

# Senate Bill 7

Sponsored by Senator COURTNEY, Representative STIEGLER; Senators BURDICK, DEVLIN, DINGFELDER, METSGER, Representatives BAILEY, BARKER, BARTON, BOONE, BUCKLEY, CAMERON, CANNON, CLEM, ESQUIVEL, GARRETT, GILMAN, GREENLICK, HARKER, JENSON, KAHL, KOMP, MATTHEWS, MAURER, READ, RICHARDSON, RILEY, ROBLAN, SCHAUFLE, G SMITH, J SMITH, TOMEI, WHISNANT (at the request of State Treasurer Ben Westlund)

## 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**.

Creates prepaid tuition contracts for Oregon residents under Oregon 529 College Savings Network. Limits tuition changes in accordance with projected rates adopted by Oregon 529 College Savings Board. Requires state to purchase insurance to protect against fund shortfalls. Allows use of prepaid tuition credits toward tuition at out-of-state or private university. Authorizes establishment of financing plans for purchase of prepaid tuition credits. Limits age of tuition beneficiaries when program begins.

## A BILL FOR AN ACT

1  
2 Relating to tax-advantaged Oregon 529 college savings plans; creating new provisions; and amending  
3 ORS 341.290, 348.841, 348.860 and 351.070.

4 Whereas it is in the interest of Oregon's economy to develop and maintain a highly educated  
5 and productive workforce; and

6 Whereas every Oregonian should have the opportunity to obtain a college education; and

7 Whereas encouraging and helping Oregon families save for the future cost of college promotes  
8 the public good; and

9 Whereas the cost of a college education continues to rise annually; and

10 Whereas the average Oregon student graduates from college with more than \$19,000 in loan  
11 debt; and

12 Whereas a state 529 college savings plan offers tax advantages and savings incentives to com-  
13 plement the shared responsibility model of funding a college degree; and

14 Whereas Oregon families should have a safe and secure option to save for the future costs of  
15 college tuition; and

16 Whereas this Act will provide Oregon families with the peace of mind of a guaranteed savings  
17 option for the future costs of college; now, therefore,

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

19 **SECTION 1. Sections 2 to 6 of this 2009 Act are added to and made a part of ORS 348.841**  
20 **to 348.873.**

21 **SECTION 2. (1) The Oregon 529 College Savings Board shall establish a prepaid tuition**  
22 **plan for designated beneficiaries who are Oregon residents. The plan shall allow persons to**  
23 **enter into contracts for purchase of prepaid tuition credits redeemable for individual credit**  
24 **units at any higher education institution.**

25 **(2) The board shall set the price for prepaid tuition credits based on factors including,**  
26 **but not limited to:**

27 **(a) The uniform projected change in tuition rates adopted pursuant to section 3 (2) and**

**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 (4) of this 2009 Act.

2 (b) The cost of tuition at the state institutions of higher education listed in ORS 352.002  
3 and community colleges.

4 (c) The projected rate of return established by the board for funds deposited into the  
5 Oregon 529 College Savings Network Fund.

6 (3) If the designated beneficiary of a prepaid tuition contract enrolls in a higher educa-  
7 tion institution that is not a state institution of higher education listed in ORS 352.002 or a  
8 community college, the board shall adopt rules allowing reimbursement to the account holder  
9 of an amount to be determined by the board.

10 (4) The board shall contract for insurance guaranteeing the projected rate of return for  
11 funds invested by the account holder into the Oregon 529 College Savings Network Fund. The  
12 board may include the costs of insurance within administrative costs and expenses, as au-  
13 thorized by ORS 348.856. The board is not subject to the provisions of ORS chapters 279A and  
14 279B in awarding contracts under this subsection.

15 (5) The board shall include in all prepaid tuition contracts a provision allowing the board  
16 to cancel a contract if the insurance required under subsection (4) of this section cannot be  
17 obtained or if the board determines that the purchase price is excessive.

18 (6) The board shall establish a process for refunds from an account if the designated  
19 beneficiary does not attend a higher education institution, or if the designated beneficiary  
20 does not use all of the beneficiary's prepaid tuition credits.

21 (7) The board may establish a tuition financing plan for account owners allowing for in-  
22 stallment payments for prepaid tuition credits.

23 (8) The board may establish a program whereby a higher education institution that is not  
24 a state institution of higher education listed in ORS 352.002 or a community college may offer  
25 a prepaid tuition plan through the Oregon 529 College Savings Network.

26 **SECTION 3.** (1) Prior to May 1 of each year, each state institution of higher education  
27 listed in ORS 352.002 and each community college district shall transmit to the Oregon 529  
28 College Savings Board its projected change in tuition rates for prepaid tuition contracts en-  
29 tered into during the six months beginning July 1 of that year.

30 (2) After receipt of the information transmitted pursuant to subsection (1) of this sec-  
31 tion, the board shall adopt a uniform projected change in tuition rates for tuition credits  
32 purchased during the six months beginning July 1 of that year.

33 (3) Prior to November 1 of each year, each state institution of higher education listed in  
34 ORS 352.002 and each community college district shall transmit to the Oregon 529 College  
35 Savings Board its projected change in tuition rates for prepaid tuition contracts entered into  
36 during the first six months of the following calendar year.

37 (4) After receipt of the information transmitted pursuant to subsection (3) of this sec-  
38 tion, the board shall adopt a uniform projected change in tuition rates for tuition credits  
39 purchased during the first six months of the following calendar year.

40 (5) State institutions of higher education listed in ORS 352.002 and community college  
41 districts shall accept tuition for a designated beneficiary at the cost allowed by the uniform  
42 projected change in tuition rates adopted by the board for the six-month period during which  
43 the account owner purchases the prepaid tuition credit.

44 (6) All earnings on funds deposited into the Oregon 529 College Savings Network Fund  
45 under the terms of a prepaid tuition contract in excess of the amount required to pay the

1 tuition specified in the prepaid tuition contract shall be distributed as determined by the  
2 board.

3 **SECTION 4.** The Oregon 529 College Savings Board may not begin entering into prepaid  
4 tuition contracts under sections 2 and 3 of this 2009 Act until the board has entered into an  
5 insurance contract as required by section 2 (4) of this 2009 Act at a price that the board  
6 determines will maintain the affordability of prepaid tuition contracts to a large number of  
7 Oregon residents.

8 **SECTION 5.** If the Oregon 529 College Savings Board determines at any time that the  
9 insurance required by section 2 (4) of this 2009 Act cannot be purchased, or if the board de-  
10 termines that the purchase price is excessive, the board shall close the program to new  
11 contracts, may cancel existing contracts and may take any other action necessary to ensure  
12 the continued solvency of the Oregon 529 College Savings Network Fund.

13 **SECTION 6.** Individuals who are 13 years of age or older prior to the date on which pre-  
14 paid tuition contracts are first made available by the Oregon 529 College Savings Network  
15 are not eligible to be designated as beneficiaries on a prepaid tuition contract.

16 **SECTION 7.** ORS 348.841 is amended to read:

17 348.841. As used in ORS 348.841 to 348.873:

18 (1) "Account" means an individual account established in accordance with ORS 348.841 to  
19 348.873.

20 (2) "Account owner" means the person who has the right to withdraw funds from the account.  
21 The account owner may also be the designated beneficiary of the account.

22 (3) "Board" means the Oregon 529 College Savings Board established under ORS 348.849.

23 (4) **"Community college" and "community college district" have the meanings given those  
24 terms in ORS 341.005.**

25 [(4)] (5) "Designated beneficiary" means, except as provided in ORS 348.867, the individual des-  
26 ignated at the time the account is opened as having the right to receive a qualified withdrawal for  
27 the payment of qualified higher education expenses, or if the designated beneficiary is replaced in  
28 accordance with ORS 348.867, the replacement.

29 [(5)] (6) "Financial institution" means a bank, a commercial bank, a national bank, a savings  
30 bank, a savings and loan, a thrift institution, a credit union, an insurance company, a trust company,  
31 a mutual fund, an investment firm or other similar entity authorized to do business in this state.

32 [(6)] (7) "Higher education institution" means an eligible education institution as defined in  
33 section 529(e)(5) of the Internal Revenue Code.

34 [(7)] (8) "Internal Revenue Code" means the federal Internal Revenue Code.

35 [(8)] (9) "Member of the family" shall have the same meaning as contained in section 529(e) of  
36 the Internal Revenue Code.

37 [(9)] (10) "Network" means the Oregon 529 College Savings Network established under ORS  
38 348.841 to 348.873.

39 [(10)] (11) "Nonqualified withdrawal" means a withdrawal from an account that is not a qualified  
40 withdrawal.

41 (12) **"Prepaid tuition contract" means an agreement entered into under sections 2 and 3  
42 of this 2009 Act by the Oregon 529 College Savings Board and an account owner to provide  
43 for the payment of higher education tuition of a designated beneficiary.**

44 [(11)] (13) "Qualified higher education expenses" means tuition and other permitted expenses as  
45 set forth in section 529(e) of the Internal Revenue Code for the enrollment or attendance of a des-

1 designated beneficiary at a higher education institution.

2 [(12)] (14) "Qualified withdrawal" means a withdrawal made as prescribed under ORS 348.870  
 3 and made:

4 (a) From an account to pay the qualified higher education expenses of the designated benefi-  
 5 ciary;

6 (b) As the result of the death or disability of the designated beneficiary;

7 (c) As the result of a scholarship, allowance or payment described in section 135(d)(1)(A), (B)  
 8 or (C) of the Internal Revenue Code that is received by the designated beneficiary, but only to the  
 9 extent of the amount of the scholarship, allowance or payment; or

10 (d) As a rollover or change in the designated beneficiary described in ORS 348.867.

11 **SECTION 8.** ORS 348.860 is amended to read:

12 348.860. (1) Except as permitted in section 529 of the Internal Revenue Code, no person other  
 13 than the Oregon 529 College Savings Board or a financial institution in which Oregon 529 College  
 14 Savings Network funds have been invested shall have the right to direct the investment of any  
 15 contributions to or earnings from the network.

16 (2) **Except for a prepaid tuition contract under section 2 of this 2009 Act**, the network, the  
 17 board, each board member and the State of Oregon may not insure any account or guarantee any  
 18 rate of return or any interest rate on any contribution.

19 (3) The network, the board, each board member and the State of Oregon may not be liable for  
 20 any loss incurred by any person as a result of participating in the network.

21 [(3)] (4) The board, in the exercise of its sole discretion and without liability, may remove the  
 22 network's funds from any financial institution and reinvest the funds in a similar or different in-  
 23 vestment alternative at another financial institution pursuant to a contract, agreement or arrange-  
 24 ment entered into under ORS 348.853 (4).

25 **SECTION 9.** ORS 351.070 is amended to read:

26 351.070. (1) The Oregon University System, in accordance with rules adopted by the State Board  
 27 of Higher Education, shall implement a personnel system and may engage in collective bargaining  
 28 with its employees. All collective bargaining with any certified or recognized exclusive employee  
 29 representative shall be under the direction and supervision of the Chancellor of the Oregon Uni-  
 30 versity System. The Oregon University System shall have payroll authority pursuant to ORS 292.043  
 31 to 292.180.

32 (2)(a) The board shall establish competitive procedures for the purchasing, procurement and  
 33 contracting of goods, services and information technology, for the benefit of the Oregon University  
 34 System and all the institutions, departments and activities therein. The board may also establish  
 35 exemptions from the competitive procedures when appropriate.

36 (b) The board shall ensure that the hourly rate of wage paid by any contractor upon all public  
 37 improvements contracts undertaken for the board shall not be less than the same rate of wage as  
 38 determined by the Bureau of Labor and Industries for an hour's work in the same trade or occupa-  
 39 tion in the locality where such labor is performed. Claims or disputes arising under this subsection  
 40 shall be decided by the Commissioner of the Bureau of Labor and Industries.

41 (c) The board shall adopt policies and procedures that achieve results equal to or better than  
 42 the standards existing on July 17, 1995, regarding affirmative action, pay equity for comparable  
 43 work, recycling, the provision of workers' compensation insurance to workers on contract and the  
 44 participation of emerging small businesses and businesses owned by minorities and women.

45 (3) The board may, for each institution under its control:

1 (a) Appoint and employ a president and the requisite number of professors, teachers and em-  
2 ployees, and prescribe their compensation and tenure of office or employment.

3 (b) Demand and receive the interest mentioned in ORS 352.510 and all sums due and accruing  
4 to the institutions of higher education for admission and tuition therein, and apply the same, or so  
5 much thereof as is necessary, to the payment of the compensation referred to in paragraph (a) of this  
6 subsection and the other current expenses of the institutions.

7 (c) Prescribe fees for enrollment into the institutions. Such enrollment fees shall include tuition  
8 for education and general services and such other charges found by the board to be necessary to  
9 carry out its educational programs. The board may award student aid from any fund other than the  
10 General Fund. **The cost of tuition is subject to limitations for prepaid tuition contracts under**  
11 **the provisions of section 3 of this 2009 Act.**

12 (d) Prescribe incidental fees for programs under the supervision or control of the board found  
13 by the board, upon its own motion or upon recommendation of the recognized student government  
14 of the institution concerned, to be advantageous to the cultural or physical development of students.  
15 Fees realized in excess of amounts allocated and exceeding required reserves shall be considered  
16 surplus incidental fees and shall be allocated for programs under the control of the board and found  
17 to be advantageous to the cultural or physical development of students by the institution president  
18 upon the recommendation of the recognized student government at the institution concerned.

19 (e) Upon recommendation of the recognized student government, collect optional fees authorized  
20 by the institution executive, for student activities not included in paragraph (c) or (d) of this sub-  
21 section. The payment of such optional fees shall be at the option and selection of the student and  
22 shall not be a prerequisite of enrollment.

23 (f) Confer, on the recommendation of the faculty of any such institution, such degrees as usually  
24 are conferred by such institutions, or as they deem appropriate.

25 (g) Prescribe the qualifications for admission into such institutions.

26 (4) Subject to such delegation as the board may decide to make to the institutions, divisions and  
27 departments under its control, the board, for each institution, division and department under its  
28 control:

29 (a) Shall supervise the general course of instruction therein, and the research, extension, edu-  
30 cational and other activities thereof.

31 (b) Shall adopt rules and bylaws for the government thereof, including the faculty, teachers,  
32 students and employees therein.

33 (c) Shall maintain cultural and physical development services and facilities therefor and, in  
34 connection therewith, may cooperate and enter into agreements with any person or governmental  
35 agency.

36 (d) May contract to provide health services at student health centers.

37 (e) Shall provide health services at student health centers to students.

38 (f) May provide health services at student health centers to any of the following:

39 (A) Dependents of students.

40 (B) Staff.

41 (C) Faculty.

42 (g) Shall prescribe and collect charges.

43 (h) Shall adopt rules relating to the creation, use, custody and disclosure, including access, of  
44 student education records of the institutions that are consistent with the requirements of applicable  
45 state and federal law. Whenever a student has attained 18 years of age or is attending an institution

1 of post-secondary education, the permission or consent required of and the rights accorded to a  
 2 parent of the student regarding education records shall thereafter be required of and accorded to  
 3 only the student.

4 (5) For each institution under its jurisdiction, the board shall provide opportunities for part-time  
 5 students to obtain complete undergraduate degrees at unconventional times, which include but are  
 6 not limited to early morning and noon hours, evenings and weekends. In administering these degree  
 7 programs, the institution may use any educational facility available for the use of the institution.

8 **SECTION 10.** ORS 341.290 is amended to read:

9 341.290. The board of education of a community college district shall be responsible for the  
 10 general supervision and control of any and all community colleges operated by the district. Con-  
 11 sistent with any applicable rules of the State Board of Education, the board may:

12 (1) Subject to ORS chapters 238 and 238A, employ administrative officers, professional personnel  
 13 and other employees, define their duties, terms and conditions of employment and prescribe com-  
 14 pensation therefor, pursuant to ORS 243.650 to 243.782.

15 (2) Enact rules for the government of the community college, including professional personnel  
 16 and other employees thereof and students therein.

17 (3) Prescribe the educational program.

18 (4) Control use of and access to the grounds, buildings, books, equipment and other property of  
 19 the district.

20 (5) Acquire, receive, hold, control, convey, sell, manage, operate, lease, lease-purchase, lend, in-  
 21 vest, improve and develop any and all property of whatever nature given to or appropriated for the  
 22 use, support or benefit of any activity under the control of the board, according to the terms and  
 23 conditions of such gift or appropriation.

24 (6) Purchase real property upon a contractual basis when the period of time allowed for payment  
 25 under the contract does not exceed 30 years.

26 (7) Fix standards of admission to the community college, prescribe and collect tuition for ad-  
 27 mission to the community college, including fixing different tuition rates for students who reside in  
 28 the district, students who do not reside in the district but are residents of the state and students  
 29 who do not reside in the state. **The cost of tuition is subject to limitations for prepaid tuition**  
 30 **contracts under the provisions of section 3 of this 2009 Act.**

31 (8) Prescribe and collect fees and expend funds so raised for special programs and services for  
 32 the students and for programs for the cultural and physical development of the students.

33 (9) Provide and disseminate to the public information relating to the program, operation and fi-  
 34 nances of the community college.

35 (10) Establish or contract for advisory and consultant services.

36 (11) Take, hold and dispose of mortgages on real and personal property acquired by way of gift  
 37 or arising out of transactions entered into in accordance with the powers, duties and authority of  
 38 the board and institute, maintain and participate in suits and actions and other judicial proceedings  
 39 in the name of the district for the foreclosure of such mortgages.

40 (12) Maintain programs, services and facilities, and, in connection therewith, cooperate and en-  
 41 ter into agreements with any person or public or private agency.

42 (13) Provide student services including health, guidance, counseling and placement services, and  
 43 contract therefor.

44 (14) Join appropriate associations and pay any required dues therefor from resources of the  
 45 district.

1 (15) Apply for federal funds and accept and enter into any contracts or agreements for the re-  
 2 ceipt of such funds from the federal government or its agencies for educational purposes.

3 (16) Exercise any other power, duty or responsibility necessary to carry out the functions under  
 4 this section or required by law.

5 (17) Prescribe rules for the use and access to public records of the district that are consistent  
 6 with ORS 192.420, and education records of students under applicable state and federal law and  
 7 rules of the State Board of Education. Whenever a student has attained 18 years of age or is at-  
 8 tending an institution of post-secondary education, the permission or consent required of and the  
 9 rights accorded to a parent of the student regarding education records shall thereafter be required  
 10 of and accorded to only the student. However, faculty records relating to matters such as conduct,  
 11 personal and academic evaluations, disciplinary actions, if any, and other personal matters shall not  
 12 be made available to public inspection for any purpose except with the consent of the person who  
 13 is the subject of the record or upon order of a court of competent jurisdiction.

14 (18) Enter into contracts for the receipt of cash or property, or both, and establish charitable  
 15 gift annuities pursuant to ORS 731.038; and, commit, appropriate, authorize and budget for the pay-  
 16 ment of or other disposition of general funds to pay, in whole or in part, sums due under an agree-  
 17 ment for a charitable gift annuity, and to provide the necessary funding for reserves or other trust  
 18 funds pursuant to ORS 731.038.

19 (19) Encourage gifts to the district by faithfully devoting the proceeds of such gifts to the dis-  
 20 trict purposes for which intended.

21 (20) Build, furnish, equip, repair, lease, purchase and raze facilities; and locate, buy and acquire  
 22 lands for all district purposes. Financing may be by any prudent method including but not limited  
 23 to loans, contract purchase or lease. Leases authorized by this section include lease-purchase  
 24 agreements under which the district may acquire ownership of the leased property at a nominal  
 25 price. Such financing agreements may be for a term of up to 30 years except for lease arrangements  
 26 which may be for a term of up to 50 years.

27 (21) Participate in an educational consortium with public and private institutions that offer up-  
 28 per division and graduate instruction. Community colleges engaged in such consortiums may expend  
 29 money, provide facilities and assign staff to assist those institutions offering upper division and  
 30 graduate instruction.

31 (22) Enter into contracts of insurance or medical and hospital service contracts or may operate  
 32 a self-insurance program as provided in ORS 341.312.

33