

# House Bill 3347

Sponsored by Representative FLORES

## 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**.

Establishes Foster Child Scholarship Program within Department of Education. Directs department to award scholarships to foster children to attend public school outside of resident school district or nonpublic school.

Directs Legislative Administration Committee to contract with researchers to conduct study of program.

Allows department to use moneys in State School Fund for program.

First applies to 2008-2009 school year.

## A BILL FOR AN ACT

1  
2 Relating to Foster Child Scholarship Program; creating new provisions; and amending ORS 327.008.

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

### **SECTION 1. As used in sections 1 to 5 of this 2007 Act:**

4  
5 (1) **"Eligible student" means any elementary or secondary student who is eligible to at-**  
6 **tend public school and who is in foster care.**

7 (2) **"Guardian" includes a parent, foster care parent, guardian or other person with the**  
8 **authority to act on behalf of the child.**

9 (3) **"Individualized education program" has the meaning given that term in ORS 343.035.**

10 (4) **"Participating school" means either a public school outside of the resident school**  
11 **district or any nonpublic school that provides education to elementary or secondary students**  
12 **and has notified the Department of Education of its intention to participate in the program**  
13 **and comply with the program's requirements.**

14 (5) **"Program" means the Foster Child Scholarship Program established under section 2**  
15 **of this 2007 Act.**

16 (6) **"Resident school district" means the school district in which the guardian of the**  
17 **student resides.**

18 (7) **"State agency" means an agency within the executive department as that term is**  
19 **defined in ORS 174.112.**

20 **SECTION 2. (1) There is established within the Department of Education the Foster Child**  
21 **Scholarship Program.**

22 (2) **Any student who is in foster care has the opportunity to receive a scholarship from**  
23 **the state to enroll in and attend a participating school.**

24 (3) **Eligible students shall retain program eligibility regardless of subsequent placement**  
25 **out of the foster care system and until their graduation from high school or their 21st**  
26 **birthday, whichever comes first.**

27 (4) **Any eligible student qualifies for an annual scholarship in an amount equal to the**  
28 **lesser of:**

**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 (a) The participating school's annual cost per student, including operational and capital  
2 facility costs and any costs associated with the eligible student's special needs; or

3 (b) The dollar amount the resident school district would have received to serve and edu-  
4 cate the eligible student from federal, state and local sources had the student enrolled there,  
5 including costs for an individualized education program for applicable students.

6 (5) The decision to enroll in a participating school shall be made by the eligible student's  
7 foster care parent if currently under foster care or by the student's current legal guardian  
8 at the time of enrollment.

9 (6) The scholarship is the entitlement of the eligible student under the supervision of the  
10 eligible student's guardian. The scholarship may not be considered the entitlement of any  
11 school.

12 (7) A participating school may not refund, rebate or share a student's scholarship with  
13 a student, parent or guardian in any manner. A student's scholarship may be used for edu-  
14 cational purposes such as tuition, special education and related services, transportation  
15 costs, uniforms, books or other school fees, tutoring and other extracurricular programs  
16 with an educational purpose. Such expenses are authorized when a participating school either  
17 is providing these services or is under contract with a third party to provide these services.  
18 In either case, scholarship funds are payable only to the participating school.

19 (8) Participating schools can accept eligible students on a first-come, first-served basis  
20 until such time as they have more eligible students applying than spaces available. When  
21 participating schools are oversubscribed they shall fill the available spaces by a random se-  
22 lection process, except that participating schools may give preference to siblings of enrolled  
23 students and previously enrolled scholarship students under sections 1 to 5 of this 2007 Act.

24 (9) If an eligible student is denied admission to a participating school because the school  
25 has too few available spaces, the eligible student may transfer the student's scholarship to  
26 a participating school that has spaces available.

27 (10) The department may use moneys in the State School Fund for scholarships. Except  
28 as provided in section 3 of this 2007 Act, a resident school district of a student who receives  
29 a scholarship may not receive moneys from the State School Fund for the student if the  
30 student is attending a participating school.

31 (11) The State Board of Education shall adopt rules consistent with sections 1 to 5 of this  
32 2007 Act regarding:

33 (a) The eligibility and participation of nonpublic schools, including timelines that will  
34 maximize student and public and nonpublic school participation;

35 (b) The calculation and distribution of scholarships to eligible students; and

36 (c) The application and approval procedures for scholarships for eligible students and  
37 participating schools.

38 **SECTION 3.** (1) The resident school district shall provide transportation for the eligible  
39 student to and from the participating school under the same conditions as the resident  
40 school district is required to provide transportation to public charter school students under  
41 ORS 338.145.

42 (2) Any transportation costs incurred by a school district under this section shall be  
43 considered approved transportation costs for purposes of ORS 327.013 in the same manner  
44 as transportation costs incurred by the school district for transporting students who attend  
45 the public schools of the school district are considered approved transportation costs for

1 purposes of ORS 327.013.

2 **SECTION 4.** (1) The Department of Education shall ensure that eligible students and  
 3 their guardians are informed annually of which schools will be participating in the Foster  
 4 Child Scholarship Program. The department also shall provide the information to all state  
 5 agencies and organizations that are involved in issues pertaining to foster care to maximize  
 6 the awareness among potential beneficiaries.

7 (2) The department shall create a standard application that students interested in the  
 8 Foster Child Scholarship Program can submit to participating schools to establish their el-  
 9 igibility and apply for admissions. Participating schools may require supplemental informa-  
 10 tion from applicants. The department shall ensure that the application is readily available  
 11 to interested families through various sources, including the Internet.

12 (3) The department may bar a school from participation in the Foster Child Scholarship  
 13 Program if the department establishes that the participating school has:

14 (a) Intentionally and substantially misrepresented information required under section 5  
 15 of this 2007 Act;

16 (b) Routinely failed to comply with at least three of the accountability standards estab-  
 17 lished under section 5 of this 2007 Act; or

18 (c) Failed to refund to the state any scholarship overpayments in a timely manner.

19 (4) If the department decides to bar a participating school from the program, it shall  
 20 notify eligible students and their guardians as quickly as possible.

21 (5) The State Board of Education shall adopt rules and procedures necessary for the ad-  
 22 ministration of the Foster Child Scholarship Program.

23 **SECTION 5.** (1) To be eligible to participate in the Foster Child Scholarship Program, a  
 24 nonpublic school must operate in this state and:

25 (a) To ensure that students are treated fairly and kept safe:

26 (A) Demonstrate compliance with all state and local laws that apply to nonpublic schools;  
 27 and

28 (B) Certify that the school will not discriminate in admissions on the basis of ethnicity,  
 29 national origin, race, religion, disability, gender, income level, proficiency in the English  
 30 language or athletic ability.

31 (b) To ensure that public funds are spent appropriately:

32 (A) Demonstrate the school's financial accountability by:

33 (i) Submitting a financial information report for the school that complies with uniform  
 34 financial accounting standards established by the Department of Education and is prepared  
 35 by a certified public accountant; and

36 (ii) Having an auditor certify the report is free of material misstatements. The auditor's  
 37 certification shall be limited in scope to those records that are necessary for the department  
 38 to make payments to schools for scholarships.

39 (B) Demonstrate the school's financial viability by showing that the school can pay any  
 40 funds owed to the state, if the school is to receive \$50,000 or more during the school year,  
 41 by:

42 (i) Filing with the department prior to the start of the school year a surety bond payable  
 43 to the state in an amount equal to the aggregate amount of the Foster Child Scholarships  
 44 expected to be paid during the school year to eligible students admitted to the school; or

45 (ii) Filing with the department prior to the start of the school year financial information

1 that demonstrates that the school has the ability to pay an aggregate amount equal to the  
 2 amount of the Foster Child Scholarships expected to be paid during the school year to eligible  
 3 students admitted to the school.

4 (c) To ensure that schools provide academic accountability to guardians of the students  
 5 in the program, regularly report to the guardian on the student's progress.

6 (2)(a) A nonpublic school participating in the program is autonomous and not an agent  
 7 of the state or federal government.

8 (b) The department or any other state agency may not in any way regulate the educa-  
 9 tional program of a nonpublic school that accepts a Foster Child Scholarship.

10 (c) The creation of the Foster Child Scholarship Program does not expand the regulatory  
 11 authority of the state, its officers or any school district to impose any additional regulation  
 12 of nonpublic schools beyond those reasonably necessary to enforce the requirements of the  
 13 program.

14 (d) Nonpublic schools participating in the program shall be given the maximum freedom  
 15 to provide for the educational needs of their students without governmental control.

16 **SECTION 6.** (1) The Legislative Administration Committee may contract with one or  
 17 more qualified researchers who have previous experience evaluating school choice programs  
 18 to conduct a study of the Foster Child Scholarship Program established under sections 1 to  
 19 5 of this 2007 Act.

20 (2) The study shall be conducted with funds other than state funds and shall assess:

21 (a) The level of participating students' satisfaction with the program;

22 (b) The level of parental or guardian satisfaction with the program;

23 (c) The percentage of participating students who exhibited behavioral problems at their  
 24 resident school districts compared with the percentage exhibiting behavioral problems at  
 25 their participating schools;

26 (d) The class size experienced by participating students at their resident school districts  
 27 and at their participating schools; and

28 (e) The fiscal impact to the state and resident school districts of the program.

29 (3) The researchers who conduct the study shall apply appropriate analytical and behav-  
 30 ioral sciences methodologies to ensure public confidence in the study.

31 (4) The researchers who conduct the study shall provide the Legislative Assembly with  
 32 a final copy of the results of the study.

33 (5) The public and nonpublic participating school from which a student transfers to par-  
 34 ticipate in the program shall cooperate with the research effort by providing student as-  
 35 sessment instrument scores and any other data necessary to complete the study.

36 (6) The Legislative Administration Committee may accept grants and donations to assist  
 37 in funding the study.

38 (7) The Legislative Administration Committee may require periodic reports from the re-  
 39 searchers and may require the researchers to present the reports to appropriate legislative  
 40 committees. The researchers must make their data and methodology available for public re-  
 41 view while complying with the requirements of the Family Educational Rights and Privacy  
 42 Act of 1974 (20 U.S.C. 1232g).

43 **SECTION 7.** ORS 327.008, as amended by section 6a, chapter 803, Oregon Laws 2005, is  
 44 amended to read:

45 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist

1 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education  
2 Stability Fund. The State School Fund is continuously appropriated to the Department of Education  
3 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,  
4 327.355, 327.357, 327.360, 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961 **and sections**  
5 **1 to 5 of this 2007 Act.**

6 (2) There shall be apportioned from the State School Fund to each school district a State School  
7 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant  
8 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-  
9 vided in ORS 327.013.

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

12 (4) All figures used in the determination of the distribution of the State School Fund shall be  
13 estimates for the same year as the distribution occurs, unless otherwise specified.

14 (5) Numbers of students in average daily membership used in the distribution formula shall be  
15 the numbers as of June of the year of distribution.

16 (6) A school district may not use the portion of the State School Fund grant that is attributable  
17 to the facility grant for capital construction costs.

18 (7) The total amount of the State School Fund that is distributed as facility grants may not ex-  
19 ceed \$25 million in any biennium. If the total amount to be distributed as facility grants exceeds this  
20 limitation, the Department of Education shall prorate the amount of funds available for facility  
21 grants among those school districts that qualified for a facility grant.

22 (8) Each fiscal year, the Department of Education shall transfer the amount of \$12 million from  
23 the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

24 (9) Each fiscal year, the Department of Education shall transfer the amount of \$2.5 million from  
25 the State School Fund to the Small School District Supplement Fund established in ORS 327.360.

26 **SECTION 8. The Department of Education shall first make Foster Child Scholarships**  
27 **available to students for the 2008-2009 school year.**

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