

# House Bill 2291

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Education)

## SUMMARY

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

Creates tax credit for contributions to qualified scholarship granting organization. Authorizes qualified scholarship granting organization to grant scholarships to eligible students for attendance at qualified public or private schools. Sets forth standards for scholarship granting organizations and qualifying schools.

## A BILL FOR AN ACT

1  
2 Relating to tax credit for contributions to education; creating new provisions; and amending ORS  
3 329.085 and 329.105.

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

5 **SECTION 1. Sections 2 to 4 of this 2011 Act are added to and made a part of ORS chapter**  
6 **315.**

7 **SECTION 2. As used in sections 2 to 4 of this 2011 Act:**

8 (1) "Educational expenses" means expenses at a qualifying school for:

9 (a) Tuition and fees for educational services.

10 (b) Transportation related to educational activities.

11 (c) Educational materials, including books, school supplies, academic lessons, instruc-  
12 tional software and academic curricula.

13 (d) Costs of participating in evaluation and performance reporting under ORS 329.085 and  
14 329.105.

15 (2) "Educational scholarship" means a grant from a scholarship granting organization to  
16 an eligible student or a low-income eligible student to cover part or all of the educational  
17 expenses of the student.

18 (3) "Eligible student" means a student who:

19 (a)(A) Is a member of a household with total annual income, for the year preceding the  
20 year in which a student would receive an educational scholarship, that does not exceed two  
21 and one-half times the income standard used to qualify for a free or reduced-price lunch  
22 under the United States Department of Agriculture's current Income Eligibility Guidelines;  
23 or

24 (B) Received an educational scholarship for the previous school year;

25 (b) Is a resident of this state;

26 (c) Is five years of age or older but not more than 21 years of age;

27 (d) Has not graduated from high school; and

28 (e)(A) Was enrolled in the student's resident school district in the previous year; or

29 (B) Was not enrolled in the student's resident school district in the previous year, but  
30 was eligible to attend a public school in this state in a preceding academic term or is starting

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 school in this state for the first time.

2 (4) "Low-income eligible student" means a student who:

3 (a) Is a member of a household with total annual income, for the year preceding the year  
4 in which a student would receive an educational scholarship, that does not exceed the income  
5 standard used to qualify for a free or reduced-price lunch under the United States Depart-  
6 ment of Agriculture's current Income Eligibility Guidelines; and

7 (b) Satisfies the requirements of subsection (3)(b) to (e) of this section.

8 (5) "Parent" includes a legal guardian or custodian, or other person with legal authority  
9 to act on behalf of the student.

10 (6) "Qualifying school" has the meaning given that term in section 5 of this 2011 Act.

11 (7) "Scholarship granting organization" means an organization that has been certified by  
12 the Department of Revenue to receive taxpayer contributions under section 3 of this 2011  
13 Act and that:

14 (a) Distributes at least 90 percent of the taxpayer contributions on educational scholar-  
15 ships;

16 (b) Deposits all interest earnings and proceeds from investments in the educational  
17 scholarships;

18 (c) Qualifies as a tax-exempt organization under section 501(c)(3) of the Internal Revenue  
19 Code; and

20 (d) Submits a report to the department by June 1 of each year with information prepared  
21 by a certified public accountant regarding the scholarship grants awarded by the scholarship  
22 granting organization in the previous calendar year, under standards approved by the de-  
23 partment by rule.

24 **SECTION 3.** (1) A credit against the taxes otherwise due under ORS chapter 316, or under  
25 ORS chapter 317 or 318 if the taxpayer is a corporation, shall be allowed for contributions  
26 made to a scholarship granting organization during the tax year. The credit allowed under  
27 this section shall equal the amount of total contributions made to a scholarship granting  
28 organization for educational scholarships, up to 50 percent of the taxpayer's total state tax  
29 liability for the tax year.

30 (2) Any tax credit otherwise allowable under this section that is not used by the taxpayer  
31 in a tax year because the amount of the credit would exceed 50 percent of the taxpayer's  
32 state tax liability may be carried forward and offset against the taxpayer's tax liability for  
33 the next succeeding tax year. Any credit remaining unused in the next succeeding tax year  
34 may be carried forward and used in the second succeeding tax year, and likewise any credit  
35 not used in that second succeeding tax year may be carried forward and used in the third  
36 succeeding tax year, but may not be carried forward for any tax year thereafter.

37 (3) In the case of a credit allowed under this section for purposes of ORS chapter 316:

38 (a) A nonresident shall be allowed the credit under this section in the proportion provided  
39 in ORS 316.117.

40 (b) If a change in the status of a taxpayer from resident to nonresident or from nonres-  
41 ident to resident occurs, the credit allowed by this section shall be determined in a manner  
42 consistent with ORS 316.117.

43 (c) A husband and wife who file separate returns for a taxable year may each claim a  
44 share of the tax credit that would have been allowed on a joint return in proportion to the  
45 contribution of each.

1 (d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or  
 2 if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the  
 3 credit allowed under this section shall be prorated or computed in a manner consistent with  
 4 ORS 314.085.

5 (4) The Department of Revenue shall establish by rule policies and procedures for certi-  
 6 fying taxpayers as eligible for the credits allowed under this section.

7 **SECTION 4.** (1) A scholarship granting organization shall:

8 (a) Distribute quarterly scholarship payments on or before September 1, December 1,  
 9 March 1 and June 1 each school year, made out to the parent of an eligible student or low-  
 10 income eligible student who is awarded a scholarship from taxpayer contributions received  
 11 under section 3 of this 2011 Act and delivered to the qualifying school where the eligible  
 12 student or low-income eligible student is enrolled. The parent must endorse the payment  
 13 check before the payment check can be deposited by the qualifying school.

14 (b) Provide a receipt in a form approved by the Department of Revenue to taxpayers for  
 15 their contributions made to the scholarship granting organization.

16 (c) Ensure that the maximum amount of a scholarship is not more than 80 percent of the  
 17 averaged total of all local and state moneys spent on a public school student in this state.

18 (d) Ensure that at least 25 percent of all scholarships are granted to the parents of low-  
 19 income eligible students.

20 (e) Conduct background checks on prospective and current employees and board mem-  
 21 bers to determine any conviction of a crime or issuance of a judgment or injunction that  
 22 bears a demonstrable relationship to the appropriate use of contributed funds.

23 (f) Ensure that:

24 (A) Scholarships are portable during the school year and may be used at any qualifying  
 25 school that accepts the eligible student or low-income eligible student for admission; and

26 (B) Scholarships are properly prorated among different qualifying schools if an eligible  
 27 student or low-income eligible student transfers between qualifying schools during a school  
 28 year.

29 (g) Ensure that a qualifying school accepting eligible students or low-income eligible  
 30 students does not have paid staff or board members or family of paid staff or board members  
 31 in common with the paid staff or board members or family of paid staff or board members  
 32 of the scholarship granting organization. As used in this paragraph, "family" means a  
 33 spouse, child, sibling or parent of the paid staff or board member.

34 (2) The Department of Revenue shall adopt rules necessary for the administration and  
 35 enforcement of this section.

36 **SECTION 5.** (1) As used in this section, "qualifying school" means a public or private  
 37 school that accepts scholarship payments distributed under section 4 of this 2011 Act for el-  
 38 igible students and low-income eligible students, as those terms are defined in section 2 of  
 39 this 2011 Act.

40 (2) If the qualifying school is a private school, the qualifying school shall:

41 (a) Meet all criteria for registration under ORS 345.505 to 345.575;

42 (b) For the purpose of conducting criminal records checks under ORS 181.534, send to the  
 43 Department of Education the fingerprints of each person described in ORS 326.603 (1)(a) to  
 44 (d), and any other necessary information, and use the information from the criminal records  
 45 check to exclude from employment any person who might reasonably pose a threat to the

1 **safety of students at the qualifying school; and**

2 **(c) Participate in assessments of schools under ORS 329.085 and performance reports for**  
 3 **schools under ORS 329.105.**

4 **SECTION 6.** ORS 329.085 is amended to read:

5 329.085. (1) To facilitate the attainment and successful implementation of educational standards  
 6 under ORS 326.051 (1)(a) and 329.025, the State Board of Education or its designee shall assess the  
 7 effectiveness of each public school, public charter school, **qualifying school as defined in section**  
 8 **5 of this 2011 Act that is a private school** and school district. The findings of the assessment shall  
 9 be reported to the school or school district within six months.

10 (2) The board shall establish the standards, including standards of accessibility to educational  
 11 opportunities, upon which the assessment is based.

12 (3) On a periodic basis, the board shall review school and school district standards and credit  
 13 and performance requirements. The board shall seek public input in this process.

14 **SECTION 7.** ORS 329.105 is amended to read:

15 329.105. (1) The Superintendent of Public Instruction shall collect data and produce annual  
 16 school district and school performance reports containing information on student performance, stu-  
 17 dent behavior and school characteristics. **The superintendent also shall produce an annual re-**  
 18 **port for qualifying schools as defined in section 5 of this 2011 Act that are private schools.**  
 19 The purpose of the performance reports is to provide information to parents and to improve schools  
 20 through greater parental involvement.

21 (2)(a) In consultation with representatives of parents, teachers, school district boards and school  
 22 administrators, the State Board of Education shall adopt, by rule, criteria for identifying outstanding  
 23 schools, satisfactory schools and schools in need of improvement. Such criteria shall take into ac-  
 24 count student performance, improvement in student performance, the participation rate of students  
 25 on the statewide assessments, student attendance rates and graduation rates. The Superintendent  
 26 of Public Instruction, based on the criteria adopted by the State Board of Education, shall assign a  
 27 rating to each school that identifies the school as outstanding, satisfactory or in need of improve-  
 28 ment.

29 (b) The ratings received by a school shall be included in the school district and school per-  
 30 formance reports.

31 (c) If a **public** school is designated as in need of improvement, the school shall file a school  
 32 improvement plan with the Superintendent of Public Instruction and with the school district board.

33 (d) The Department of Education shall work with stakeholders to design and implement an ac-  
 34 countability system of progressive interventions for and provide technical assistance to **public**  
 35 schools and school districts that do not demonstrate improvement.

36 (3) The Superintendent of Public Instruction shall include in the school performance reports data  
 37 for the following areas, for each school, that are available to the Department of Education from the  
 38 most recent school year:

39 (a) Enrollment in English as a second language courses under ORS 336.079;

40 (b) Attendance rates;

41 (c) School safety, such as expulsions involving weapons in the school;

42 (d) Disaggregated data on students who met or exceeded the academic content standards estab-  
 43 lished by the board;

44 (e) Dropout rates and the number of students who dropped out of school;

45 (f) Parent and community involvement such as volunteer hours;

1 (g) The percentage of classes taught by a teacher identified as highly qualified under rules  
2 adopted by the United States Department of Education; and

3 (h) School staff, identified by category.

4 (4) The Superintendent of Public Instruction shall include in the school district performance  
5 reports data for the following areas, for each school district, that are available to the Department  
6 of Education from the most recent school year:

7 (a) Resident students who attend a public school in another school district;

8 (b) Facilities used for distance learning;

9 (c) Election results of any bond levy proposed to the electors of the district;

10 (d) Expenditures;

11 (e) Level of support from the education service district;

12 (f) Administrators not assigned to a specific school;

13 (g) School district staff, identified by category; and

14 (h) Students who are eligible for special education.

15 (5) The Superintendent of Public Instruction shall notify the public and the media by January  
16 30 of each year that school district and school performance reports are available at schools and  
17 school districts and at the Department of Education website and offices. The superintendent shall  
18 also include notice that copies of school improvement plans and district continuous improvement  
19 plans can be obtained from school and school district offices. Each school district shall send a copy  
20 of the school district and applicable school performance reports to each parent of a child enrolled  
21 in a public school in the school district.

22 **SECTION 8. Sections 2 to 4 of this 2011 Act apply to tax years beginning on or after**  
23 **January 1, 2012.**

24 **SECTION 9. Scholarships awarded under sections 2 to 4 of this 2011 Act are first avail-**  
25 **able for the 2012-2013 school year.**