

# House Bill 3018

Sponsored by Representatives GREENLICK, WILLIAMSON; Representative GORSEK

## 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 Oregon 529 college savings plans; creating new provisions; and amending ORS 341.290,  
3 348.841, 348.860 and 351.063.

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

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

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

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

17 **SECTION 1. Sections 2 to 5 of this 2013 Act are added to and made a part of ORS 348.841**  
18 **to 348.873.**

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

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

25 **(a) The uniform projected change in tuition rates adopted pursuant to section 3 (2) and**  
26 **(4) of this 2013 Act.**

27 **(b) The cost of tuition at the public universities listed in ORS 352.002 and the community**  
28 **colleges.**

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

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

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

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

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

18 (7) The board may establish a tuition financing plan for account owners that allows for  
19 installment payments for prepaid tuition credits.

20 (8) The board may establish a program whereby a public university listed in ORS 352.002  
21 or a community college may offer a prepaid tuition plan through the Oregon 529 College  
22 Savings Network.

23 **SECTION 3.** (1) Prior to May 1 of each year, each public university listed in ORS 352.002  
24 and each community college district shall submit to the Oregon 529 College Savings Board  
25 its projected change in tuition rates for prepaid tuition contracts entered into during the six  
26 months beginning July 1 of that year.

27 (2) Upon receipt of the information under subsection (1) of this section, the board shall  
28 adopt a uniform projected change in tuition rates for tuition credits purchased during the  
29 six months beginning July 1 of that year.

30 (3) Prior to November 1 of each year, each public university listed in ORS 352.002 and  
31 each community college district shall submit to the Oregon 529 College Savings Board its  
32 projected change in tuition rates for prepaid tuition contracts entered into during the first  
33 six months of the following calendar year.

34 (4) After receipt of the information submitted under subsection (3) of this section, the  
35 board shall adopt a uniform projected change in tuition rates for tuition credits purchased  
36 during the first six months of the following calendar year.

37 (5) Public universities listed in ORS 352.002 and community college districts shall accept  
38 tuition for a designated beneficiary at the cost allowed by the uniform projected change in  
39 tuition rates adopted by the board for the six-month period during which the account owner  
40 purchases the prepaid tuition credit.

41 (6) All earnings on funds deposited into the Oregon 529 College Savings Network Fund  
42 under the terms of a prepaid tuition contract in excess of the amount required to pay the  
43 tuition specified in the prepaid tuition contract shall be distributed as determined by the  
44 board.

45 **SECTION 4.** (1) The Oregon 529 College Savings Board may not enter into prepaid tuition

1 **contracts under sections 2 and 3 of this 2013 Act until the board has entered into an insur-**  
 2 **ance contract as required by section 2 (4) of this 2013 Act at a price that the board deter-**  
 3 **mines will maintain the affordability of prepaid tuition contracts to a large number of Oregon**  
 4 **residents.**

5 **(2) If the Oregon 529 College Savings Board determines at any time that the insurance**  
 6 **required by section 2 (4) of this 2013 Act cannot be purchased, or if the board determines**  
 7 **that the purchase price is excessive, the board shall close the program to new contracts,**  
 8 **may cancel existing contracts and may take any other action necessary to ensure the con-**  
 9 **tinued solvency of the Oregon 529 College Savings Network Fund.**

10 **SECTION 5. Individuals who are 13 years of age or older prior to the date on which pre-**  
 11 **paid tuition contracts are first made available by the Oregon 529 College Savings Network**  
 12 **are not eligible to be designated as beneficiaries on a prepaid tuition contract.**

13 **SECTION 6.** ORS 348.841, as amended by section 25, chapter 31, Oregon Laws 2012, is amended  
 14 to read:

15 348.841. As used in ORS 348.841 to 348.873:

16 (1) "Account" means an individual account established in accordance with ORS 348.841 to  
 17 348.873.

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

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

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

23 [(4)] (5) "Designated beneficiary" means, except as provided in ORS 348.867, the individual des-  
 24 ignated at the time the account is opened as having the right to receive a qualified withdrawal for  
 25 the payment of qualified higher education expenses, or if the designated beneficiary is replaced in  
 26 accordance with ORS 348.867, the replacement.

27 [(5)] (6) "Financial institution" means a bank, a commercial bank, a national bank, a savings  
 28 bank, a savings and loan, a thrift institution, a credit union, an insurance company, a trust company,  
 29 a mutual fund, an investment firm or other similar entity authorized to do business in this state.

30 [(6)] (7) "Higher education institution" means an eligible education institution as defined in  
 31 section 529(e)(5) of the Internal Revenue Code.

32 [(7)] (8) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in  
 33 effect on December 31, 2011.

34 [(8)] (9) "Member of the family" shall have the same meaning as contained in section 529(e) of  
 35 the Internal Revenue Code.

36 [(9)] (10) "Network" means the Oregon 529 College Savings Network established under ORS  
 37 348.841 to 348.873.

38 [(10)] (11) "Nonqualified withdrawal" means a withdrawal from an account that is not a qualified  
 39 withdrawal.

40 **(12) "Prepaid tuition contract" means an agreement entered into under sections 2 and 3**  
 41 **of this 2013 Act to provide for the payment of higher education of a designated beneficiary.**

42 [(11)] (13) "Qualified higher education expenses" means tuition and other permitted expenses as  
 43 set forth in section 529(e) of the Internal Revenue Code for the enrollment or attendance of a des-  
 44 ignated beneficiary at a higher education institution.

45 [(12)] (14) "Qualified withdrawal" means a withdrawal made as prescribed under ORS 348.870

1 and made:

2 (a) From an account to pay the qualified higher education expenses of the designated benefici-  
3 ary;

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

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

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

9 **SECTION 7.** ORS 348.860 is amended to read:

10 348.860. (1) Except as permitted in section 529 of the Internal Revenue Code, [*no person other*  
11 *than*] **only** the Oregon 529 College Savings Board or a financial institution in which Oregon 529  
12 College Savings Network funds have been invested [*shall have the right to*] **may** direct the invest-  
13 ment of any contributions to or earnings from the network.

14 (2) **Except for a prepaid tuition contract under section 2 of this 2013 Act**, the network, the  
15 board, each board member and the State of Oregon may not insure any account or guarantee any  
16 rate of return or any interest rate on any contribution.

17 (3) The network, the board, each board member and the State of Oregon [*may not be*] **are not**  
18 liable for any loss incurred by any person as a result of participating in the network.

19 [(3)] (4) The board, in the exercise of its sole discretion and without liability, may remove the  
20 network's funds from any financial institution and reinvest the funds in a similar or different in-  
21 vestment alternative at another financial institution pursuant to a contract, agreement or arrange-  
22 ment entered into under ORS 348.853 (4).

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

24 341.290. The board of education of a community college district shall be responsible for the  
25 general supervision and control of any and all community colleges operated by the district. Con-  
26 sistent with any applicable rules of the State Board of Education, the board may:

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

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

32 (3) Prescribe the educational program.

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

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

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

41 (7) **Subject to limitations for prepaid tuition contracts under section 3 of this 2013 Act**,  
42 fix standards of admission to the community college, prescribe and collect tuition for admission to  
43 the community college, including fixing different tuition rates for students who reside in the district,  
44 students who do not reside in the district but are residents of the state and students who do not  
45 reside in the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 **SECTION 9.** ORS 351.063 is amended to read:

4 351.063. (1) The State Board of Higher Education shall set enrollment fees for each public uni-  
5 versity listed in ORS 352.002. Enrollment fees include tuition for education and services and any  
6 other charges found by the State Board of Higher Education to be necessary to carry out the edu-  
7 cational program of the Oregon University System. **The cost of tuition is subject to limitations**  
8 **for prepaid tuition contracts under section 3 of this 2013 Act.**

9 (2) The State Board of Higher Education shall, by rule, establish a process under which each  
10 public university may develop and submit proposed enrollment fees for board consideration. The  
11 process must provide for participation of enrolled students and the recognized student government  
12 of the public university.

13 (3) Each public university listed in ORS 352.002 is authorized to offer fee remissions to its stu-  
14 dents, including remissions offered on the basis of need, from any authorized source of revenue.  
15 Moneys appropriated from the General Fund may not be used to fund fee remissions to students of  
16 the public university.

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