

Senate Bill 415

Sponsored by COMMITTEE ON EDUCATION AND WORKFORCE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs State Board of Education to enter order to remove large school districts from education service districts. Directs state board to enter order to merge remaining areas of education service districts so that no more than eight education service districts exist. Prohibits education service districts from incurring bonded indebtedness.

Provides that new education service districts become operative on July 1, 2007.

Declares emergency, effective July 1, 2005.

A BILL FOR AN ACT

1
2 Relating to education service districts; creating new provisions; amending ORS 279A.280, 294.060,
3 326.355, 327.008, 327.013, 327.019, 334.003, 334.020, 334.025, 334.090, 334.125, 334.185, 334.240,
4 334.293, 339.035 and 757.612; repealing ORS 328.304 and 334.010; and declaring an emergency.

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

6 **SECTION 1. Sections 2 to 7 of this 2005 Act are added to and made a part of ORS chapter**
7 **334.**

8 **SECTION 2. As used in sections 2 to 7 of this 2005 Act:**

9 (1) "Average daily membership" has the meaning given that term in ORS 327.006.

10 (2) "Large school district" means a school district with 10,000 students or more in aver-
11 age daily membership for the 2004-2005 school year.

12 **SECTION 3. (1) On or before March 31, 2007, the State Board of Education shall enter**
13 **orders to:**

14 (a) Remove large school districts from education service districts in which the large
15 school district is a component school district.

16 (b) Merge each large school district with the area of the education service district that
17 lies within the boundaries of the large school district.

18 (2) Notwithstanding ORS 334.127, the orders entered by the state board shall include
19 provisions for dividing the assets and liabilities of an education service district between the
20 education service district and any large school districts that have been removed from the
21 education service district under this section.

22 (3) The orders entered by the state board under this section do not require an election
23 on district boundaries and are not subject to remonstrance or other procedures for boundary
24 changes.

25 (4) The orders entered by the state board under this section become effective on July 1,
26 2007.

27 **SECTION 4. (1) On or before March 31, 2007, and after issuing the orders required by**
28 **section 3 of this 2005 Act, the State Board of Education shall enter an order to merge any**
29 **remaining areas that are part of an education service district so that there are no more than**

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 eight education service districts in this state.

2 (2) The state board shall give the education service districts formed under subsection (1)
3 of this section new names, and the affected county assessors shall give the education service
4 districts a new number that has not previously been used.

5 (3) An order under this section shall include provisions for the liability of any outstanding
6 bonded indebtedness to be distributed over the entire area of the education service district
7 formed by the merger.

8 (4) An order entered under this section does not require an election on district bounda-
9 ries and is not subject to remonstrance or other procedures for boundary changes.

10 (5) An order entered under this section becomes effective on July 1, 2007.

11 **SECTION 5.** (1) Before the effective date of an order under section 4 of this 2005 Act, the
12 State Board of Education, for the purpose of electing an education service district board
13 under this section for each education service district created by the order, shall divide the
14 education service districts into not more than 11 zones. The zones shall be as nearly equal
15 in census population as may be practicable and may be measured along common school dis-
16 trict boundary lines, except that the zones may be established using voting precinct bound-
17 aries in order to achieve greater equality of population. If possible, the state board shall
18 establish the zones so that each county within the education service district created by the
19 order, the majority of the land area of which county lies within the boundaries of the new
20 education service district, has at least one member on the education service district board.

21 (2) Each county within an education service district, the majority of the land area of
22 which county lies within the boundaries of the education service district, shall have at least
23 one member on the education service district board or shall have at least one member on
24 the budget committee of the education service district.

25 (3) Notwithstanding ORS 334.090, the terms of office of the directors first elected to a
26 board of directors for an education service district created by an order of the state board
27 shall be staggered so that at least:

28 (a) Two directors shall serve terms expiring June 30 next following the fourth regular
29 district election.

30 (b) Two directors shall serve terms expiring June 30 next following the third regular
31 district election.

32 (c) Two directors shall serve terms expiring June 30 next following the second regular
33 district election.

34 (d) One director shall serve a term expiring June 30 next following the first regular dis-
35 trict election.

36 (4) The directors first elected under this section shall determine by lot the length of the
37 term each shall serve on the board.

38 (5) Notwithstanding ORS 334.090, the terms of office of directors serving on preexisting
39 education service district boards shall terminate on June 30, 2007.

40 **SECTION 6.** During the period following an order under section 4 of this 2005 Act and
41 prior to the effective date of the order, the board of directors of a new education service
42 district may take any action necessary for the district to carry out its functions, including
43 the preparation and adoption of a budget for the district. Expenditures of the education
44 service district board under this section shall be paid from the budgets of the component
45 education service districts on a prorated basis.

1 **SECTION 7. (1) Notwithstanding the effective date of an order under section 4 of this**
 2 **2005 Act, electors are entitled to vote in any elections affecting the new education service**
 3 **district in which the electors will reside when the order under section 4 of this 2005 Act**
 4 **takes effect.**

5 **(2) Notwithstanding ORS 334.090, electors described in subsection (1) of this section are**
 6 **eligible to be candidates for the new education service district board and to serve on the**
 7 **budget committee of the education service district if the electors were eligible to be board**
 8 **candidates or budget committee members in the district in which the electors resided prior**
 9 **to the effective date of the order under section 4 of this 2005 Act.**

10 **SECTION 8.** ORS 327.008, as amended by section 13, chapter 695, Oregon Laws 2001, section
 11 14, chapter 6, Oregon Laws 2002 (third special session), and sections 5 and 7, chapter 715, Oregon
 12 Laws 2003, is amended to read:

13 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist
 14 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education
 15 Stability Fund. The State School Fund is continuously appropriated to the Department of Education
 16 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 336.575,
 17 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961.

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

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

23 **(4) In addition to the amount apportioned under subsection (2) of this section, there shall**
 24 **be apportioned from the State School Fund to each large school district, as defined in section**
 25 **2 of this 2005 Act, a State School Fund grant as calculated under ORS 327.019.**

26 [(4)] (5) All figures used in the determination of the distribution of the State School Fund shall
 27 be estimates for the same year as the distribution occurs, unless otherwise specified.

28 [(5)] (6) Numbers of students in average daily membership used in the distribution formula shall
 29 be the numbers as of June of the year of distribution.

30 [(6)] (7) A school district may not use the portion of the State School Fund grant that is at-
 31 tributable to the facility grant for capital construction costs.

32 [(7)] (8) The total amount of the State School Fund that is distributed as facility grants may not
 33 exceed \$17.5 million in any biennium. If the total amount to be distributed as facility grants exceeds
 34 this limitation, the Department of Education shall prorate the amount of funds available for facility
 35 grants among those school districts that qualified for a facility grant.

36 **SECTION 9.** ORS 327.013, as amended by section 30, chapter 1066, Oregon Laws 1999, section
 37 12, chapter 670, Oregon Laws 2001, sections 20 and 23, chapter 695, Oregon Laws 2001, and sections
 38 10 and 13, chapter 715, Oregon Laws 2003, is amended to read:

39 327.013. The State School Fund distributions for school districts shall be computed as follows:

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

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

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

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

45 (5) Teacher Experience Factor = \$25 × {District average teacher experience – statewide av-

1 erage teacher experience). “Average teacher experience” means the average, in years, of teaching
2 experience of certified teachers as reported to the Department of Education.

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

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

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

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

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

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

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

22 (i) The number of children 5 to 17 years of age in poverty families in the district, as determined
23 by the Department of Education from a report of the federal Department of Education based on the
24 most recent federal decennial census, as adjusted by the school district’s proportion of students in
25 the county receiving free or reduced price lunches under the United States Department of Agricul-
26 ture’s current Income Eligibility Guidelines if the number is higher than the number determined
27 from census data and only if the school district had an average daily membership of 2,500 or less
28 for the 1995-1996 school year, and as further adjusted by the number of students in average daily
29 membership in June of the year of distribution divided by number of students in average daily
30 membership in the district, or its predecessors, in June of the year of the most recent federal
31 decennial census;

32 (ii) The number of children in foster homes in the district as determined by the report of the
33 Department of Human Services to the federal Department of Education, “Annual Statistical Report
34 on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess of the
35 Poverty Income Level,” or its successor, for October 31 of the year prior to the year of distribution;
36 and

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

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

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

44 (b) The total additional weight that shall be assigned to any student in average daily member-
45 ship in a district, exclusive of students described in paragraph (a)(E) and (F) of this subsection shall

1 not exceed 2.0.

2 (8)(a) Transportation grant equals:

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

5 (B) 80 percent of approved transportation costs for those school districts ranked in or above the
6 80th percentile but below the 90th percentile under paragraph (b) of this subsection.

7 (C) 90 percent of approved transportation costs for those school districts ranked in or above the
8 90th percentile under paragraph (b) of this subsection.

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

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

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

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

17 (c) The amount of revenue received by the district from the Common School Fund under ORS
18 327.403 to 327.415;

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

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

22 (f) The amount of revenue received by the district from state managed forestlands under ORS
23 530.115 (1)(b) and (c);

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

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

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

31 (j) Any amount distributed to the district in the prior fiscal year under section 4 (3), chapter
32 695, Oregon Laws 2001, or ORS 327.019 [(8)] (11).

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

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

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

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

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

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

44 (c) As used in this subsection:

45 (A) "New school building" includes new school buildings, adding structures onto existing school

1 buildings and adding premanufactured structures to a school district if those buildings or structures
2 are to be used for instructing students.

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

4 **SECTION 10.** ORS 327.019 is amended to read:

5 327.019. (1) As used in this section:

6 (a) "Education service district extended ADMw" means the sum of the extended ADMw of the
7 component school districts of the education service district as computed under ORS 327.013.

8 **(b) "Large school district" has the meaning given that term in section 2 of this 2005 Act.**

9 [(b)] (c) "Local revenues of an education service district" means the total of the following:

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

12 (B) The amount of property taxes actually received by the district including penalties and in-
13 terest on taxes;

14 (C) The amount of revenue received by the district from state-managed forestlands under ORS
15 530.115 (1)(b) and (c); and

16 (D) Any positive amount obtained by subtracting the operating property taxes actually imposed
17 by the district based on the rate certified pursuant to ORS 310.060 from the amount that would have
18 been imposed by the district if the district had certified the maximum rate of operating property
19 taxes allowed by law.

20 **(d) "Local revenues of a large school district" means the estimate of local property taxes**
21 **collected by the school district as calculated by the Superintendent of Public Instruction**
22 **under subsection (7) of this section.**

23 (2) Each fiscal year, the superintendent [*of Public Instruction*] shall calculate a State School
24 Fund grant for each education service district **and each large school district** as provided in this
25 section.

26 (3)(a) Each fiscal year, the superintendent shall calculate the total amount appropriated or al-
27 located to the State School Fund and available for distribution to school districts, education service
28 districts and programs + total amount of local revenues of all school districts, computed as provided
29 in ORS 327.013, + total amount of local revenues of all education service districts. The super-
30 intendent may not include in the calculation under this paragraph amounts recovered by the De-
31 partment of Education from the State School Fund under ORS 343.243.

32 (b) The superintendent shall multiply the amount calculated under paragraph (a) of this sub-
33 section by 95 percent.

34 (c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent
35 shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to
36 327.133 the total amount calculated under paragraph (b) of this subsection as school district general
37 purpose grants, facility grants and transportation grants to school districts.

38 (d) Based on the funding percentage calculated under paragraph (c) of this subsection, the su-
39 perintendent shall calculate the general purpose grant, facility grant and transportation grant
40 amounts for each school district.

41 (4) The general services grant for an education service district shall equal the [*higher of:*]
42 [(a)] total amount calculated under subsection (3)(d) of this section for the component school
43 districts of the education service district × 5.263 percent[; *or*]

44 [(b) \$1 million].

45 (5) Subject to subsection [(6)] **(9)** of this section, the State School Fund grant for an education

1 service district = general services grant – local revenues of the education service district.

2 **(6) The general services grant for a large school district shall equal the amount calcu-**
 3 **lated under subsection (3)(d) of this section for the large school district × 5.263 percent.**

4 **(7) The local revenues of a large school district = the permanent tax rate of the educa-**
 5 **tion service district of which the large school district was a component school district on the**
 6 **effective date of this 2005 Act ÷ (the permanent tax rate of the education service district**
 7 **of which the large school district was a component school district on the effective date of**
 8 **this 2005 Act + the permanent tax rate of the large school district on the effective date of**
 9 **this 2005 Act) × the local property taxes collected by the large school district.**

10 **(8) Subject to subsection (9) of this section, the State School Fund grant for a large**
 11 **school district under this section = general services grant – local revenues of the large**
 12 **school district.**

13 [(6)(a)] **(9)(a)** After completing the calculations under subsections (2) to [(5)] **(8)** of this section,
 14 the Superintendent of Public Instruction shall apportion from the State School Fund to each educa-
 15 tion service district **and large school district** an amount = (funding percentage × general ser-
 16 vices grant) – local revenues of the education service district **or large school district**.

17 (b) The funding percentage used in paragraph (a) of this subsection shall be calculated by the
 18 superintendent to distribute as nearly as practicable the total amount available for distribution to
 19 education service districts **and large school districts** from the State School Fund for each fiscal
 20 year.

21 [(7)] **(10)** Notwithstanding subsections [(5) and (6)] **(5) to (9)** of this section, the State School
 22 Fund grant **under this section** of an education service district **or large school district** may not
 23 be less than zero.

24 [(8)] **(11)** An education service district shall distribute to its component school districts any
 25 amount of local revenues of the education service district that is greater than the general services
 26 grant. The amount that each component school district receives under this subsection shall be pro-
 27 rated based on the district extended ADMw of each school district.

28 **SECTION 11. The amendments to ORS 327.008 and 327.019 by sections 8 and 10 of this 2005**
 29 **Act apply to State School Fund distributions commencing with the 2007-2008 distribution.**

30 **SECTION 12.** ORS 334.003 is amended to read:

31 334.003. For purposes of this chapter:

32 (1) “Component school district” means a common school district or a union high school district
 33 located within the territory of an education service district **that was not removed from the edu-**
 34 **cation service district by order of the State Board of Education under section 4 of this 2005**
 35 **Act.**

36 (2) “Education service district” means a district created [under ORS 334.010] **by order of the**
 37 **State Board of Education under ORS 334.720 or section 4 of this 2005 Act** that provides regional
 38 educational services to component school districts.

39 (3) “Joint school district” means a common school district or a union high school district located
 40 within the territory of more than one education service district.

41 **SECTION 13.** ORS 334.020 is amended to read:

42 334.020. [(1) On and after the effective date of the order entered under section 25, chapter 784,
 43 Oregon Laws 1993, except as the boundaries of an education service district may be changed by merger
 44 under ORS 334.710 to 334.770 or other provision of law, the education service districts are as
 45 follows:]

- 1 *[(a) Region 1. Clatsop, Columbia, Tillamook and Washington Counties.]*
- 2 *[(b) Region 2. Multnomah County.]*
- 3 *[(c) Region 3. Marion and Polk Counties.]*
- 4 *[(d) Region 4. Lincoln, Linn and Benton Counties.]*
- 5 *[(e) Region 5. Lane County.]*
- 6 *[(f) Region 6. Douglas County.]*
- 7 *[(g) Region 7. Coos and Curry Counties and the area lying within the Reedsport School District.]*
- 8 *[(h) Region 8. Jackson, Josephine and Klamath Counties.]*
- 9 *[(i) Region 9. Hood River and Wasco Counties.]*
- 10 *[(j) Region 10. Crook and Deschutes Counties.]*
- 11 *[(k) Region 11. Lake County.]*
- 12 *[(L) Region 12. Umatilla and Morrow Counties.]*
- 13 *[(m) Region 13. Union and Baker Counties.]*
- 14 *[(n) Region 14. Malheur County and the area comprising the Huntington School District.]*
- 15 *[(o) Region 15. Clackamas County.]*
- 16 *[(p) Region 16. Yamhill County.]*
- 17 *[(q) Region 17. Harney County.]*
- 18 *[(r) Region 18. Wallowa County.]*
- 19 *[(s) Region 19. Sherman, Gilliam and Wheeler Counties.]*
- 20 *[(t) Region 20. Grant County.]*
- 21 *[(u) Region 21. Jefferson County and the area comprising the Warm Springs Reservation.]*

22 *[(2) Where]* **If** a boundary change or formation of a component school district results in a joint
 23 school district, the joint school district shall be included in the education service district in which
 24 the joint district’s administrative office is located.

25 **SECTION 14.** ORS 334.025 is amended to read:

26 334.025. (1) *[The]* **Each education service district shall be governed by a** board of directors
 27 *[of an]* **known as the** education service district **board. An education service district board** shall
 28 consist of seven, nine or 11 members.

29 (2) *[In education service districts, not]* **No** fewer than five of the **board** directors shall be elected,
 30 one from each of the zones established under ORS 334.032. At the discretion of the board of direc-
 31 tors, one or two board members may be elected from the district at large.

32 (3) On the petition of two component school districts, the board shall establish local advisory
 33 committees to represent the interests of areas within the petitioning districts. The local advisory
 34 committees shall advise the board on matters of concern within the advisory committee’s area. Local
 35 advisory committees shall represent two or more component school districts.

36 (4) The board of directors may by resolution increase or decrease the number of members of the
 37 board. The board’s resolution shall be entered with sufficient time for the board to give the required
 38 information to the elections officer under ORS 255.069, and the board’s resolution shall have no ef-
 39 fect on the terms of any current board members.

40 **SECTION 15.** ORS 334.090 is amended to read:

41 334.090. (1) The term of office of director of an education service district shall be four years.

42 (2) The term of office of each director of an education service district shall begin on July 1 next
 43 following the date of election. A director shall serve until June 30 next following the election of a
 44 successor.

45 (3) A director of an education service district must qualify by taking an oath of office before

1 assuming the duties of office.

2 (4) A newly appointed director of an education service district shall take office at the meeting
3 of the education service district board next following the appointment.

4 (5) A person is not eligible to serve as a director of an education service district unless the
5 person is an elector of the district and has resided therein for a period of one year immediately
6 preceding the election or appointment.

7 (6) No employee of an education service district is eligible to serve as a director of the educa-
8 tion service district by which the employee is employed.

9 (7) A regular district election shall be held in a district to fill any vacancy and to elect a suc-
10 cessor for any director whose term expires June 30 next following the election. A successor shall
11 be elected as follows:

12 (a) If the director was elected from a zone established under ORS 334.032 **or section 5 of this**
13 **2005 Act**, a successor from the same zone shall be elected by the electors of the zone.

14 (b) If the director was elected at large a successor shall be elected at large by the electors of
15 the district.

16 (8) Notwithstanding subsection (7) of this section, in any district having a population of 550,000
17 or more according to the latest federal census that becomes zoned according to ORS 334.032 **or**
18 **section 5 of this 2005 Act**, the board shall determine prior to the nomination of school directors
19 which positions shall be from zones and which positions shall be at large.

20 (9) Any vacancy on the board from any zone shall be filled by the remaining directors from
21 among the qualified persons in that zone. Any such vacancy from the district at large shall be filled
22 by the remaining directors from among the qualified persons in the district. However, if vacancies
23 occur in a majority of the positions on the board, the State Board of Education shall fill the va-
24 cancies from among the qualified persons of the zones, if any, or from among other persons who are
25 qualified to serve. The period of service of an appointee under this subsection expires June 30 next
26 following the next regular district election at which a successor is elected. The successor shall be
27 elected to serve the remainder, if any, of the term for which the appointment was made. If the term
28 for which the appointment was made expires June 30 after the election of the successor, the suc-
29 cessor shall be elected to a full term. In either case, the successor shall take office July 1 next
30 following the election.

31 **SECTION 16.** ORS 334.125 is amended to read:

32 334.125. (1) The education service district is a body corporate.

33 (2) The education service district board is authorized to transact all business coming within the
34 jurisdiction of the education service district and may sue and be sued.

35 (3) The education service district board shall perform all duties required by law, including but
36 not limited to:

37 (a) Distribution of such school funds as it is empowered to apportion;

38 (b) Conduct of audits;

39 (c) Duties as district boundary board **for component school districts and other school dis-**
40 **tricts that are located within the territory of the education service district; and**

41 (d) Budget and tax levying duties, including the levying of taxes under ORS 280.060[.];

42 *[(e) Contracting a bonded indebtedness and levying direct ad valorem taxes on all taxable property*
43 *within the education service district in the manner that component school districts are authorized to*
44 *issue bonds and levy taxes under ORS 328.205 to 328.304 and other laws applicable to the issuance*
45 *of bonds and levying of taxes by school districts; and]*

1 *[(f) Creating a county education bond district under ORS 328.304 from a county within the*
2 *district.]*

3 (4) In addition to its duties under subsection (3) of this section and duties arising under ORS
4 334.175, with the approval of the component school districts through the resolution process de-
5 scribed in ORS 334.175, the board may:

6 (a) Plan for the provision and delivery of education, including curriculum improvement and
7 special education programs;

8 (b) Provide staff development;

9 (c) Conduct assessment, evaluation and research;

10 (d) Plan and provide for new learning environments;

11 (e) Plan and provide for educational communication and distribution services, including tele-
12 communications systems;

13 (f) Collaborate in jointly planning for the delivery of health care, employment training and social
14 services in the region; and

15 (g) Provide funds to component school districts to provide services in lieu of those school dis-
16 tricts receiving services from the education service district.

17 (5) The education service district board may employ and fix the compensation of such personnel
18 as it considers necessary for carrying out duties of the board.

19 (6) In carrying out its duties, the education service district board:

20 (a) May locate, buy, accept by gift or lease such land, buildings and facilities as may be required
21 for district purposes. Leases authorized by this section may be for a term of up to 30 years and
22 include lease-purchase agreements whereunder the district may acquire ownership of the leased
23 property.

24 (b) May acquire personal property by a lease-purchase agreement or contract of purchase for a
25 term exceeding one year. A lease-purchase agreement is one in which the rent payable by the dis-
26 trict is expressly agreed to have been established to reflect the savings resulting from the exemption
27 from taxation, and the district is entitled to ownership of the property at a nominal or other price
28 which is stated or determinable by the terms of the agreement and was not intended to reflect the
29 true value of the property.

30 (c) May lease property or sell and convey property of the district as the board considers un-
31 necessary to its purposes.

32 (d) May purchase relocatable structures in installment transactions in which deferred install-
33 ments of the purchase price are payable over not more than 10 years from the date of delivery of
34 the property to the district and are secured by a security interest in the property. The transactions
35 may take the form of, but are not limited to, lease-purchase agreements.

36 (e) May accept money or property donated for the use or benefit of the district and use the
37 money or property for the purpose for which it was donated.

38 (7) The education service district board may adopt rules it considers necessary to carry out the
39 duties of the board.

40 (8) The education service district may contract with public and private entities for service de-
41 livery.

42 (9)(a) The education service district shall work cooperatively with component school districts
43 and review periodically with component school districts the operations of component school districts
44 and shall submit to the component school districts plans for operations that achieve economies and
45 efficiencies through consolidation of various operations of all or some of the districts. The education

1 service district and its component school districts shall submit an annual report on the effectiveness
2 of the consolidation of operations to the State Board of Education.

3 (b) As used in this subsection, "operations" means services involving transportation, payroll,
4 student records, auditing, legal services, insurance, printing, investment and other similar services.

5 **(10) An education service district may not contract for bonded indebtedness.**

6 **SECTION 17.** ORS 334.185 is amended to read:

7 334.185. (1) Facilities and services authorized under ORS 334.175 (1) may be provided to [*com-*
8 *ponent*] school districts [*which*] **that** are not a part of the education service district or districts by
9 agreement on a reimbursable basis. However, the pupils residing in such districts shall not be in-
10 cluded in the computation of the percentage required by ORS 334.175 (2)(a). The facilities and ser-
11 vices may also be provided to other public or private entities by agreement or on a reimbursable
12 basis.

13 (2) Expenditures by the education service district board for special services and facilities pro-
14 vided on a reimbursable basis under this section shall be limited to the moneys received for the
15 purpose specified and are not subject to the Local Budget Law (ORS 294.305 to 294.565).

16 (3) Budget estimates of expenditures for special services and facilities provided under this sec-
17 tion must show the estimates of moneys receivable and must be shown as offsetting revenue items.

18 **SECTION 18.** ORS 334.240 is amended to read:

19 334.240. (1) The education service district board shall be subject in all respects to the Local
20 Budget Law (ORS 294.305 to 294.565), except that in addition to other qualifications, members of the
21 budget committee who are not members of the education service district board shall be members of
22 component school district boards within the education service district or shall be designees of a
23 **component** school district board.

24 (2) Notwithstanding ORS 294.336 and 294.341, a majority of the members of the budget commit-
25 tee of an education service district must consist of members of the component school district boards
26 or designees of a school district board. The budget committee may meet to conduct business if the
27 education service district board is unable to fill all of the positions on the budget committee.

28 (3) The board of the education service district is authorized to prepare and adopt a budget for
29 its own expenses and for its operational, administrative and resolution services expenses. The
30 board's own expenses include expenses for travel, for providing the board with professional and
31 clerical assistance, and for such services, equipment and supplies as the board may require. The
32 board's budget may include amounts necessary to provide special services and facilities authorized
33 by ORS 334.175 (1) and (2), and to support providing services and programs for children with disa-
34 bilities, for the talented and gifted or for bilingual or English as a second language education as
35 these programs are described in ORS 336.074, 336.079, 343.035, 343.397 and 343.830.

36 **SECTION 19.** ORS 334.293 is amended to read:

37 334.293. Notwithstanding ORS 334.240, 334.270 and 334.285, each education service district shall
38 ascertain and levy annually, in addition to all other taxes, a direct ad valorem tax on all taxable
39 property in the education service district sufficient to pay the maturing interest and principal of all
40 education service district bonds **issued by the district prior to July 1, 2007**, promptly when and
41 as the payments become due. The board in each year shall include the taxes in the education service
42 district budget for that year.

43 **SECTION 20.** ORS 279A.280 is amended to read:

44 279A.280. (1)(a) Without requiring competitive bidding:

45 (A) The Oregon Department of Administrative Services may sell or transfer surplus property to

1 or transfer surplus property between donees. Donees may be given preference to acquire surplus
 2 property. Property acquired shall be used for public purpose or benefit and not for resale to a pri-
 3 vate purchaser.

4 (B) The department, or a public or private person or entity designated by the department, may
 5 transfer computers and related hardware that are surplus, obsolete or unused to a common or union
 6 high school district or education service district. The department, or its designee, may not charge
 7 the school district **or education service district** a fee for the transfer.

8 (C) The department, or a public or private person or entity designated by the department, may
 9 recycle or otherwise dispose of property when the department determines the value and condition
 10 of the property does not warrant the cost of a sale.

11 (b) Authorized transfers under this subsection include those made with or without consideration.

12 (2) In accordance with ORS 279B.055 or 279B.060, the department may sell surplus property.

13 (3) All proceeds derived from the disposal of property under this section, except proceeds that
 14 may not under federal laws or regulations be deposited in the manner provided by this section, shall
 15 be deposited in the State Treasury to the credit of the Oregon Department of Administrative Ser-
 16 vices Operating Fund.

17 (4) In addition to the other purposes for which the fund may be used, the fund is appropriated
 18 continuously for and may be used for paying the administrative costs incurred in the transfer or
 19 disposal of property under subsections (1) and (2) of this section, and for paying the amount due to
 20 the state agency whose property has been sold. The total amount payable to the agency whose
 21 property has been sold shall be the amount derived from the disposal of the property less the amount
 22 of the administrative costs incurred in disposing of the property. Such total amount may be depos-
 23 ited in the State Treasury to the credit of the miscellaneous receipts account established under ORS
 24 279A.290 for the agency whose property has been sold.

25 (5) The cost of services for disposal of property under this section that is not recoverable from
 26 the proceeds of a sale of the property shall be charged to the state agency served and paid to the
 27 department in the same manner as other claims against the agency are paid.

28 **SECTION 21.** ORS 294.060 is amended to read:

29 294.060. (1) The moneys received by each county under ORS 293.560 shall be divided 75 percent
 30 to the road fund and 25 percent to the school fund of the county and, subject to subsection (2) of
 31 this section, the moneys shall be expended as other moneys in those funds are expended.

32 (2) The moneys apportioned to the county road fund may be applied in payment of any out-
 33 standing road bonds or may be placed in any county road bond sinking fund for the purpose of being
 34 so applied.

35 (3) Notwithstanding the division of receipts specified in subsection (1) of this section, in any
 36 county east of the summit of the Cascade Mountains with a population of less than 9,000 and more
 37 than 6,500, according to the 1990 federal decennial census, moneys from the road fund in excess of
 38 \$2 million may be transferred to the school fund when the amount of money credited to the road
 39 fund under subsection (1) of this section exceeds the amount needed for county roads, as determined
 40 by the board of county commissioners. Any amount received by a school district from the school
 41 fund of the county that is in excess of the 25 percent required under subsection (1) of this section
 42 may not be considered as a receipt that would reduce the district's apportionments from the State
 43 School Fund.

44 (4) Notwithstanding the division of receipts specified in subsection (1) of this section, in any
 45 county east of the summit of the Cascade Mountains with a population of less than 58,000 and more

1 than 55,000, according to the 1990 federal decennial census, if the moneys credited to the road fund
 2 under subsection (1) of this section exceed the amount needed for county roads, as determined by
 3 the county governing body, the portion of such moneys in excess of an amount specified by the
 4 county governing body may be transferred to the school fund of the county or may be transferred
 5 directly to the school districts of the county in accordance with procedures established by the
 6 county governing body. The county governing body may distribute moneys under this subsection
 7 among the several school districts without regard to the percentage of the resident average daily
 8 membership in each school district. Moneys transferred under this subsection may be transferred
 9 upon the condition that any school district receiving a share of such moneys must use the moneys
 10 only for a purpose described in ORS 328.205 (1)(a) or (c). Any amount received by a school district
 11 from the county under this subsection that is in excess of the 25 percent required under subsection
 12 (1) of this section may not be considered as a receipt that would reduce the district's apportionments
 13 from the State School Fund.

14 (5) Notwithstanding the division of receipts specified in subsection (1) of this section, in any
 15 county east of the summit of the Cascade Mountains with a population of less than 6,500, according
 16 to the 1990 federal decennial census, moneys received by the county under ORS 293.560 may be di-
 17 vided between the road fund and the school fund of the county as specified under [*an agreement*]
 18 **agreements** between the county governing body and the [*education service district board*] **school**
 19 **district boards** of the county that [*provides*] **provide** for a different apportionment of those moneys.
 20 Any amount received by a school district from the school fund of the county that is in excess of the
 21 25 percent required under subsection (1) of this section may not be considered as a receipt that
 22 would reduce the district's apportionments from the State School Fund.

23 (6) Notwithstanding the division of receipts specified in subsection (1) of this section, in any
 24 county west of the summit of the Cascade Mountains with a population of less than 19,500 and more
 25 than 6,500, according to the 1990 federal decennial census, moneys from the road fund in excess of
 26 \$1 million may be transferred to the school fund when the amount of money credited to the road
 27 fund under subsection (1) of this section exceeds the amount needed for county roads, as determined
 28 by the board of county commissioners. Any amount received by a school district from the school
 29 fund of the county that is in excess of the 25 percent required under subsection (1) of this section
 30 may not be considered as a receipt that would reduce the district's apportionments from the State
 31 School Fund.

32 (7) As used in subsections (3) to (6) of this section, "summit of the Cascade Mountains" has the
 33 meaning for that term provided in ORS 477.001.

34 **SECTION 22. The amendments to ORS 294.060 by section 21 of this 2005 Act apply to**
 35 **agreements entered into on or after the effective date of this 2005 Act.**

36 **SECTION 23.** ORS 326.355 is amended to read:

37 326.355. (1) The Superintendent of Public Instruction shall prorate the annual estimate of census
 38 as provided in ORS 327.410 and 327.420 in proportion as the resident average daily membership of
 39 each education service district **or large school district, as defined in section 2 of this 2005 Act,**
 40 bears to the total resident average daily membership of the state and certify such to the adminis-
 41 trative officer of each education service district **or large school district.**

42 (2) Subject to guidelines approved by the Superintendent of Public Instruction, the administra-
 43 tive officer of each education service district shall apportion the census so certified to those com-
 44 mon school districts reporting to the education service district. The estimated district census
 45 determined by this manner shall be deemed applicable to all statutory references to the term "cen-

1 sus” or “school-age child” in Oregon Revised Statutes.

2 **SECTION 24.** ORS 339.035 is amended to read:

3 339.035. (1) As used in this section[,]:

4 (a) “Education service district” means the education service district that contains the school
5 district of which the child is a resident.

6 (b) **“Large school district” means a school district of which the child is a resident with
7 10,000 students or more in average daily membership for the 2004-2005 school year.**

8 (2) When a child is taught or is withdrawn from a public school to be taught by a parent, legal
9 guardian or private teacher, as provided in ORS 339.030, the parent, legal guardian or private
10 teacher must notify the education service district **or large school district** in writing. In addition,
11 when a child who is taught by a parent, legal guardian or private teacher moves to a new education
12 service district **or large school district**, the parent, legal guardian or private teacher shall notify
13 the new education service district **or large school district** in writing. The education service dis-
14 trict **or large school district** shall acknowledge receipt of any notification in writing.

15 (3) Children being taught as provided in subsection (2) of this section shall be examined at
16 grades 3, 5, 8 and 10 in accordance with the following procedures:

17 (a) The State Board of Education shall adopt by rule a list of approved comprehensive exam-
18 inations that are readily available.

19 (b)(A) The parent or legal guardian shall select an examination from the approved list and ar-
20 range to have the examination administered to the child by a qualified neutral person, as defined
21 by rule by the State Board of Education.

22 (B) If the child was withdrawn from public school, the first examination shall be administered
23 to the child at least 18 months after the date on which the child was withdrawn from public school.

24 (C) If the child never attended public or private school, the first examination shall be adminis-
25 tered to the child prior to the end of grade three.

26 (c) The person administering the examination shall:

27 (A) Score the examination; and

28 (B) Report the results of the examination to the parent or legal guardian.

29 (d) Upon request of the superintendent of the education service district **or large school
30 district**, the parent or legal guardian shall submit the results of the examination to the education
31 service district **or large school district**.

32 (4)(a) If the composite test score of the child places the child below the 15th percentile based
33 on national norms, the child shall be given an additional examination within one year of when the
34 first examination was administered.

35 (b) If the composite test score of the child on the second examination shows a declining score,
36 then the child shall be given an additional examination within one year of when the second exam-
37 ination was administered and the superintendent of the education service district **or large school
38 district** may:

39 (A) Allow the child to continue to be taught by a parent, legal guardian or private teacher; or

40 (B) Place the education of the child under the supervision of a person holding a teaching license
41 who is selected by the parent or legal guardian at the expense of the parent or legal guardian. If
42 the composite test score of the child continues to show a declining score, the superintendent of the
43 education service district **or large school district** may:

44 (i) Allow the child to continue under the educational supervision of a licensed teacher selected
45 by the parent or legal guardian and require that the child be given an additional examination within

1 one year of when the last examination was administered;

2 (ii) Allow the child to be taught by a parent, legal guardian or private teacher and require that
3 the child be given an additional examination within one year of when the last examination was ad-
4 ministered; or

5 (iii) Order the parent or legal guardian to send the child to school for a period not to exceed
6 12 consecutive months as determined by the superintendent.

7 (c) If the parent or legal guardian of the child does not consent to placing the education of the
8 child under the supervision of a licensed teacher who is selected by the parent or legal guardian,
9 then the superintendent of the education service district **or large school district** may order the
10 child to return to school for a period not to exceed 12 consecutive months as determined by the
11 superintendent.

12 (d) If the composite test score of the child on an examination is equal to or greater than the
13 percentile score on the prior test, the child may be taught by a parent, legal guardian or private
14 teacher and for the next examination be examined pursuant to paragraph (a) of this subsection or
15 subsection (3) of this section.

16 (5)(a) Notwithstanding the examination requirements of subsections (3) and (4) of this section,
17 the parent or legal guardian of a child with disabilities who has an individualized education plan
18 and is receiving special education and related services through the school district or who is being
19 educated in accordance with a privately developed plan shall be evaluated for satisfactory educa-
20 tional progress according to the recommendations of the plan.

21 (b) The parent or legal guardian of a child with disabilities who was evaluated by service pro-
22 viders selected by the parent or legal guardian based on a privately developed plan shall submit a
23 report of such evaluation to the education service district **or large school district** in lieu of the
24 examination results required by subsections (3) and (4) of this section.

25 (c) A child with disabilities described in this subsection [*shall not be*] **is not** subject to the ex-
26 amination requirements of subsections (3) and (4) of this section unless the examination is recom-
27 mended in the plan in effect for the child.

28 **SECTION 25.** ORS 757.612 is amended to read:

29 757.612. (1) There is established an annual public purpose expenditure standard for electric
30 companies to fund new cost-effective local energy conservation, new market transformation efforts,
31 the above-market costs of new renewable energy resources, and new low-income weatherization. The
32 public purpose expenditure standard shall be funded by the public purpose charge described in sub-
33 section (2) of this section.

34 (2)(a) Beginning on the date an electric company offers direct access to its retail electricity
35 consumers, except residential electricity consumers, the electric company shall collect a public
36 purpose charge from all of the retail electricity consumers located within its service area for a pe-
37 riod of 10 years. Except as provided in paragraph (b) of this subsection, the public purpose charge
38 shall be equal to three percent of the total revenues collected by the electric company or electricity
39 service supplier from its retail electricity consumers for electricity services, distribution, ancillary
40 services, metering and billing, transition charges and other types of costs included in electric rates
41 on July 23, 1999.

42 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use
43 per year, beginning on March 1, 2002, the electric company whose territory abuts the greatest per-
44 centage of the site of the aluminum plant shall collect from the aluminum company a public purpose
45 charge equal to one percent of the total revenue from the sale of electricity services to the alumi-

1 num plant from any source.

2 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this
3 section relating to electric companies.

4 (b) Subject to paragraph (e) of this subsection, funds collected by an electric company through
5 public purpose charges shall be allocated as follows:

6 (A) Sixty-three percent for new cost-effective conservation and new market transformation.

7 (B) Nineteen percent for the above-market costs of new renewable energy resources.

8 (C) Thirteen percent for new low-income weatherization.

9 (D) Five percent shall be transferred to the Housing and Community Services Department Re-
10 volving Account created under ORS 456.574 and used for the purpose of providing grants as de-
11 scribed in ORS 458.625 (2). Moneys deposited in the account under this subparagraph are
12 continuously appropriated to the Housing and Community Services Department for the purposes of
13 ORS 458.625 (2). Interest on moneys deposited in the account under this subparagraph shall accrue
14 to the account.

15 (c) The costs of administering subsections (1) to (6) of this section for an electric company shall
16 be paid out of the funds collected through public purpose charges. The commission may require that
17 an electric company direct funds collected through public purpose charges to the state agencies
18 responsible for implementing subsections (1) to (6) of this section in order to pay the costs of ad-
19 ministering such responsibilities.

20 (d) The commission shall direct the manner in which public purpose charges are collected and
21 spent by an electric company and may require an electric company to expend funds through com-
22 petitive bids or other means designed to encourage competition, except that funds dedicated for
23 low-income weatherization shall be directed to the Housing and Community Services Department as
24 provided in subsection (7) of this section. The commission may also direct that funds collected by
25 an electric company through public purpose charges be paid to a nongovernmental entity for in-
26 vestment in public purposes described in subsection (1) of this section. Notwithstanding any other
27 provision of this subsection, at least 80 percent of the funds allocated for conservation shall be spent
28 within the service area of the electric company that collected the funds.

29 (e)(A) The first 10 percent of the funds collected annually by an electric company under sub-
30 section (2) of this section shall be distributed to **the** education service districts[, *as described in ORS*
31 *334.010,*] **and large school districts as defined in section 2 of this 2005 Act** that are located in
32 the service territory of the electric company. The funds shall be distributed to individual education
33 service districts according to the weighted average daily membership (ADMw) of the component
34 school districts of the education service district for the prior fiscal year as calculated under ORS
35 327.013. **The funds shall be distributed to large school districts according to the weighted**
36 **average daily membership (ADMw) of the large school districts for the prior fiscal year as**
37 **calculated under ORS 327.013.** The commission shall establish by rule a methodology for distrib-
38 uting a proportionate share of funds under this paragraph to education service districts **and large**
39 **school districts** that are only partially located in the service territory of the electric company.

40 (B) An education service district that receives funds under this paragraph shall use the funds
41 first to pay for energy audits for school districts located within the education service district. An
42 education service district [*shall*] **may** not expend additional funds received under this paragraph on
43 a school district facility until an energy audit has been completed for that school district. To the
44 extent practicable, an education service district shall coordinate with the State Department of En-
45 ergy and incorporate federal funding in complying with this paragraph. Following completion of an

1 energy audit for an individual school district, the education service district may expend funds re-
2 ceived under this paragraph to implement the energy audit. Once an energy audit has been con-
3 ducted and completely implemented for each school district within the education service district, the
4 education service district may expend funds received under this paragraph for any of the following
5 purposes:

6 (i) Conducting energy audits. A school district shall conduct an energy audit prior to expending
7 funds on any other purpose authorized under this paragraph unless the school district has performed
8 an energy audit within the three years immediately prior to receiving the funds.

9 (ii) Weatherization and upgrading the energy efficiency of school district facilities.

10 (iii) Energy conservation education programs.

11 (iv) Purchasing electricity from environmentally focused sources and investing in renewable
12 energy resources.

13 **(C) A large school district that receives funds under this paragraph shall use the funds**
14 **first to pay for energy audits. A large school district may not expend additional funds re-**
15 **ceived under this paragraph on a large school district facility until an energy audit has been**
16 **completed for the large school district. To the extent practicable, a large school district shall**
17 **coordinate with the State Department of Energy and incorporate federal funding in comply-**
18 **ing with this paragraph. Following completion of an energy audit for the large school district,**
19 **the large school district may expend funds received under this paragraph to implement the**
20 **energy audit. Once an energy audit has been conducted and completely implemented, the**
21 **large school district may expend funds received under this paragraph for any of the following**
22 **purposes:**

23 (i) **Conducting energy audits. A large school district shall conduct an energy audit prior**
24 **to expending funds on any other purpose authorized under this paragraph unless the large**
25 **school district has performed an energy audit within the three years immediately prior to**
26 **receiving the funds.**

27 (ii) **Weatherization and upgrading the energy efficiency of the large school district facil-**
28 **ities.**

29 (iii) **Energy conservation education programs.**

30 (iv) **Purchasing electricity from environmentally focused sources and investing in**
31 **renewable energy resources.**

32 (f) The commission may establish a different public purpose charge than the public purpose
33 charge otherwise described in subsection (2) of this section for an individual retail electricity con-
34 sumer or any class of retail electricity consumers located within the service area of an electric
35 company, provided that a retail electricity consumer with a load greater than one average megawatt
36 shall not be required to pay a public purpose charge in excess of three percent of its total cost of
37 electricity services.

38 (g) The commission shall remove from the rates of each electric company any costs for public
39 purposes described in subsection (1) of this section that are included in rates. A rate adjustment
40 under this paragraph shall be effective on the date that the electric company begins collecting
41 public purpose charges.

42 (4) An electric company that satisfies its obligations under this section shall have no further
43 obligation to invest in conservation, new market transformation, new renewable energy resources
44 or new low-income weatherization or to provide a commercial energy conservation services program
45 and is not subject to ORS 469.631 to 469.645, 469.860 to 469.900 and 758.505 to 758.555.

1 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
2 any site in the prior year shall receive a credit against public purpose charges billed by an electric
3 company for that site. The amount of the credit shall be equal to the total amount of qualifying
4 expenditures for new energy conservation, not to exceed 68 percent of the annual public purpose
5 charges, and the above-market costs of purchases of new renewable energy resources incurred by
6 the retail electricity consumer, not to exceed 19 percent of the annual public purpose charges, less
7 administration costs incurred under this subsection. The credit shall not exceed, on an annual basis,
8 the lesser of:

9 (A) The amount of the retail electricity consumer's qualifying expenditures; or

10 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
11 dedicated to new energy conservation, new market transformation or the above-market costs of new
12 renewable energy resources.

13 (b) To obtain a credit under this subsection, a retail electricity consumer shall file with the
14 State Department of Energy a description of the proposed conservation project or new renewable
15 energy resource and a declaration that the retail electricity consumer plans to incur the qualifying
16 expenditure. The State Department of Energy shall issue a notice of precertification within 30 days
17 of receipt of the filing, if such filing is consistent with this subsection. The credit may be taken after
18 a retail electricity consumer provides a letter from a certified public accountant to the State De-
19 partment of Energy verifying that the precertified qualifying expenditure has been made.

20 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
21 are not used in one year may be carried forward for use in subsequent years.

22 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
23 any site in the prior year may request that the State Department of Energy hire an independent
24 auditor to assess the potential for conservation investments at the site. If the independent auditor
25 determines there is no available conservation measure at the site that would have a simple payback
26 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
27 obligation for public purpose charges related to the site. If the independent auditor determines that
28 there are potential conservation measures available at the site, the retail electricity consumer shall
29 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the
30 public purpose charges less the estimated cost of available conservation measures.

31 (B) A retail electricity consumer shall be entitled each year to the credit described in this sub-
32 section unless a subsequent independent audit determines that new conservation investment oppor-
33 tunities are available. The State Department of Energy may require that a new independent audit
34 be performed on the site to determine whether new conservation measures are available, provided
35 that the independent audits shall occur no more than once every two years.

36 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
37 subsection.

38 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
39 for the public purpose expenditures of their energy suppliers. The State Department of Energy shall
40 adopt rules to determine eligible expenditures and the methodology by which such credits are ac-
41 counted for and used. The rules also shall adopt methods to account for eligible public purpose
42 expenditures made through consortia or collaborative projects.

43 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, be-
44 ginning on October 1, 2001, an electric company shall collect funds for low-income electric bill
45 payment assistance in an amount determined under paragraph (b) of this subsection.

1 (b) The total amount collected for low-income electric bill payment assistance under this section
2 shall be \$10 million per year. The commission shall determine each electric company's proportionate
3 share of the total amount. The commission shall determine the amount to be collected from a retail
4 electricity consumer, except that a retail electricity consumer shall not be required to pay more
5 than \$500 per month per site for low-income electric bill payment assistance.

6 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into
7 the Housing and Community Services Department Revolving Account created under ORS 456.574.
8 Moneys deposited in the account under this paragraph are continuously appropriated to the Housing
9 and Community Services Department for the purpose of funding low-income electric bill payment
10 assistance. Interest earned on moneys deposited in the account under this paragraph shall accrue
11 to the account. The department's cost of administering this subsection shall be paid out of funds
12 collected by the low-income electric bill payment assistance charge. Moneys deposited in the ac-
13 count under this paragraph shall be expended solely for low-income electric bill payment assistance.
14 Funds collected from an electric company shall be expended in the service area of the electric
15 company from which the funds are collected.

16 (d) The Housing and Community Services Department, in consultation with the federal Advisory
17 Committee on Energy, shall determine the manner in which funds collected under this subsection
18 will be allocated by the department to energy assistance program providers for the purpose of pro-
19 viding low-income bill payment and crisis assistance, including programs that effectively reduce
20 service disconnections and related costs to retail electricity consumers and electric utilities. Priority
21 assistance shall be directed to low-income electricity consumers who are in danger of having their
22 electricity service disconnected.

23 (e) Notwithstanding ORS 293.140, interest on moneys deposited in the Housing and Community
24 Services Department Revolving Account under this subsection shall accrue to the account and may
25 be used to provide heating bill payment and crisis assistance to electricity consumers whose primary
26 source of heat is not electricity.

27 (f) Notwithstanding ORS 757.310, the commission may allow an electric company to provide re-
28 duced rates or other payment or crisis assistance or low-income program assistance to a low-income
29 household eligible for assistance under the federal Low Income Home Energy Assistance Act of
30 1981, as amended and in effect on July 23, 1999.

31 (8) In addition to all other charges provided in this section, for the period from January 1, 2000,
32 to October 1, 2001, an electric company shall collect from its retail electricity consumers an electric
33 bill payment assistance charge. A retail electricity consumer shall not be required to pay more than
34 \$500 per month per site for low-income electric bill payment assistance under this subsection. The
35 statewide total amount collected under this subsection shall equal \$5 million per year, prorated for
36 any fraction of a year. The commission shall determine each electric company's proportionate share
37 of the statewide total amount. Moneys collected under this subsection shall be deposited in the
38 Housing and Community Services Department Revolving Account created under ORS 456.574 and
39 expended for low-income electric bill payment assistance in the manner provided in subsection (7)(d)
40 of this section.

41 (9) For purposes of this section, "retail electricity consumers" includes any direct service in-
42 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
43 tric utility.

44 **SECTION 26. ORS 328.304 and 334.010 are repealed.**

45 **SECTION 27. The amendments to ORS 279A.280, 294.060, 326.355, 327.008, 327.013, 327.019,**

1 334.003, 334.020, 334.025, 334.090, 334.125, 334.185, 334.240, 334.293, 339.035 and 757.612 by
2 sections 8 to 10, 12 to 21 and 23 to 25 of this 2005 Act and the repeal of ORS 328.304 and
3 334.010 by section 26 of this 2005 Act become operative on July 1, 2007.

4 SECTION 28. This 2005 Act being necessary for the immediate preservation of the public
5 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect
6 July 1, 2005.

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