

House Bill 3314

Sponsored by Representatives BUEHLER, POWER, Senator ROBLAN

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 Registrar of Center for Health Statistics to send to Department of Consumer and Business Services each calendar quarter names of children born in Oregon to residents of this state.

Establishes Oregon Bright Futures Fund. Directs department to create cohort account within fund for all children born each calendar quarter.

Permits financial institutions to opt in to participation. Directs department to establish designated beneficiary account at participating financial institution for each child.

Directs department to deposit moneys into each designated beneficiary account. Allows use of moneys in designated beneficiary accounts for payment of qualified post-secondary education expenses. Allows contributions to cohort and designated beneficiary accounts. Allows linkage to private financial accounts.

Establishes Financial Institution Community Education Fund. Specifies purposes of fund. Permits participating financial institutions to contribute to fund.

Directs department to report to Legislative Assembly in 2018 and 2019 on implementation of Act.

Exempts funds maintained by department under Act from public funds depository requirements. Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to post-secondary education expenses; creating new provisions; amending ORS 295.101; and
3 declaring an emergency.

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

SECTION 1. As used in sections 1 to 14 of this 2017 Act:

6 (1) **"Account" means a cohort account or a designated beneficiary account.**

7 (2) **"Cash" means money in physical or electronic forms.**

8 (3) **"Cohort account" means an account within the Oregon Bright Futures Fund that**
9 **corresponds to a calendar quarter, as described in section 2 of this 2017 Act.**

10 (4) **"Designated beneficiary" means the individual for whom qualified withdrawals may**
11 **be made from a designated beneficiary account for the payment of qualified post-secondary**
12 **education expenses.**

13 (5) **"Designated beneficiary account" means an account held by the Department of Con-**
14 **sumer and Business Services at a participating financial institution for the benefit of a spe-**
15 **cific individual about whom the department receives information under section 3 of this 2017**
16 **Act.**

17 (6) **"Financial institution" means a bank, a commercial bank, a national bank, a savings**
18 **bank, a savings and loan, a thrift institution, a credit union, an insurance company, a trust**
19 **company, a mutual fund, an investment firm or other similar entity authorized to do busi-**
20 **ness in this state.**

21 (7) **"Internal Revenue Code" means the federal Internal Revenue Code, as amended and**
22 **in effect on December 31, 2016.**

23 (8) **"Participating financial institution" means a financial institution that enters into an**

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 agreement with the Department of Consumer and Business Services under section 5 of this
 2 2017 Act.

3 (9) "Post-secondary education institution" means:

4 (a) A public university;

5 (b) A community college;

6 (c) Oregon Health and Science University;

7 (d) A career school licensed under ORS 345.010 to 345.450 or a similar law in another
 8 state;

9 (e) A private post-secondary institution authorized to confer academic degrees under
 10 ORS 348.594 to 348.615 or a similar law in another state; and

11 (f) A private post-secondary institution that meets the criteria set forth in ORS 348.597
 12 (2).

13 (10) "Qualified post-secondary education expenses" means:

14 (a) Expenses incurred in the acquisition of post-secondary education or job training at a
 15 post-secondary education institution, including but not limited to tuition, extracurricular
 16 nontuition expenses designed to prepare a designated beneficiary for post-secondary educa-
 17 tion or job training; and

18 (b) Expenses constituting qualified higher education expenses under section 529(e) of the
 19 Internal Revenue Code.

20 (11) "Qualified withdrawal" means a withdrawal made from an account to pay the quali-
 21 fied post-secondary education expenses of a designated beneficiary as prescribed in section
 22 14 of this 2017 Act.

23 **SECTION 2.** (1) The Oregon Bright Futures Fund is established in the State Treasury,
 24 separate and distinct from the General Fund. Interest earned by the Oregon Bright Futures
 25 Fund shall be credited to the fund. All moneys credited to the Oregon Bright Futures Fund
 26 are continuously appropriated to the Department of Consumer and Business Services for the
 27 purposes specified in sections 1 to 14 of this 2017 Act.

28 (2) The department shall create a cohort account within the Oregon Bright Futures Fund
 29 for each calendar quarter.

30 (3) The Oregon Bright Futures Fund shall consist of:

31 (a) Moneys appropriated by the Legislative Assembly for deposit in the fund;

32 (b) Moneys transferred to the fund from the federal government or any public body as
 33 defined in ORS 174.109;

34 (c) Any gifts, contributions or donations made to the State of Oregon for deposit in the
 35 fund; and

36 (d) Earnings on moneys in the fund.

37 (4) The department may use the moneys in the Oregon Bright Futures Fund to make
 38 qualified withdrawals for post-secondary education expenses of a designated beneficiary, to
 39 pay the administrative costs and expenses of the department related to the administration
 40 of accounts under sections 1 to 14 of this 2017 Act, to provide or make available scholarships,
 41 grants and other incentives to designated beneficiaries or to further any other purpose of
 42 sections 1 to 14 of this 2017 Act.

43 **SECTION 3.** (1) For each child born in Oregon to residents of this state, the State
 44 Registrar of the Center for Health Statistics shall, on a quarterly basis, send or deliver by
 45 secure electronic or other reasonable means to the Department of Consumer and Business

1 Services a data file containing the names of the child and of the parents of the child, the
 2 county of the child's birth and the mother's mailing address for the purpose of implementing
 3 section 4 of this 2017 Act.

4 (2) The state registrar and the department shall enter into an agreement to implement
 5 the provisions of this section. The agreement must include provisions governing the transfer,
 6 storage and destruction of data files.

7 **SECTION 4.** (1) Within 120 days after receiving information about the birth of a child
 8 from the State Registrar of the Center for Health Statistics under section 3 of this 2017 Act,
 9 the Department of Consumer and Business Services shall, using the name of the child, the
 10 county of the child's birth and a unique identifier, establish a designated beneficiary account
 11 at a participating financial institution for the benefit of the child.

12 (2) The department shall notify the parents of the child whose birth information was re-
 13 ceived that the designated beneficiary account was established. Notice must be sent to the
 14 mother's mailing address as received from the state registrar and must include, at a mini-
 15 mum, the following information:

16 (a) The unique identifier assigned to the designated beneficiary account;

17 (b) The purpose of the designated beneficiary account;

18 (c) Any actions the parents may take to participate in the post-secondary education
 19 savings provisions of sections 1 to 14 of this 2017 Act; and

20 (d) How, when and for what purposes the department may make qualified withdrawals
 21 from the designated beneficiary account.

22 (3) If a parent was an Oregon resident at the time of the birth of a child of the parent
 23 and the child was born outside of Oregon, the parent may apply to the department to es-
 24 tablish a designated beneficiary account under this section, provided that the parent is an
 25 Oregon resident at the time of application.

26 (4) The department shall, upon determining that a child for whom a designated benefi-
 27 ciary account has not been established under this section has been lawfully adopted, establish
 28 a designated beneficiary account and send notice as provided in this section to the adoptive
 29 parents.

30 **SECTION 5.** A financial institution may become a participating financial institution by
 31 entering into an agreement with the Department of Consumer and Business Services that,
 32 at a minimum:

33 (1) Provides a method for the department to open designated beneficiary accounts with
 34 the financial institution according to terms and conditions specified by the department; and

35 (2) Requires the financial institution to advertise the program established under sections
 36 1 to 14 of this 2017 Act using marketing materials developed by the department.

37 **SECTION 6.** Notwithstanding any other provision of law that requires consideration of
 38 one or more financial circumstances of an individual for the purpose of determining the el-
 39 igibility to receive, or the amount of, any assistance or benefit authorized by law to be pro-
 40 vided to or for the benefit of the individual, any amount in a designated beneficiary account
 41 established under sections 1 to 14 of this 2017 Act for the benefit of the individual, including
 42 earnings on the account, any contributions to the account and any qualified withdrawal, shall
 43 be disregarded for such purpose.

44 **SECTION 7.** Upon the establishment of a designated beneficiary account under section 4
 45 of this 2017 Act, the Department of Consumer and Business Services, out of the cohort ac-

1 count in the Oregon Bright Futures Fund established by section 2 of this 2017 Act corre-
 2 sponding to the calendar quarter in which the designated beneficiary was born, shall deposit
 3 the amount of \$_____ in the designated beneficiary account.

4 **SECTION 8.** The Department of Consumer and Business Services has the following pow-
 5 ers, duties and functions:

6 (1) To establish, develop, implement and maintain cohort accounts and designated bene-
 7 ficiary accounts.

8 (2) To adopt rules for the general administration of sections 1 to 14 of this 2017 Act.

9 (3) To make and enter into any and all contracts, agreements or arrangements, and to
 10 retain, employ and contract for the services of private and public financial institutions, de-
 11 positories, consultants, investment advisors or managers and third-party plan administrators
 12 and for research, technical and other services necessary or desirable for carrying out the
 13 purposes of sections 1 to 14 of this 2017 Act.

14 (4) To accept donations or receive funds into a cohort account for purposes of providing
 15 scholarships, grants and other incentives to designated beneficiaries or furthering any of the
 16 purposes of sections 1 to 14 of this 2017 Act.

17 (5) To award scholarships or grants, provide or make available other incentives to des-
 18 ignated beneficiaries or enter into promotional arrangements with third parties as the de-
 19 partment considers desirable.

20 **SECTION 9.** Moneys deposited into accounts under sections 1 to 14 of this 2017 Act are
 21 considered moneys of the State of Oregon. Except as otherwise provided by law, the De-
 22 partment of Consumer and Business Services is the trustee of the moneys and earnings.

23 **SECTION 10.** (1) The Department of Consumer and Business Services may accept con-
 24 tributions of money to the Oregon Bright Futures Fund or a cohort account or designated
 25 beneficiary account once an account is established. The department shall adopt rules de-
 26 scribing persons who may contribute, methods by which contributions may be made and any
 27 conditions that may apply to the crediting of contributions to accounts.

28 (2) Money contributed to a cohort account or designated beneficiary account is subject
 29 to the provisions of sections 1 to 14 of this 2017 Act.

30 (3) Contributions to an account may be made only in cash.

31 (4) Total contributions to a designated beneficiary account may not exceed amounts
 32 reasonably necessary to provide for the qualified post-secondary education expenses of the
 33 designated beneficiary. The department shall establish maximum contribution limits appli-
 34 cable to designated beneficiary accounts and may require the provision of any information
 35 from a designated beneficiary that the department considers necessary to establish such
 36 limits.

37 (5) The department shall maintain separate records and accountings for each cohort ac-
 38 count and designated beneficiary account, and make reports at least annually to designated
 39 beneficiaries.

40 (6) If the department determines that moneys in a designated beneficiary account will
 41 not be or are highly unlikely to be used to pay qualified post-secondary education expenses,
 42 the department shall terminate the designated beneficiary account and credit any amount in
 43 the designated beneficiary account to the appropriate cohort account.

44 (7) The department shall allow information regarding amounts held in designated benefi-
 45 ciary accounts to be electronically linked using financial aggregation software to financial

1 accounts held at financial institutions, to accounts established under the Oregon 529 Savings
 2 Network or to other accounts, entities, persons or locations as specified by the department
 3 by rule.

4 **SECTION 11.** (1) The Department of Consumer and Business Services and the State of
 5 Oregon may not insure any account or guarantee any rate of return or any interest rate on
 6 any moneys in an account.

7 (2) The department and the State of Oregon are not liable for any loss incurred by any
 8 person as a result of having a designated beneficiary account established for the person's
 9 benefit or as a result of contributing to an account.

10 **SECTION 12.** (1) Moneys in an account, including any interest, may not be assigned or
 11 pledged or otherwise used to secure or obtain a loan or other advancement.

12 (2) The right of a designated beneficiary to the payment of qualified post-secondary edu-
 13 cation expenses, or to payments and withdrawals made in exercise of that right, and to
 14 moneys or property held within an account is exempt from garnishment and is not subject
 15 to execution, attachment or any other process or to the operation of any bankruptcy or
 16 insolvency law.

17 (3) A refund of a qualified withdrawal may not be paid by a post-secondary education in-
 18 stitution directly to the designated beneficiary. Any refund owed by a post-secondary educa-
 19 tion institution on account of an overpayment made or reimbursed from a qualified
 20 withdrawal must be refunded to the Department of Consumer and Business Services for de-
 21 posit in the appropriate designated beneficiary account.

22 **SECTION 13.** (1) Subject to subsection (2) of this section, information relating to desig-
 23 nated beneficiary accounts, including but not limited to names, addresses, telephone num-
 24 bers, balances, amounts contributed and earnings on amounts contributed and the unique
 25 identifier assigned by the Department of Consumer and Business Services, is confidential and
 26 may not be disclosed.

27 (2) Information relating to designated beneficiary accounts may be disclosed:

28 (a) In the aggregate, such that the disclosed information cannot be used to identify,
 29 contact or locate any single individual;

30 (b) To the extent necessary to administer sections 1 to 14 of this 2017 Act; or

31 (c) If the person to whom the information relates expressly agrees in writing that the
 32 information may be disclosed.

33 **SECTION 14.** (1) The Department of Consumer and Business Services may withdraw
 34 moneys from an account in the Oregon Bright Futures Fund for the payment of qualified
 35 post-secondary education expenses only in the manner prescribed by the department by rule.

36 (2) The department shall notify a designated beneficiary of any withdrawal from the
 37 designated beneficiary account held for the designated beneficiary.

38 **SECTION 15.** (1) The Financial Institution Community Education Fund is established in
 39 the State Treasury, separate and distinct from the General Fund. Interest earned by the
 40 Financial Institution Community Education Fund shall be credited to the fund. All moneys
 41 credited to the Financial Institution Community Education Fund are continuously appropri-
 42 ated to the Department of Consumer and Business Services for any purpose for which mon-
 43 eys in the Oregon Bright Futures Fund established under section 2 of this 2017 Act may be
 44 used.

45 (2) The Financial Institution Community Education Fund shall consist of:

1 (a) Contributions or donations made by participating financial institutions for deposit in
2 the fund; and

3 (b) Earnings on moneys in the fund.

4 (3) The department may accept contributions to the fund from participating financial
5 institutions, as defined in section 1 of this 2017 Act. The department may not accept contri-
6 butions to the fund from any other source.

7 **SECTION 16.** (1) The Department of Consumer and Business Services shall report the
8 department's findings and recommendations regarding the implementation of sections 1 to
9 14 of this 2017 Act to the interim committees of the Legislative Assembly related to educa-
10 tion, in the manner provided by ORS 192.245, no later than September 15, 2018, and may in-
11 clude recommendations for legislation.

12 (2) In addition to the report required under subsection (1) of this section, the department
13 shall report its findings and recommendations regarding the implementation of sections 1 to
14 14 of this 2017 Act to the Legislative Assembly in the manner provided by ORS 192.245 no
15 later than April 1, 2019, and may include recommendations for legislation.

16 **SECTION 17.** ORS 295.101 is amended to read:

17 295.101. (1) The following public funds are not subject to the provisions of ORS 295.001 to
18 295.108:

19 (a) Funds that are deposited for the purpose of paying principal, interest or premium, if any, on
20 bonds, as defined in ORS 286A.001 and 287A.001, and related costs or securing a borrowing related
21 to an agreement for exchange of interest rates entered into under ORS 286A.110 or 287A.335.

22 (b) Funds that are invested in authorized investments under provisions of law other than ORS
23 295.001 to 295.108. Funds invested under ORS 293.701 to 293.857 are invested in authorized invest-
24 ments for purposes of this subsection from the time the funds are transferred by the State Treasurer
25 to a third party under the terms of a contract for investment or administration of the funds that
26 requires such a transfer until the time the funds are returned to the treasurer or paid to another
27 party under the terms of the contract.

28 (c) Negotiable certificates of deposit purchased by the State Treasurer under ORS 293.736 or
29 by an investment manager under ORS 293.741.

30 (d) Funds that are held by a public official and are required by federal law or contractual pro-
31 visions to be collateralized at 100 percent, if the funds are deposited in an account that is separate
32 from other accounts of the public official in a depository, and the public official and the depository
33 have entered into a written agreement that provides a perfected security interest to the public of-
34 ficial in collateral valued at an amount at least equal to the amount of funds in the account in a
35 manner substantially similar to a pledge agreement described in ORS 295.001 (15).

36 (e) Funds that are maintained by the Department of Consumer and Business Services
37 under sections 1 to 14 of this 2017 Act.

38 (2) Notwithstanding subsection (1) of this section, funds deposited by a custodial officer under
39 ORS 294.035 (3)(d) are subject to the provisions of ORS 295.001 to 295.108.

40 **SECTION 18.** In addition to and not in lieu of any other appropriation, there is appro-
41 priated to the Department of Consumer and Business Services, for the biennium beginning
42 July 1, 2017, out of the General Fund, the amount of \$_____, for deposit in the Oregon
43 Bright Futures Fund established under section 2 of this 2017 Act.

44 **SECTION 19.** (1) Sections 1 to 14 of this 2017 Act and the amendments to ORS 295.101
45 by section 17 of this 2017 Act become operative on January 1, 2018.

1 **(2) The State Registrar of the Center for Health Statistics and the Department of Con-**
2 **sumer and Business Services may take any action before the operative date specified in**
3 **subsection (1) of this section that is necessary to enable the state registrar or department**
4 **to exercise, on and after the operative date specified in subsection (1) of this section, all the**
5 **duties, functions and powers conferred on the state registrar or department by sections 1**
6 **to 14 of this 2017 Act.**

7 **SECTION 20.** **This 2017 Act being necessary for the immediate preservation of the public**
8 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
9 **on its passage.**

10