 342.125 may not teach in a school district, a **virtual public**
30 **school** or an education service district any subject other than the American Indian language the
31 holder of the license is approved to teach by the tribe.

32 (c) A holder of an American Indian languages teaching license who does not also have a
33 teaching license or registration issued under ORS 342.125 may not teach in a public charter school
34 any subject other than the American Indian language the holder of the license is approved to teach
35 by the tribe.

36 (8)(a) As used in this subsection, "technical assistance program" means a program provided to
37 an American Indian languages teacher by a licensed teacher with three or more years of teaching
38 experience. A technical assistance program may include direct classroom observation and consulta-
39 tion, assistance in instructional planning and preparation, support in implementation and delivery
40 of classroom instruction, and other assistance intended to enhance the professional performance and
41 development of the American Indian languages teacher.

42 (b) The holder of an American Indian languages teaching license who does not also have an
43 administrative license, teaching license or registration issued under ORS 342.125 and who is em-
44 ployed by a school district, a public charter school, a **virtual public school** or an education service
45 district shall participate in a technical assistance program with a person holding a teaching license

1 issued by the commission under ORS 342.125. The technical assistance program shall meet the
 2 guidelines specified in ORS 329.815 (2) to (4).

3 (9) An American Indian languages teaching license shall be valid for three years and may be
 4 renewed upon application from the holder of the license.

5 **SECTION 63.** ORS 342.176 is amended to read:

6 342.176. (1) The Teacher Standards and Practices Commission shall promptly undertake an in-
 7 vestigation upon receipt of a complaint or information that may constitute grounds for:

8 (a) Refusal to issue a license or registration, as provided under ORS 342.143;

9 (b) Suspension or revocation of a license or registration, discipline of a person holding a license
 10 or registration, or suspension or revocation of the right to apply for a license or registration, as
 11 provided under ORS 342.175; or

12 (c) Discipline for failure to provide appropriate notice prior to resignation, as provided under
 13 ORS 342.553.

14 (2) The commission may appoint an investigator and shall furnish the investigator with appro-
 15 priate professional and other special assistance reasonably required to conduct the investigation,
 16 and the investigator is empowered to subpoena witnesses over the signature of the executive direc-
 17 tor, swear witnesses and compel obedience in the same manner as provided under ORS 183.440 (2).

18 (3) Following completion of the investigation, the executive director shall report in writing any
 19 findings and recommendations to:

20 (a) The commission, meeting in executive session, at its next regular meeting following com-
 21 pletion of the investigation; and

22 (b) The person against whom the charge is made.

23 (4)(a) Except as provided in paragraph (b) of this subsection, the documents and materials used
 24 in the investigation and the report of the executive director are confidential and not subject to
 25 public inspection unless the commission makes a final determination to:

26 (A) Refuse to issue a license or registration, as provided under ORS 342.143;

27 (B) Suspend or revoke a license or registration, discipline a person holding a license or regis-
 28 tration, or suspend or revoke the right to apply for a license or registration, as provided under ORS
 29 342.175; or

30 (C) Discipline a person for failure to provide appropriate notice prior to resignation, as provided
 31 under ORS 342.553.

32 (b) Records made available to the commission under ORS 419B.035 (1)(h) shall be kept confi-
 33 dential.

34 (5) If the commission finds from the report that there is sufficient cause to justify holding a
 35 hearing under ORS 342.177, it shall notify in writing:

36 (a) The person charged, enclosing a statement of the charges and a notice of opportunity for
 37 hearing;

38 (b) The complainant; and

39 (c) The employing district, [or] public charter school **or virtual public school**, if any.

40 (6) If the commission finds from the report that there is not sufficient cause to justify holding
 41 a hearing under ORS 342.177, it shall notify in writing:

42 (a) The person charged;

43 (b) The complainant; and

44 (c) The employing district, [or] public charter school **or virtual public school**, if any.

45 (7) Notwithstanding ORS 192.660 (6), the commission may make its findings under this section

1 in executive session. However, the provisions of ORS 192.660 (4) apply to the sessions.

2 **SECTION 64.** ORS 342.177 is amended to read:

3 342.177. (1)(a) Hearings under ORS 342.176 shall be conducted by an administrative law judge
4 assigned from the Office of Administrative Hearings established under ORS 183.605.

5 (b) Any hearing conducted under this subsection shall be private unless the person against
6 whom the charge is made requests a public hearing. Students attending school in the employing
7 district may not attend any hearing except as witnesses duly subpoenaed to testify with respect to
8 the charges made. Students attending a public charter school **or virtual public school** that employs
9 the person may not attend any hearing except as witnesses duly subpoenaed to testify with respect
10 to the charges made. The person against whom the charge is made shall have the right to be re-
11 presented by counsel and to present evidence and argument. The evidence must be confined to the
12 charges.

13 (2) The Teacher Standards and Practices Commission or the person charged may have subpoenas
14 issued to compel attendance at the hearing. The person charged may have subpoenas issued by an
15 attorney of record subscribed by the signature of the attorney or by the executive director. Wit-
16 nesses appearing pursuant to subpoena, other than the parties or officers or employees of the com-
17 mission, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2). The
18 commission or the person charged shall have the right to compel the attendance and obedience of
19 witnesses in the same manner as provided under ORS 183.440 (2).

20 (3) The commission shall render its decision at its next regular meeting following the hearing.
21 If the decision of the commission is that the charge described in ORS 342.175 (1) has been proven,
22 the commission may take any or all of the following disciplinary action against the person charged:

23 (a) Issue a public reprimand.

24 (b) Place the person on probation for a period not to exceed four years and subject to such
25 conditions as the commission considers necessary.

26 (c) Suspend the license or registration of the teacher or administrator for a period not to exceed
27 one year.

28 (d) Revoke the license or registration of the teacher or administrator.

29 (e) Revoke the privilege to apply for a license or registration.

30 (4) If the decision of the commission is that the charge is not proven, the commission shall order
31 the charges dismissed.

32 (5) The commission shall *[notify in writing]* **provide written notice of the decision to:**

33 (a) The person charged[.];

34 (b) The employing school district, *[or]* public charter school **or virtual public school;** and

35 (c) The Superintendent of Public Instruction *[of the decision]*.

36 **SECTION 65.** ORS 342.180 is amended to read:

37 342.180. (1) Any person whose license or registration has been suspended or revoked or who has
38 been disciplined, or who has been refused issuance or reinstatement of a license or registration, and
39 is aggrieved at the decision of the Teacher Standards and Practices Commission, may appeal in the
40 manner provided in ORS 183.480.

41 (2) If the Superintendent of Public Instruction, the district school board, *[or]* the public charter
42 school **or the virtual public school** employing the teacher or administrator is aggrieved at the
43 decision of the commission, the superintendent, the board or the school may appeal from the decision
44 in the manner provided in ORS 183.480.

45 (3) Unless the decision of the commission is accompanied by a finding that immediate suspension

1 or revocation of the teaching license or registration is necessary to protect the safety and well-being
 2 of students, an appeal made under this section in a proceeding to suspend or revoke shall operate
 3 as a stay of the suspension or revocation, if any, until the determination of the appeal.

4 **SECTION 66.** ORS 342.232 is amended to read:

5 342.232. (1) A school district, **public charter school, virtual public school**, education service
 6 district[,] **or** private school [*or public charter school*] may authorize a person described under ORS
 7 326.603 (1)(a), (c), [*or*] (d) **or (e)** to begin carrying out the terms of a contract pending the return
 8 of a state or nationwide criminal records check.

9 (2) A [*school district, education service district, private school or public charter school*] **district**
 10 **or school** may hire on a probationary basis a person described under ORS 326.603 (1)(b) or (d)
 11 pending the return of the criminal records check.

12 **SECTION 67.** ORS 342.549 is amended to read:

13 342.549. (1) As used in this section:

14 (a) "Administrator" means a person who is employed as an administrator or is performing ad-
 15 ministrative duties, regardless of whether the person is required to have a license, and includes but
 16 is not limited to superintendents, assistant superintendents and business managers.

17 (b) "Administrator" does not include a person who is subject to ORS 342.805 to 342.937.

18 (2) A school district, **a public charter school, a virtual public school or an** education service
 19 district [*or public charter school*] shall:

20 (a) Enter into an employment contract, with each administrator, that has provisions that cover
 21 the duration of the contract, conditions for contract termination and extension and conditions for
 22 employee resignation; and

23 (b) Have the current employment contract for each administrator on file in the central office
 24 of the district or school.

25 (3) Except as provided in subsection (4) of this section, a school district, **a public charter**
 26 **school, a virtual public school or an** education service district [*or public charter school*] may not
 27 enter into an employment contract with an administrator that contains provisions that expressly
 28 obligate the district or school to compensate the administrator for work that is not performed.

29 (4) A school district, **a public charter school, a virtual public school or an** education service
 30 district [*or public charter school*] may provide health benefits for an administrator who is no longer
 31 employed by the district or school until the administrator:

32 (a) Reaches 65 years of age; or

33 (b) Finds new employment that provides health benefits.

34 (5) For a period of one year after the termination of the contract between an administrator and
 35 a school district, **a public charter school, a virtual public school or an** education service district
 36 [*or public charter school*], the administrator may not:

37 (a) Purchase property or surplus property owned by the district or school; or

38 (b) Use property owned by the district or school in a manner other than the manner permitted
 39 for the general public in a school district or **an** education service district or at a public charter
 40 school **or a virtual public school**.

41 **SECTION 68.** ORS 342.650 is amended to read:

42 342.650. [*No*] **A** teacher in any public school [*shall*] **may not** wear any religious dress while
 43 engaged in the performance of duties as a teacher. A school district, **an** education service district,
 44 [*or*] **a public charter school or a virtual public school** does not commit an unlawful employment
 45 practice under ORS chapter 659A by reason of prohibiting a teacher from wearing religious dress

1 while engaged in the performance of duties as a teacher.

2 **SECTION 69.** ORS 343.287 is amended to read:

3 343.287. (1) There is created a State Advisory Council for Special Education, consisting of
4 members appointed by the Superintendent of Public Instruction. Members shall be representative of
5 the geographic areas of this state.

6 (2) Members must include:

7 (a) Individuals with disabilities;

8 (b) Parents or guardians of children with disabilities ages birth through 26;

9 (c) Teachers;

10 (d) State and local education officials, including officials who carry out activities under part B
11 of subchapter VI of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 et seq.;

12 (e) Administrators of programs for children with disabilities;

13 (f) Representatives of institutions of higher education that prepare personnel to work in special
14 education and related services;

15 (g) Representatives of other state agencies involved in the financing or delivery of related ser-
16 vices;

17 (h) Representatives of private schools, [*and representatives of*] public charter schools as defined
18 in ORS 338.005 **and virtual public schools as defined in section 1 of this 2011 Act**;

19 (i) At least one representative of a vocational, community or business organization concerned
20 with the provision of transition services to children with disabilities;

21 (j) A representative from the Department of Human Services responsible for foster care;

22 (k) Representatives from the Oregon Youth Authority and Department of Corrections; and

23 (L) Other persons associated with or interested in the education of children with disabilities.

24 (3) A majority of the members shall be individuals with disabilities or parents of children with
25 disabilities ages birth through 26.

26 (4) The State Advisory Council for Special Education shall:

27 (a) Review aspects of the statewide program of education of children with disabilities and advise
28 the Superintendent of Public Instruction and the Department of Education on such programs;

29 (b) Advise the Superintendent of Public Instruction and the Department of Education of unmet
30 needs in the education of children with disabilities;

31 (c) Comment publicly on any rules proposed for adoption by the Department of Education con-
32 cerning special education;

33 (d) Assist the state in developing and reporting data and evaluations concerning special educa-
34 tion;

35 (e) Advise the Department of Education in developing corrective action plans to address findings
36 identified in federal monitoring reports on special education; and

37 (f) Advise the Department of Education in developing and implementing policies relating to the
38 coordination of services for children with disabilities.

39 (5) Out of the funds appropriated to the Department of Education, the department shall reim-
40 burse members for necessary travel and other expenses under ORS 292.495 (2).

41 **SECTION 70.** ORS 348.283 is amended to read:

42 348.283. (1) There is established within the Oregon Student Assistance Commission the Oregon
43 Troops to Teachers program. Through the program, the commission shall pay for all of the resident
44 tuition charges of a veteran imposed by a public post-secondary institution, provided the veteran:

45 (a) Was discharged from the Armed Forces of the United States;

1 (b) Is a resident of Oregon; and

2 (c) Agrees to teach:

3 (A) In an Oregon school district, [or] public charter school **or virtual public school that is**
 4 classified as serving a high poverty area for not less than three years; or

5 (B) In the area of mathematics, science or special education for not less than four years.

6 (2) An award under subsection (1) of this section shall be used for the purpose of paying resident
 7 tuition. The commission may not award funds under subsection (1) of this section for the purpose
 8 of paying for books, supplies, housing, food or any other costs associated with attending a public
 9 post-secondary institution.

10 (3) The commission shall adopt rules necessary for the implementation and administration of this
 11 section in consultation with the Department of Education and the Oregon University System.

12 **SECTION 71.** ORS 418.691 is amended to read:

13 418.691. As used in ORS 418.691 to 418.701:

14 (1) "Subject individual" means any person who is or will be directly involved with the coaching
 15 or supervision of children participating in an organized youth sports activity.

16 (2) "Youth sports activity" does not include any activity operated by a school district, [or]
 17 public charter school **or virtual public school.**

18 (3) "Youth sports provider" means any person, organization or agency that operates in Oregon
 19 and is directly involved with children participating in an organized youth sports activity.

20 **SECTION 72.** ORS 419A.305 is amended to read:

21 419A.305. (1) As used in this section:

22 (a) "Principal" means a person having general administrative control and supervision of a
 23 school.

24 (b) "School administrator" means:

25 (A) The superintendent of the school district in which a youth attends school, or the designee
 26 of the superintendent, if the youth attends a public school that is not a public charter school **or**
 27 **virtual public school;**

28 (B) The principal of a public charter school **or virtual public school**, if the youth attends a
 29 public charter school **or virtual public school;**

30 (C) The principal of a private school that provides education to one or more instructional levels
 31 from kindergarten through grade 12 or equivalent instructional levels, if the youth attends a private
 32 school;

33 (D) The superintendent of the school district in which the youth resides, or the designee of the
 34 superintendent, if the school that the youth attends is not known by the person giving notice;

35 (E) The director of the Oregon School for the Blind;

36 (F) The director of the Oregon School for the Deaf; or

37 (G) The Superintendent of Public Instruction if the youth is in an educational program under the
 38 Youth Corrections Education Program.

39 (c) "School district" has the meaning given that term in ORS 332.002.

40 (2) Notice shall be given to a school administrator when:

41 (a) A youth makes a first appearance before the juvenile court on a petition described in sub-
 42 section (7) of this section alleging that the youth is within the jurisdiction of the juvenile court
 43 under ORS 419C.005.

44 (b) A youth admits to being within the jurisdiction of the juvenile court as provided in ORS
 45 419C.005 on a petition described in subsection (7) of this section or is adjudicated by a juvenile court

1 to be within its jurisdiction on a petition described in subsection (7) of this section.

2 (c) A youth is found responsible except for insanity under ORS 419C.411.

3 (d) Notice had been given as provided by paragraph (a) or (b) of this subsection and the juvenile
4 court:

5 (A) Sets aside or dismisses the petition as provided in ORS 419C.261; or

6 (B) Determines that the youth is not within the jurisdiction of the juvenile court after a hearing
7 on the merits of the petition.

8 (3) A notice required by subsection (2) of this section shall be given by:

9 (a) The district attorney;

10 (b) In the case of a petition filed under ORS 419C.250, the person who filed the petition;

11 (c) In the case of a person prosecuting a case who is not the district attorney, the person who
12 is prosecuting the case; or

13 (d) In the case of a juvenile department that has agreed to be responsible for providing the no-
14 tices required under this section, the juvenile department.

15 (4) A notice required under subsection (2) of this section may be communicated by mail or other
16 means of delivery, including but not limited to electronic transmission. A notice must include:

17 (a) The name and date of birth of the youth;

18 (b) The names and addresses of the youth's parents or guardians;

19 (c) The alleged basis for the juvenile court's jurisdiction over the youth;

20 (d) The act alleged in the petition that, if committed by an adult, would constitute a crime;

21 (e) The name and contact information of the attorney for the youth, if known;

22 (f) The name and contact information of the individual to contact for further information about
23 the notice;

24 (g) If applicable, the portion of the juvenile court order providing for the legal disposition of the
25 youth;

26 (h) Any conditions of release or terms of probation; and

27 (i) Any other conditions required by the court.

28 (5) In addition to the information required by subsection (4) of this section:

29 (a) A notice required by subsection (2)(a) of this section shall contain substantially the following
30 statement: "This notice is to inform you that a student who attends your school may come under the
31 jurisdiction of the juvenile court as the result of a petition filed with the juvenile court. The student
32 has not yet been determined to be within the jurisdiction of the juvenile court nor to have commit-
33 ted any violations of law. The allegation pending before the juvenile court must not be discussed
34 with the student."

35 (b) A notice required by subsection (2)(b) of this section shall contain substantially the following
36 statement: "This notice is to inform you that a student who attends your school has come under the
37 jurisdiction of the juvenile court as the result of a petition filed with the juvenile court. There may
38 be pending juvenile court hearings or proceedings, and a disposition order may not yet have been
39 entered by the court. The allegation pending before the juvenile court must not be discussed with
40 the student."

41 (c) A notice required by subsection (2)(c) of this section shall contain substantially the following
42 statement: "This notice is to inform you that a disposition order has been entered in a case involv-
43 ing a student who attends your school about whom a previous notice was sent. The disposition order
44 finds the student to be responsible except for insanity under ORS 419C.411 for the act alleged in the
45 petition filed with the juvenile court. The case should not be discussed with the student."

1 (d) A notice required by subsection (2)(d) of this section shall contain substantially the following
 2 statement: “This notice is to inform you that a petition involving a student who attends your school
 3 about whom a previous notice was sent has been set aside or dismissed or the juvenile court has
 4 determined the student is not within its jurisdiction. The notice and any documents or information
 5 related to the notice in the student’s education records should be removed and destroyed upon re-
 6 ceipt of this notice. The case should not be discussed with the student.”

7 (6) A notice required under subsection (2) of this section must be given within 15 days after:

8 (a) The youth makes a first appearance before the juvenile court on a petition;

9 (b) The youth admits to being within the jurisdiction of the juvenile court;

10 (c) The youth is adjudicated by a juvenile court to be within the jurisdiction of the court;

11 (d) The petition is dismissed or set aside;

12 (e) The juvenile court determines that the youth is not within the jurisdiction of the juvenile
 13 court after a hearing on the merits of the petition; or

14 (f) The juvenile court enters a disposition order finding the youth responsible except for insanity
 15 under ORS 419C.411.

16 (7) This section applies to petitions filed alleging that the youth engaged in:

17 (a) Conduct that, if committed by an adult, would constitute a crime that:

18 (A) Involves serious physical injury or threatened serious physical injury to another person, in-
 19 cluding criminal homicide, felony assault or any attempt to cause serious physical injury to another
 20 person;

21 (B) Involves the sexual assault of an animal or animal abuse in any degree;

22 (C) Is a felony sex offense listed in ORS 181.594, except for rape in the third degree under ORS
 23 163.355 or incest under ORS 163.525;

24 (D) Involves a weapon, as defined in ORS 166.360, or the threatened use of a weapon;

25 (E) Involves the possession or manufacture of a destructive device, as defined in ORS 166.382,
 26 or possession of a hoax destructive device, as defined in ORS 166.385; or

27 (F) Involves an offense in which an element of the crime is:

28 (i) Manufacture of a controlled substance;

29 (ii) Delivery of a controlled substance in conjunction with conduct described in subparagraph
 30 (A) of this paragraph; or

31 (iii) Delivery of a controlled substance to a person under 18 years of age; or

32 (b) Conduct that is of such a nature that the court determines notice is necessary to safeguard
 33 the safety and security of the school, students and staff. The person or entity responsible for giving
 34 notice under subsection (3) of this section shall request that the court make the determination under
 35 this paragraph when the person or entity believes notice is necessary to safeguard the safety and
 36 security of the school, students and staff and the conduct involves an offense under ORS 163.160.

37 (8) Except as otherwise provided in ORS 192.490, a person who sends or receives notice under
 38 this section is not civilly or criminally liable for failing to disclose the information under this sec-
 39 tion.

40 **SECTION 73.** ORS 433.235 is amended to read:

41 433.235. As used in ORS 433.235 to 433.284:

42 (1) “Administrator” means the principal or other person having general control and supervision
 43 of a school or children’s facility.

44 (2) “Children’s facility” or “facility” means:

45 (a) A certified child care facility as described in ORS 657A.030 and 657A.250 to 657A.450, except

1 as exempted by rule of the Oregon Health Authority;

2 (b) A program operated by, or sharing the premises with, a certified child care facility, school
 3 or post-secondary institution where care is provided to children, six weeks of age to kindergarten
 4 entry, except as exempted by rule of the authority; or

5 (c) A program providing child care or educational services to children, six weeks of age to
 6 kindergarten entry, in a residential or nonresidential setting, except as exempted by rule of the au-
 7 thority.

8 (3) “Local health department” means the district or county board of health, public health officer,
 9 public health administrator or health department having jurisdiction within the area.

10 (4) “Parent” means a parent or guardian of a child or any adult responsible for the child.

11 (5) “Physician” means a physician licensed by the Oregon Medical Board or by the Oregon
 12 Board of Naturopathic Medicine or a physician similarly licensed by another state or country in
 13 which the physician practices or a commissioned medical officer of the Armed Forces or Public
 14 Health Service of the United States.

15 (6) “School” means a public, private, parochial, charter, **virtual** or alternative educational pro-
 16 gram offering kindergarten through grade 12 or any part thereof, except as exempted by rule of the
 17 authority.

18 **SECTION 74.** ORS 444.310 is amended to read:

19 444.310. The Oregon Health Authority shall conduct an annual survey, to be completed by June
 20 15, of all public schools, public charter schools, **virtual public schools** and registered private
 21 schools in Oregon to collect data about diabetes occurring in students. Each school surveyed shall
 22 report to the authority for each student enrolled at the school who has Type 1 or Type II diabetes:

- 23 (1) The name and address of the student;
- 24 (2) The gender of the student;
- 25 (3) The date of birth of the student;
- 26 (4) The type of diabetes diagnosed; and
- 27 (5) The date of diagnosis.

28 **SECTION 75.** ORS 659.855 is amended to read:

29 659.855. (1) Any public elementary or secondary school determined by the Superintendent of
 30 Public Instruction or any community college determined by the Commissioner for Community Col-
 31 lege Services to be in noncompliance with provisions of ORS 659.850 and this section shall be sub-
 32 ject to appropriate sanctions, which may include withholding of all or part of state funding, as
 33 established by rule of the State Board of Education.

34 (2) Any public institution of higher education determined by the Chancellor of the Oregon Uni-
 35 versity System to be in noncompliance with provisions of ORS 659.850 and this section shall be
 36 subject to appropriate sanctions, which may include withholding of all or part of state funding, as
 37 established by rule of the State Board of Higher Education.

38 (3) Any public charter school determined by the sponsor of the school or the Superintendent of
 39 Public Instruction to be in noncompliance with the provisions of ORS 659.850 and this section shall
 40 be subject to appropriate sanctions, which may include the withholding of all or part of state fund-
 41 ing by the sponsor or superintendent, as established by rule of the State Board of Education.

42 (4) **Any virtual public school determined by the contracting school district or the Super-**
 43 **intendent of Public Instruction to be in noncompliance with the provisions of ORS 659.850**
 44 **and this section shall be subject to appropriate sanctions, which may include the withholding**
 45 **of all or part of state funding by the superintendent, as established by rule of the State**

1 **Board of Education.**

2 **SECTION 76.** ORS 659.860 is amended to read:

3 659.860. (1) Any person claiming to be aggrieved by unlawful discrimination as prohibited by
 4 ORS 659.850 may file a civil action in circuit court for equitable relief or, subject to the terms and
 5 conditions of ORS 30.265 to 30.300, damages, or both. The court may order such other relief as may
 6 be appropriate. Damages shall be \$200 or actual damages, whichever is greater.

7 (2) The action authorized by this section shall be filed within one year of the filing of a griev-
 8 ance.

9 (3) No action shall be filed unless, within 180 days of the alleged discrimination, a grievance has
 10 been filed with the school district board, public charter school governing body, **virtual public**
 11 **school governing body**, community college board of education or State Board of Higher Education.

12 (4) No action may be filed until 90 days after filing a grievance unless only injunctive relief is
 13 sought pursuant to ORCP 79. The right to temporary or preliminary injunctive relief shall be inde-
 14 pendent of the right to pursue any administrative remedy available to complainants pursuant to ORS
 15 659.850.

16 (5) No action may be filed if the school district board, public charter school governing body,
 17 **virtual public school governing body**, community college board of education or State Board of
 18 Higher Education has obtained a conciliation agreement with the person filing the grievance or if
 19 a final determination of a grievance has been made except as provided in ORS 183.480.

20 (6) Notwithstanding the filing of a grievance, pursuant to subsection (3) of this section, any
 21 person seeking to maintain an action under this section shall also file a notice of claim within 180
 22 days of the alleged discrimination as required by ORS 30.275.

23 (7) The court shall award reasonable attorney fees to a prevailing plaintiff in any action under
 24 this section. The court may award reasonable attorney fees and expert witness fees incurred by a
 25 defendant who prevails in the action if the court determines that the plaintiff had no objectively
 26 reasonable basis for asserting a claim or no objectively reasonable basis for appealing an adverse
 27 decision of a trial court.

28 (8) Nothing in this section is intended to reduce the obligations of the education agencies under
 29 this section and ORS 659.850 and 659.855.

30 **SECTION 77.** ORS 659A.033, as amended by section 1, chapter 105, Oregon Laws 2010, is
 31 amended to read:

32 659A.033. (1) An employer violates ORS 659A.030 if:

33 (a) The employer does not allow an employee to use vacation leave, or other leave available to
 34 the employee, for the purpose of allowing the employee to engage in the religious observance or
 35 practices of the employee; and

36 (b) Reasonably accommodating use of the leave by the employee will not impose an undue
 37 hardship on the operation of the business of the employer as described in subsections (4) and (5) of
 38 this section.

39 (2) Subsection (1) of this section applies only to leave that is not restricted as to the manner in
 40 which the leave may be used and that the employer allows the employee to take by adjusting or
 41 altering the work schedule or assignment of the employee.

42 (3) An employer violates ORS 659A.030 if:

43 (a) The employer imposes an occupational requirement that restricts the ability of an employee
 44 to wear religious clothing in accordance with the employee's sincerely held religious beliefs, to take
 45 time off for a holy day or to take time off to participate in a religious observance or practice;

1 (b) Reasonably accommodating those activities does not impose an undue hardship on the oper-
 2 ation of the business of the employer as described in subsections (4) and (5) of this section; and

3 (c) The activities have only a temporary or tangential impact on the employee's ability to per-
 4 form the essential functions of the employee's job.

5 (4) A reasonable accommodation imposes an undue hardship on the operation of the business of
 6 the employer for the purposes of this section if the accommodation requires significant difficulty or
 7 expense. For the purpose of determining whether an accommodation requires significant difficulty
 8 or expense, the following factors shall be considered:

9 (a) The nature and the cost of the accommodation needed.

10 (b) The overall financial resources of the facility or facilities involved in the provision of the
 11 accommodation, the number of persons employed at the facility and the effect on expenses and re-
 12 sources or other impacts on the operation of the facility caused by the accommodation.

13 (c) The overall financial resources of the employer, the overall size of the business of the em-
 14 ployer with respect to the number of persons employed by the employer and the number, type and
 15 location of the employer's facilities.

16 (d) The type of business operations conducted by the employer, including the composition,
 17 structure and functions of the workforce of the employer and the geographic separateness and ad-
 18 ministrative or fiscal relationship of the facility or facilities of the employer.

19 (e) The safety and health requirements in a facility, including requirements for the safety of
 20 other employees and any other person whose safety may be adversely impacted by the requested
 21 accommodation.

22 (f) The degree to which an accommodation may constrain the obligation of a school district,
 23 education service district, [or] public charter school **or virtual public school** to maintain a
 24 religiously neutral work environment.

25 (5) A reasonable accommodation imposes an undue hardship on the operation of the business of
 26 the employer for the purposes of this section if the accommodation would constrain the legal obli-
 27 gation of a school district, education service district, [or] public charter school **or virtual public**
 28 **school** to:

29 (a) Maintain religious neutrality in the school environment; or

30 (b) Refrain from endorsing religion.

31 **SECTION 78.** ORS 680.205 is amended to read:

32 680.205. (1) A dental hygienist issued a permit to act as a limited access permit dental hygienist
 33 under ORS 680.200 shall be authorized to render all services within the scope of practice of dental
 34 hygiene, as defined in ORS 679.010, without the supervision of a dentist and as authorized by the
 35 limited access permit to:

36 (a) Patients or residents of the following facilities or programs who, due to age, infirmity or
 37 disability, are unable to receive regular dental hygiene treatment:

38 (A) Nursing homes as defined in ORS 678.710;

39 (B) Adult foster homes as defined in ORS 443.705;

40 (C) Residential care facilities as defined in ORS 443.400;

41 (D) Adult congregate living facilities as defined in ORS 441.525;

42 (E) Mental health residential programs administered by the Oregon Health Authority;

43 (F) Facilities for mentally ill persons, as those terms are defined in ORS 426.005;

44 (G) Facilities for persons with mental retardation, as those terms are defined in ORS 427.005;

45 (H) Local correctional facilities and juvenile detention facilities as those terms are defined in

1 ORS 169.005, regional correctional facilities as defined in ORS 169.620, youth correction facilities
 2 as defined in ORS 420.005, youth care centers as defined in ORS 420.855, and Department of Cor-
 3 rections institutions as defined in ORS 421.005; or

4 (I) Public and nonprofit community health clinics.

5 (b) Adults who are homebound.

6 (c) Students or enrollees of nursery schools and day care programs and their siblings under 18
 7 years of age, Job Corps and other similar employment training facilities, primary and secondary
 8 schools, including private schools, [and] public charter schools **and virtual public schools**, and
 9 persons entitled to benefits under the Women, Infants and Children Program.

10 (d) Patients in hospitals, medical clinics, medical offices or offices operated or staffed by nurse
 11 practitioners, physician assistants or midwives.

12 (2) The Oregon Board of Dentistry may authorize the provision of dental hygiene services by a
 13 limited access permit dental hygienist at locations or to populations that are underserved or lack
 14 access to dental hygiene services.

15 (3) At least once each calendar year, a dental hygienist issued a permit to act as a limited ac-
 16 cess permit dental hygienist shall refer each patient or resident to a dentist who is available to treat
 17 the patient or resident.

18 (4) This section does not authorize a limited access permit dental hygienist to administer local
 19 anesthesia or temporary restorations except under the general supervision of a dentist licensed un-
 20 der ORS chapter 679, or to administer nitrous oxide except under the indirect supervision of a
 21 dentist licensed under ORS chapter 679.

22 (5) A limited access permit dental hygienist may assess the need for and appropriateness of
 23 sealants, apply sealants and write prescriptions for all applications of fluoride in which fluoride is
 24 applied or supplied to patients.

25 (6) A person granted a limited access permit under ORS 680.200 shall also procure all other
 26 permits or certificates required by the board under ORS 679.250.

27 **SECTION 79.** ORS 681.230 is amended to read:

28 681.230. (1) Nothing in this chapter prevents a person licensed in this state under any other law
 29 from engaging in the profession for which the person is licensed.

30 (2) Nothing in this chapter restricts or prevents a person from engaging in speech-language
 31 pathology or audiology activities or from using the official title of the position for which the person
 32 is employed if the person:

33 (a)(A) Holds a valid and current teaching license with a communications disorder endorsement
 34 issued by the Teacher Standards and Practices Commission; and

35 (B) Is employed by an education service district, a school district, [or] a charter school **or a**
 36 **virtual public school**; or

37 (b) Is a speech-language pathologist or audiologist who is:

38 (A) Employed by a federal agency; or

39 (B) Employed by an approved college or university.

40 (3) A person who performs activities described in subsection (2) of this section who is not li-
 41 censed under this chapter must do so solely within the confines of or under the jurisdiction of the
 42 organization in which the person is employed and may not offer to render speech-language pathology
 43 or audiology services to the public for compensation over and above the salary the person receives
 44 for performance of the person's official duties with organizations in which the person is employed.
 45 However, without obtaining a license under this chapter, a person may consult or disseminate the

1 person’s research findings and scientific information to other accredited academic institutions or
 2 governmental agencies. The person also may offer lectures to the public for a fee, monetary or
 3 otherwise, without being licensed under this chapter.

4 (4) Nothing in this chapter restricts the activities and services of a student of speech-language
 5 pathology pursuing a course of study in speech-language pathology at an approved college or uni-
 6 versity or an approved clinical training facility. However, these activities and services must con-
 7 stitute a part of the supervised course of study of the student and a fee may not accrue directly or
 8 indirectly to the student. A student shall be designated by a title such as “Speech-Language
 9 Pathology Intern,” “Speech-Language Pathology Trainee” or other title clearly indicating the train-
 10 ing status appropriate to the level of training of the student.

11 (5) Nothing in this chapter restricts the activities and services of a student of audiology pursu-
 12 ing a course of study in audiology at an approved college or university or an approved clinical
 13 training facility. However, these activities and services must constitute a part of the supervised
 14 course of study of the student and a fee may not accrue directly or indirectly to the student. The
 15 student shall be designated by a title such as “Audiology Intern,” “Audiology Trainee” or other title
 16 clearly indicating the training status appropriate to the level of training of the student.

17 (6) Nothing in this chapter restricts a person holding a Class A certificate issued by the Con-
 18 ference of Executives of American Schools of the Deaf from performing the functions for which the
 19 person qualifies.

20 (7) Nothing in this chapter restricts a person holding a license in this state as a hearing aid
 21 specialist from consulting with respect to the selling of hearing aids under ORS chapter 694.

22 (8) Notwithstanding subsections (4) and (5) of this section, the State Board of Examiners for
 23 Speech-Language Pathology and Audiology may adopt rules authorizing payment of a stipend to
 24 students of speech-language pathology and students of audiology who are pursuing a course of study
 25 at an approved college or university or an approved clinical training facility.

26 **SECTION 80.** Section 1, chapter 40, Oregon Laws 2008, is amended to read:

27 **Sec. 1.** Kindergarten requirements and allowances; tuition. (1) As used in this section:

28 (a) “Half-day kindergarten” means instructional hours provided at the kindergarten level that
 29 meet the minimum number of instructional hours required for kindergarten by rule of the State
 30 Board of Education and that meet other standards and rules of the board.

31 (b) “Supplemental kindergarten” means instructional hours provided at the kindergarten level
 32 that exceed the minimum number of instructional hours required for kindergarten by rule of the
 33 State Board of Education and that meet other standards and rules of the board.

34 (2)(a) A school district must offer half-day kindergarten in one or more schools in the district
 35 and may offer supplemental kindergarten in one or more schools in the district. This paragraph does
 36 not apply to union high school districts.

37 (b) If a public charter school offers kindergarten, the school must offer half-day kindergarten
 38 and may offer supplemental kindergarten.

39 (c) Half-day kindergarten offered by a school district or a public charter school must meet aca-
 40 demic content standards adopted by the State Board of Education under ORS 329.045.

41 (3) Transportation shall be provided to students in half-day kindergarten and supplemental
 42 kindergarten as follows:

43 (a) For students who attend a public charter school, in accordance with ORS 338.145.

44 **(b) For students who attend a virtual public school, in accordance with section 18 of this**
 45 **2011 Act.**

1 [(b)] (c) For all other students in a school district, in accordance with ORS 327.043.

2 (4)(a) A school district may not charge tuition for half-day kindergarten attended by a student
3 who resides within the school district.

4 (b) A public charter school may not charge tuition for half-day kindergarten attended by any
5 student.

6 (5) Notwithstanding ORS 336.095, 339.115 (1), 339.141 or 339.155 and except as provided in sub-
7 sections (6) and (7) of this section, a school district or public charter school may charge tuition for
8 supplemental kindergarten.

9 (6) If a school district or public charter school charges tuition for supplemental kindergarten,
10 the school district or public charter school may not charge tuition for a student who is:

11 (a) A member of a low-income family as defined in ORS 339.147; or

12 (b) A ward of a juvenile court or the Department of Human Services.

13 (7)(a) A parent or guardian of a student not described in subsection (6) of this section who be-
14 lieves that payment of all or part of the tuition is a severe hardship may request that the district
15 school board or public charter school waive in whole or in part the payment of tuition. The district
16 school board or public charter school shall waive the tuition in whole or in part upon a finding of
17 severe hardship.

18 (b) A school district or public charter school that charges tuition for supplemental kindergarten
19 shall adopt policies establishing factors that constitute a severe hardship under this subsection.

20 **SECTION 81.** Section 1, chapter 53, Oregon Laws 2010, is amended to read:

21 **Sec. 1.** (1) As used in this section, “provider of educational services” means a public charter
22 school, **a virtual public school**, a district school board or a public or private provider of educa-
23 tional services that provides educational services under a contract or the authority of a public
24 charter school, **virtual public school** or district school board.

25 (2) A provider of educational services may not offer payment of money or other consideration
26 to a student, to a parent or legal guardian of a student or to another entity for the benefit of a
27 student, parent or legal guardian:

28 (a) In return for the student electing to receive or receiving educational services from a specific
29 provider of educational services; or

30 (b) Following the student’s completion of an educational program, if the provider of educational
31 services used the promise of payment as an incentive for the student to enroll in the program.

32 (3) The restrictions of subsection (2) of this section do not apply to:

33 (a) Money or other consideration that is provided as required or allowed by law;

34 (b) Money or other consideration that is provided for the purpose of enabling the student to
35 access the Internet;

36 (c) Goods and services that are provided for use by a student and that are directly related to
37 the educational program of the provider of educational services; or

38 (d) Goods and services that are available to all students receiving educational services from the
39 provider of educational services.

40 **SECTION 82.** Section 1, chapter 62, Oregon Laws 2010, is amended to read:

41 **Sec. 1.** Each school campus in a school district, private school campus, [and] public charter
42 school campus **and virtual public school facility** shall have on the premises at least one automated
43 external defibrillator.

44 **SECTION 83.** Section 2, chapter 62, Oregon Laws 2010, is amended to read:

45 **Sec. 2.** A school in a school district, private school, [or] public charter school **or virtual public**

1 **school** shall comply with section 1 [*of this 2010 Act*], **chapter 62, Oregon Laws 2010**, on or before
2 January 1, 2015.

3 **SECTION 84. ORS 338.120 and sections 6 and 11, chapter 72, Oregon Laws 2010, are re-**
4 **pealed.**

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