

# House Bill 3178

Sponsored by 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**.

Changes basis of State School Fund transportation grant from percentage of approved transportation costs of school district to amount based on amount received by school district in prior year.

Declares emergency, effective July 1, 2005.

## A BILL FOR AN ACT

1  
2 Relating to transportation of students; creating new provisions; amending ORS 327.006, 327.013,  
3 332.405, 338.145, 339.133 and 343.533; repealing ORS 327.033; and declaring an emergency.

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

5 **SECTION 1.** ORS 327.006 is amended to read:

6 327.006. As used in ORS 327.006 to 327.133 and 327.731:

7 (1) "Aggregate days membership" means the sum of days present and absent, according to the  
8 rules of the State Board of Education, of all resident pupils when school is actually in session during  
9 a certain period. The aggregate days membership of kindergarten pupils shall be calculated on the  
10 basis of a half-day program.

11 [(2)(a) "Approved transportation costs" means those costs as defined by rule of the State Board of  
12 Education and is limited to those costs attributable to transporting or room and board provided in lieu  
13 of transporting;]

14 [(A) Elementary school students who live at least one mile from school;]

15 [(B) Secondary school students who live at least 1.5 miles from school;]

16 [(C) Any student required to be transported for health or safety reasons, according to supplemental  
17 plans from districts that have been approved by the state board identifying students who are required  
18 to be transported for health or safety reasons, including special education;]

19 [(D) Preschool children with disabilities requiring transportation for early intervention services  
20 provided pursuant to ORS 343.224 and 343.533;]

21 [(E) Students who require payment of room and board in lieu of transportation;]

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

24 [(G) Students participating in school-sponsored field trips that are extensions of classroom learning  
25 experiences.]

26 [(b) "Approved transportation costs" does not include the cost of constructing boarding school fa-  
27 cilities.]

28 [(3)] (2) "Average daily membership" or "ADM" means the aggregate days membership of a  
29 school during a certain period divided by the number of days the school was actually in session  
30 during the same period. However, if a district school board adopts a class schedule that operates

**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 throughout the year for all or any schools in the district, average daily membership shall be com-  
 2 puted by the Department of Education so that the resulting average daily membership will not be  
 3 higher or lower than if the board had not adopted such schedule.

4 [(4)] (3) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers of  
 5 the Portland, Oregon, Standard Metropolitan Statistical Area, as compiled by the United States  
 6 Department of Labor, Bureau of Labor Statistics.

7 [(5)] (4) "Kindergarten" means a kindergarten program that conforms to the standards and rules  
 8 adopted by the State Board of Education.

9 [(6)] (5) "Net operating expenditures" means the sum of expenditures of a school district in  
 10 kindergarten through grade 12 for administration, instruction, attendance and health services, op-  
 11 eration of plant, maintenance of plant, fixed charges and tuition for resident students attending in  
 12 another district, as determined in accordance with the rules of the State Board of Education, but  
 13 net operating expenditures does not include transportation, food service, student body activities,  
 14 community services, capital outlay, debt service or expenses incurred for nonresident students.

15 [(7)(a)] (6)(a) "Resident pupil" means any pupil:

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

20 (B) Whose legal residence is not within the boundaries of the district reporting the pupil but  
 21 attends school in the district with the written consent of the affected school district boards.

22 (b) A pupil shall not be considered to be a resident pupil under paragraph (a)(A) of this sub-  
 23 section if the pupil is attending school in another school district pursuant to a contract under ORS  
 24 339.125 and in the prior year was considered to be a resident pupil in another school district under  
 25 paragraph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another  
 26 school district under paragraph (a)(B) of this subsection.

27 (c) A pupil shall not be considered to be a resident pupil under paragraph (a)(B) of this sub-  
 28 section if the pupil is attending school in a school district pursuant to an agreement with another  
 29 school district under ORS 339.133 and in the prior year was considered to be a resident pupil under  
 30 paragraph (a)(A) of this subsection because the pupil was attending school in another school district  
 31 pursuant to a contract under ORS 339.125. The pupil shall continue to be considered a resident  
 32 pupil under paragraph (a)(A) of this subsection.

33 (d) "Resident pupil" includes a pupil admitted to a school district under ORS 339.115 (7).

34 [(8)] (7) "Standard school" means a school meeting the standards set by the rules of the State  
 35 Board of Education.

36 [(9)] (8) "Tax" and "taxes" includes all taxes on property, excluding exempt bonded indebt-  
 37 edness, as those terms are defined in ORS 310.140.

38 **SECTION 2.** ORS 327.013, as amended by section 30, chapter 1066, Oregon Laws 1999, section  
 39 12, chapter 670, Oregon Laws 2001, sections 20 and 23, chapter 695, Oregon Laws 2001, and sections  
 40 10 and 13, chapter 715, Oregon Laws 2003, is amended to read:

41 327.013. The State School Fund distributions for school districts shall be computed as follows:

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

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

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

- 1 (4) Statewide Target per ADMw Grant = \$4,500.
- 2 (5) Teacher Experience Factor =  $\$25 \times \{\text{District average teacher experience} - \text{statewide average teacher experience}\}$ . “Average teacher experience” means the average, in years, of teaching  
3 experience of certified teachers as reported to the Department of Education.  
4
- 5 (6) District extended ADMw = ADMw or ADMw of the prior year, whichever is greater.
- 6 (7)(a) Weighted average daily membership or ADMw = average daily membership + an addi-  
7 tional amount computed as follows:
- 8 (A) 1.0 for each student in average daily membership eligible for special education as a child  
9 with disabilities under ORS 343.035, applicable to not to exceed 11 percent of the district’s ADM  
10 without review and approval of the Department of Education. Children with disabilities eligible for  
11 special education in adult local correctional facilities as defined in ORS 169.005 or adult regional  
12 correctional facilities as defined in ORS 169.620 may not be included in the calculation of the 11  
13 percent.
- 14 (B) 0.5 for each student in average daily membership eligible for and enrolled in an English as  
15 a second language program under ORS 336.079.
- 16 (C) 0.2 for each student in average daily membership enrolled in a union high school district or  
17 in an area of a unified school district where the district is only responsible for educating students  
18 in grades 9 through 12 in that area.
- 19 (D) -0.1 for each student in average daily membership enrolled in an elementary district oper-  
20 ating kindergarten through grade 6 or kindergarten through grade 8 or in an area of a unified  
21 school district where the district is only responsible for educating students in kindergarten through  
22 grade 8.
- 23 (E) 0.25 times the sum of the following:
- 24 (i) The number of children 5 to 17 years of age in poverty families in the district, as determined  
25 by the Department of Education from a report of the federal Department of Education based on the  
26 most recent federal decennial census, as adjusted by the school district’s proportion of students in  
27 the county receiving free or reduced price lunches under the United States Department of Agricul-  
28 ture’s current Income Eligibility Guidelines if the number is higher than the number determined  
29 from census data and only if the school district had an average daily membership of 2,500 or less  
30 for the 1995-1996 school year, and as further adjusted by the number of students in average daily  
31 membership in June of the year of distribution divided by number of students in average daily  
32 membership in the district, or its predecessors, in June of the year of the most recent federal  
33 decennial census;
- 34 (ii) The number of children in foster homes in the district as determined by the report of the  
35 Department of Human Services to the federal Department of Education, “Annual Statistical Report  
36 on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess of the  
37 Poverty Income Level,” or its successor, for October 31 of the year prior to the year of distribution;  
38 and
- 39 (iii) The number of children in the district in state-recognized facilities for neglected and delin-  
40 quent children, based on information from the Department of Human Services for October 31 of the  
41 year prior to the year of distribution.
- 42 (F) An additional amount as determined by ORS 327.077 shall be added to the ADMw for each  
43 remote small elementary school and for each small high school in the district.
- 44 (G) All numbers of children used for the computation in this section must reflect any district  
45 consolidations that have occurred since the numbers were compiled.

1 (b) The total additional weight that shall be assigned to any student in average daily member-  
 2 ship in a district, exclusive of students described in paragraph (a)(E) and (F) of this subsection shall  
 3 not exceed 2.0.

4 [(8)(a)] **(8) Transportation grant equals[:] the amount the school district received as a**  
 5 **transportation grant in the prior year.**

6 [(A) 70 percent of approved transportation costs for those school districts ranked below the 80th  
 7 percentile under paragraph (b) of this subsection.]

8 [(B) 80 percent of approved transportation costs for those school districts ranked in or above the  
 9 80th percentile but below the 90th percentile under paragraph (b) of this subsection.]

10 [(C) 90 percent of approved transportation costs for those school districts ranked in or above the  
 11 90th percentile under paragraph (b) of this subsection.]

12 [(b) Each fiscal year, the Department of Education shall rank school districts based on the ap-  
 13 proved transportation costs per ADM of each school district, ranking the school district with the  
 14 highest approved transportation costs per ADM at the top of the order.]

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

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

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

20 (c) The amount of revenue received by the district from the Common School Fund under ORS  
 21 327.403 to 327.415;

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

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

25 (f) The amount of revenue received by the district from state managed forestlands under ORS  
 26 530.115 (1)(b) and (c);

27 (g) Moneys received in lieu of property taxes;

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

30 (i) Any positive amount obtained by subtracting the operating property taxes actually imposed  
 31 by the district, based on the rate certified pursuant to ORS 310.060, from the amount that would  
 32 have been imposed by the district if the district had certified the maximum rate of operating prop-  
 33 erty taxes allowed by law; and

34 (j) Any amount distributed to the district in the prior fiscal year under section 4 (3), chapter  
 35 695, Oregon Laws 2001, or ORS 327.019 (8).

36 (10) Notwithstanding subsection (9) of this section, Local Revenues do not include, if a school  
 37 district imposes local option taxes pursuant to ORS 280.040 to 280.145, an amount equal to the lesser  
 38 of:

39 (a) The amount of revenue actually received by the district from local option taxes imposed  
 40 pursuant to ORS 280.040 to 280.145;

41 (b) Fifteen percent of the combined total for the school district of the general purpose grant, the  
 42 transportation grant and the facility grant of the district; or

43 (c) \$750 per district extended ADMw.

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

45 (b) A school district shall receive a Facility Grant in the distribution year that a new school

1 building is first used.

2 (c) As used in this subsection:

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

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

7 **SECTION 3. The amendments to ORS 327.013 by section 2 of this 2005 Act affect State**  
8 **School Fund distributions commencing with the 2005-2006 distribution.**

9 **SECTION 4.** ORS 327.013, as amended by section 30, chapter 1066, Oregon Laws 1999, section  
10 12, chapter 670, Oregon Laws 2001, sections 20 and 23, chapter 695, Oregon Laws 2001, sections 10  
11 and 13, chapter 715, Oregon Laws 2003, and section 2 of this 2005 Act, is amended to read:

12 327.013. The State School Fund distributions for school districts shall be computed as follows:

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

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

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

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

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

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

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

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

30 (B) 0.5 for each student in average daily membership eligible for and enrolled in an English as  
31 a second language program under ORS 336.079.

32 (C) 0.2 for each student in average daily membership enrolled in a union high school district or  
33 in an area of a unified school district where the district is only responsible for educating students  
34 in grades 9 through 12 in that area.

35 (D) -0.1 for each student in average daily membership enrolled in an elementary district oper-  
36 ating kindergarten through grade 6 or kindergarten through grade 8 or in an area of a unified  
37 school district where the district is only responsible for educating students in kindergarten through  
38 grade 8.

39 (E) 0.25 times the sum of the following:

40 (i) The number of children 5 to 17 years of age in poverty families in the district, as determined  
41 by the Department of Education from a report of the federal Department of Education based on the  
42 most recent federal decennial census, as adjusted by the school district's proportion of students in  
43 the county receiving free or reduced price lunches under the United States Department of Agricul-  
44 ture's current Income Eligibility Guidelines if the number is higher than the number determined  
45 from census data and only if the school district had an average daily membership of 2,500 or less

1 for the 1995-1996 school year, and as further adjusted by the number of students in average daily  
2 membership in June of the year of distribution divided by number of students in average daily  
3 membership in the district, or its predecessors, in June of the year of the most recent federal  
4 decennial census;

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

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

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

15 (G) All numbers of children used for the computation in this section must reflect any district  
16 consolidations that have occurred since the numbers were compiled.

17 (b) The total additional weight that shall be assigned to any student in average daily member-  
18 ship in a district, exclusive of students described in paragraph (a)(E) and (F) of this subsection shall  
19 not exceed 2.0.

20 (8) Transportation grant equals the amount the school district received as a transportation grant  
21 in the prior year  $\times$  **1.02**.

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

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

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

27 (c) The amount of revenue received by the district from the Common School Fund under ORS  
28 327.403 to 327.415;

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

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

32 (f) The amount of revenue received by the district from state managed forestlands under ORS  
33 530.115 (1)(b) and (c);

34 (g) Moneys received in lieu of property taxes;

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

37 (i) Any positive amount obtained by subtracting the operating property taxes actually imposed  
38 by the district, based on the rate certified pursuant to ORS 310.060, from the amount that would  
39 have been imposed by the district if the district had certified the maximum rate of operating prop-  
40 erty taxes allowed by law; and

41 (j) Any amount distributed to the district in the prior fiscal year under section 4 (3), chapter  
42 695, Oregon Laws 2001, or ORS 327.019 (8).

43 (10) Notwithstanding subsection (9) of this section, Local Revenues do not include, if a school  
44 district imposes local option taxes pursuant to ORS 280.040 to 280.145, an amount equal to the lesser  
45 of:

1 (a) The amount of revenue actually received by the district from local option taxes imposed  
2 pursuant to ORS 280.040 to 280.145;

3 (b) Fifteen percent of the combined total for the school district of the general purpose grant, the  
4 transportation grant and the facility grant of the district; or

5 (c) \$750 per district extended ADMw.

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

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

9 (c) As used in this subsection:

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

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

14 **SECTION 5. The amendments to ORS 327.013 by section 4 of this 2005 Act affect State**  
15 **School Fund distributions commencing with the 2006-2007 distribution.**

16 **SECTION 6. The amendments to ORS 327.013 by section 4 of this 2005 Act become oper-**  
17 **ative on July 1, 2006.**

18 **SECTION 7.** ORS 332.405 is amended to read:

19 332.405. (1) The district school board shall provide transportation for pupils or combinations of  
20 pupils and other persons to and from school-related activities where required by law or when con-  
21 sidered advisable by the board.

22 (2) The board may furnish board and room for pupils in lieu of transportation when reasonable  
23 board and room can be provided at equal or less expense than transportation. The board may also  
24 provide board and room in a facility that existed on July 1, 1998, or a replacement facility for that  
25 facility, for pupils attending a district school through an interdistrict agreement described in ORS  
26 327.006 [(7)(a)(B)] **(6)(a)(B)** or through a power of attorney authorized under ORS 109.056 (2). This  
27 subsection does not apply to a pupil who attends a district school through a power of attorney and  
28 who is a foreign exchange student enrolled in a school under a cultural exchange program.

29 (3) The transportation costs or expenses for board and room shall be paid from funds available  
30 to the district for that purpose.

31 (4) The district school board may expend district funds to improve or provide for pedestrian fa-  
32 cilities off district property if the board finds that the expenditure reduces transportation costs of  
33 the district and enhances the safety of pupils going to and from schools of the district.

34 **SECTION 8.** ORS 338.145 is amended to read:

35 338.145. (1) The public charter school shall be responsible for providing transportation to stu-  
36 dents who reside within the school district and who attend the public charter school. The public  
37 charter school may negotiate with a school district for the provision of transportation to students  
38 attending the public charter school.

39 (2) Notwithstanding subsection (1) of this section, the school district within which the public  
40 charter school is located shall be responsible for the transportation of students attending the public  
41 charter school pursuant to ORS 327.043 in the same manner as students attending nonchartered  
42 public schools if the student is a resident of the school district. However, a school district may not  
43 be required to add or extend existing bus routes or other transportation services pursuant to this  
44 subsection.

45 (3) Students who attend public charter schools and who reside outside of the school district may

1 use existing bus routes and transportation services of the school district in which a public charter  
 2 school is located.

3 *[(4) Any transportation costs incurred by a school district under this section shall be considered*  
 4 *approved transportation costs for purposes of ORS 327.013 in the same manner as transportation costs*  
 5 *incurred by the school district for transporting students who attend nonchartered public schools are*  
 6 *considered approved transportation costs for purposes of ORS 327.013.]*

7 **SECTION 9.** ORS 339.133 is amended to read:

8 339.133. (1) Except as provided in subsection (3), (4) or (6) of this section, children between the  
 9 ages of 4 and 18 shall be considered resident for school purposes in the school district in which their  
 10 parents, guardians or persons in parental relationship to them reside.

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

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

18 (4) Children placed by public or private agencies who are living in substitute care programs li-  
 19 censed, certified or approved shall be considered resident in the school district in which they reside  
 20 by placement of the public or private agency.

21 (5) Persons living temporarily in a school district for the primary purpose of attending a district  
 22 school shall not be considered legally resident of the district in which they are living temporarily,  
 23 but shall be considered resident in the district in which they, their parents, guardians or persons in  
 24 parental relationship to them maintain residency.

25 (6) Except as provided in ORS 327.006 [(7)] (6) and 335.090, persons whose legal residence is not  
 26 within the district but who attend school in the district with the written consent of the affected  
 27 district school boards shall be considered to be residents of the district in which the person attends  
 28 school for purposes of the receipt by that district of State School Fund moneys for the person.

29 (7) For the purposes of subsection (4) of this section, “substitute care program” means family  
 30 foster care, family group home care, parole foster care, family shelter care, adolescent shelter care  
 31 and professional group care.

32 **SECTION 10.** ORS 343.533 is amended to read:

33 343.533. (1) The Department of Education [*shall*] **may** not bill a resident school district for a  
 34 child receiving services under this section even if the child is served by a county or regional pro-  
 35 gram otherwise subject to ORS 343.243.

36 (2) The resident school district shall provide transportation service to preschool children with  
 37 disabilities, as defined in ORS 343.035, age three until the age of eligibility for kindergarten, if such  
 38 service is determined to be a related service and, as required, to children from birth to three years  
 39 of age, enrolled in programs under ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and  
 40 343.455 to 343.534[, and the district may include those costs in its claims for transportation costs re-  
 41 imbursement by the state. No state agency is required to pay transportation other than the claims on  
 42 the State School Fund].

43 **SECTION 11.** ORS 327.033 is repealed.

44 **SECTION 12.** This 2005 Act being necessary for the immediate preservation of the public  
 45 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect

1 **July 1, 2005.**

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