

Senate Bill 562

From the Desk of
Senator Thatcher

Sponsored by Senator THATCHER; Senator KNOPP

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 Oregon Empowerment Scholarship Program for purpose of providing options in education to students of this state.

Establishes qualifications for participation in program, qualified expenses under program and transfers of moneys made under program.

Restricts number of students from each school district who may enroll in program for first 10 years.

Establishes Department of Education Empowerment Account. Continuously appropriates moneys from General Fund to Department of Education for payment of department's expenses under program.

Establishes Treasurer Empowerment Account. Continuously appropriates moneys from General Fund to State Treasurer for payment of treasurer's expenses under program.

Establishes Oregon Empowerment Scholarship Account with State School Fund. Continuously appropriates moneys to Department of Education for purpose of making transfers under program.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to funding for educational options; creating new provisions; amending ORS 327.008, 339.030
3 and 339.505; and declaring an emergency.

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

5 **SECTION 1. Sections 1 to 7 of this 2015 Act may be cited as the Education Equity**
6 **Emergency Act.**

7 **SECTION 2. As used in sections 1 to 7 of this 2015 Act:**

8 (1) "Enrolled student" means a student who is a resident of this state and is enrolled in
9 the Oregon Empowerment Scholarship Program.

10 (2) "Parent" means a resident of this state who is a parent or legal guardian of a student
11 seeking to enroll or enrolled in the Oregon Empowerment Scholarship Program.

12 (3) "Post-secondary institution of education" means:

13 (a) A community college operated under ORS chapter 341;

14 (b) A public university listed in ORS 352.002 or the Oregon Health and Science University;

15 or

16 (c) A generally accredited, private post-secondary institution of education located in
17 Oregon.

18 (4) "Qualified expenses" means the following expenses of an enrolled student:

19 (a) Tuition or fees at a school described in ORS 339.030 (1)(a) for a complete course of
20 study for a particular content area or grade level, including the costs for any textbooks or
21 required course materials;

22 (b) Tuition for instruction provided by a private teacher, as described in ORS 339.030
23 (1)(d), including the costs for any course materials;

24 (c) The costs for any course materials incurred by a parent for providing instruction as

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 described in ORS 339.030 (1)(e);

2 (d) Tuition for instruction provided at a public school or fees for extracurricular activ-
 3 ities at a public school that are provided to students at the public school free of charge;

4 (e) Related services, as defined in ORS 343.035;

5 (f) Educational therapies or educational services provided by a licensed or accredited
 6 practitioner or provider;

7 (g) Tutoring services provided by a person licensed by the Teacher Standards and Prac-
 8 tices Commission or licensed or accredited by any state, regional or national accreditation
 9 organization;

10 (h) Tuition, fees, textbooks or required course materials for a private online learning
 11 program;

12 (i) Tuition, fees, textbooks or required course materials at a post-secondary institution
 13 of education;

14 (j) Fees for a nationally normed assessment, an advanced placement examination or any
 15 other assessment or examination related to admission at, or receipt of credit through, a
 16 post-secondary institution of education;

17 (k) Contributions to an account in the Oregon 529 College Savings Network; and

18 (L) Fees for management of an individual account established under the Oregon
 19 Empowerment Scholarship Program.

20 (5) "Statewide average distribution" means an amount determined by the Department of
 21 Education each school year to equal the average per student distribution of State School
 22 Funds as general purpose grants for all school districts in this state, as adjusted by any
 23 weights described in ORS 327.013 (1)(c)(A).

24 **SECTION 3. (1) The Oregon Empowerment Scholarship Program is established for the**
 25 **purpose of providing options in education to the students of this state.**

26 (2)(a) A parent may enroll or reenroll a student in the program by submitting an appli-
 27 cation to the Department of Education on the form and by the date required by the depart-
 28 ment, which may be no earlier than April 1. The application must show that the student is
 29 a resident of this state who has not completed high school and who meets the qualifications
 30 of paragraph (b) or (c) of this subsection.

31 (b) In the case of a parent seeking enrollment for a student, the student must have at-
 32 tended a public school in this state during the previous school year for at least 100 instruc-
 33 tional days and must be:

34 (A) A child with a disability, as defined in ORS 343.035;

35 (B) A child needing additional educational services, as identified by a school district;

36 (C) A ward of a juvenile court or the Department of Human Services; or

37 (D) Eligible to receive free or reduced price lunches under the United States Department
 38 of Agriculture's current Income Eligibility Guidelines.

39 (c) In the case of a parent seeking reenrollment for a student, the student must show
 40 that the student participated in the program during a previous school year. Any changes in
 41 qualifications described in paragraph (b) of this subsection do not affect the student's eligi-
 42 bility to reenroll in subsequent school years.

43 (d) Enrollment in the program is valid for one school year only and a parent must apply
 44 for reenrollment in the program for each subsequent school year.

45 (3) The Department of Education shall enroll or reenroll the student in the program

1 upon:

2 (a) Finding that the student meets the qualifications described in subsection (2) of this
3 section; and

4 (b) Receiving acknowledgment from the parent that the parent accepts the terms of
5 participation in the program, including:

6 (A) Restrictions on the use of moneys received under the program for qualified expenses
7 only; and

8 (B) The requirement that the student:

9 (i) Receive at least an education in English, mathematics, social studies and science; and

10 (ii) Comply with the requirements specified in ORS 339.035 (3) to (5).

11 (4) An enrolled student may not be required to attend public full-time schools, as pro-
12 vided by ORS 339.030, but may receive part-time instruction at a public school and must pay
13 tuition for that instruction.

14 (5)(a) Upon enrolling or reenrolling a student in the program, the department shall notify
15 the State Treasurer of the enrollment or reenrollment.

16 (b) The State Treasurer shall ensure that an account is established for each enrolled
17 student as described in section 4 of this 2015 Act. The State Treasurer shall notify the de-
18 partment after the State Treasurer:

19 (A) Verifies that an account already was established for the enrolled student if the en-
20 rolled student has participated in the program in a previous year; or

21 (B) Establishes an account for a enrolled student who does not already have an estab-
22 lished account.

23 (c) Upon receiving a notice as provided by paragraph (b) of this subsection, the depart-
24 ment shall, for each student enrolled:

25 (A) Transfer to an account established under section 4 of this 2015 Act an amount that
26 equals 90 percent of the statewide average distribution.

27 (B) Transfer to the school district in which the student is a resident an amount that
28 equals five percent of the statewide average distribution.

29 (C) Transfer to the Department of Education Empowerment Account established by sec-
30 tion 5 of this 2015 Act an amount that equals a percentage of the statewide average distrib-
31 ution that is specified by the State Board of Education by rule and that may not exceed four
32 percent.

33 (D) Transfer to the Treasurer Empowerment Account established by section 6 of this
34 2015 Act an amount that equals one percent of the statewide average distribution.

35 (6) A school or any other provider of services purchased pursuant to the program may
36 not share, refund or rebate any moneys received through the program to the parent or en-
37 rolled student in any manner.

38 (7) The State Board of Education may adopt any rules necessary for the implementation
39 of this section.

40 **SECTION 4.** (1) For each enrolled student in the Oregon Empowerment Scholarship
41 Program, the State Treasurer shall ensure that an individual account is established. The
42 parent of the enrolled student has the right to withdraw funds from the account only for the
43 benefit of the enrolled student and only for qualified expenses.

44 (2) Separate records and reports are required for each account established as provided
45 by this section. The State Treasurer shall ensure that, no less frequently than annually, a

1 report on the account is made available to the parent.

2 (3) The State Treasurer may contract with a financial institution to manage accounts
3 established as provided by this section with the supervision of the State Treasurer.

4 (4) Moneys in an account established as provided by this section:

5 (a) May not be assigned, pledged or otherwise used to secure or obtain a loan or other
6 advancement.

7 (b) Are exempt from garnishment and may not be subject to execution, attachment or
8 any other process or to the operation of any bankruptcy or insolvency law.

9 (c) Are not considered income for tax purposes.

10 (5) For the purpose of ensuring that moneys in an individual account are used only for
11 qualified expenses, the Department of Education shall:

12 (a) Ensure that an annual audit is made of each account; and

13 (b) Establish a toll-free telephone line that is available to members of the public to
14 anonymously report any fraudulent use of moneys from an account.

15 (6) A parent, an enrolled student or a provider of services purchased pursuant to the
16 program may be disqualified from program participation if the person is found to have com-
17 mitted an intentional program violation consisting of any misrepresentation or other act that
18 materially violates a law or rule governing the program. The department may remove any
19 parent or enrolled student from eligibility for enrollment in the program and shall notify the
20 State Treasurer. A parent may appeal the department's decision pursuant to the contested
21 case process.

22 (7) Individual account information, including names, addresses, telephone numbers and
23 personal identification information, is confidential and must be maintained as confidential
24 unless the person who provides the information, or is the subject of the information, ex-
25 pressly agrees in writing that the information may be disclosed.

26 (8) An enrolled student's account shall be closed and any remaining funds shall be de-
27 posited in the State School Fund upon the later of:

28 (a) The enrolled student's graduation from a post-secondary institution of education;

29 (b) A period of six consecutive years after the student has enrolled in a post-secondary
30 institution of education;

31 (c) A period of four consecutive years after high school completion in which the student
32 has not enrolled in a post-secondary institution of education; or

33 (d) A period of four years after the student no longer meets the qualifications described
34 in section 3 (2) of this 2015 Act and has not enrolled in a post-secondary institution of edu-
35 cation.

36 **SECTION 5.** (1) The Department of Education Empowerment Account is established in
37 the State Treasury, separate and distinct from the General Fund. Interest earned by the
38 account shall be credited to the account. All moneys credited to the account are contin-
39 uously appropriated to the Department of Education for the payment of expenses of the de-
40 partment under sections 1 to 7 of this 2015 Act.

41 (2) The Department of Education Empowerment Account consists of:

42 (a) Moneys transferred as provided by section 3 (5)(c)(C) of this 2015 Act;

43 (b) Moneys appropriated to the account by the Legislative Assembly; and

44 (c) Any other moneys from state or federal sources.

45 **SECTION 6.** (1) The Treasurer Empowerment Account is established in the State Treas-

1 ury, separate and distinct from the General Fund. Interest earned by the account shall be
 2 credited to the account. All moneys credited to the account are continuously appropriated
 3 to the State Treasurer for the payment of expenses of the State Treasurer under sections 1
 4 to 7 of this 2015 Act.

5 (2) The Treasurer Empowerment Account consists of:

6 (a) Moneys transferred as provided by section 3 (5)(c)(D) of this 2015 Act;

7 (b) Moneys appropriated to the account by the Legislative Assembly; and

8 (c) Any other moneys from state or federal sources.

9 **SECTION 7.** (1) As used in this section, "participating school" means a school described
 10 in ORS 339.030 (1)(a) that provides instruction to an enrolled student.

11 (2) Nothing in sections 1 to 7 of this 2015 Act:

12 (a) Permits a state or federal government agency to exercise control or supervision over
 13 any participating school, private teacher, parent or legal guardian.

14 (b) Makes a participating school, private teacher, parent or legal guardian an agent of
 15 the state or federal government.

16 (c)(A) Requires a participating school to change the creed with which the school is affil-
 17 iated, or to change its practices, admission policy or curriculum, in order to accept enrolled
 18 students who pay tuition or fees as provided by sections 1 to 7 of this 2015 Act.

19 (B) Requires a private teacher to change the teacher's creed, practices, or curriculum
 20 in order to accept enrolled students who pay tuition or fees as provided by sections 1 to 7
 21 of this 2015 Act.

22 (C) Requires a parent or legal guardian to change the parent's or guardian's creed,
 23 practices, or curriculum.

24 (3) In any legal proceeding challenging the application of sections 1 to 7 of this 2015 Act
 25 to a participating school, private teacher, parent or legal guardian, the state bears the bur-
 26 den of establishing that the law or rule is necessary and does not impose any undue burden
 27 on a participating school, private teacher, parent or legal guardian.

28 **SECTION 8.** (1) Sections 1 to 7 of this 2015 Act become operative January 1, 2016.

29 (2) The State Board of Education, Department of Education and State Treasurer may
 30 take any action before the operative date specified in subsection (1) of this section to ensure
 31 that students first be allowed to participate in the Oregon Empowerment Scholarship Pro-
 32 gram during the 2016-2017 school year.

33 **SECTION 9.** Section 10 of this 2015 Act is added to and made a part of ORS chapter 327.

34 **SECTION 10.** (1) The Oregon Empowerment Scholarship Account is established within
 35 the State School Fund.

36 (2) The account shall consist of any moneys transferred as provided by ORS 327.008 and
 37 any other state or federal moneys available for the purposes of the Oregon Empowerment
 38 Scholarship Program.

39 (3) Moneys in the account are continuously appropriated to the Department of Education
 40 for the purpose of making transfers under section 3 (5)(c) of this 2015 Act.

41 (4) If the amount available in the account is not adequate to meet costs, the Department
 42 of Education shall submit a revised budget to the Legislative Assembly or, if the Legislative
 43 Assembly is not in session, to the Emergency Board.

44 **SECTION 11.** ORS 327.008, as amended by section 6, chapter 81, Oregon Laws 2014, is amended
 45 to read:

1 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist
2 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education
3 Stability Fund. The State School Fund is continuously appropriated to the Department of Education
4 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,
5 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961 and sections 1 to 3, chapter 735,
6 Oregon Laws 2013, [and] section 2, chapter 81, Oregon Laws 2014, **and sections 1 to 7 of this 2015**
7 **Act.**

8 (2) There shall be apportioned from the State School Fund to each school district a State School
9 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant
10 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-
11 vided in ORS 327.011 and 327.013.

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

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

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

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

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

24 (8) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facil-
25 ity Account established in section 5, chapter 81, Oregon Laws 2014, the amount necessary to pay
26 the costs of educational services provided to students admitted to pediatric nursing facilities as
27 provided in section 2, chapter 81, Oregon Laws 2014.

28 (9) Each fiscal year, the Department of Education shall transfer the amount of \$18 million from
29 the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

30 (10)(a) Each biennium, the Department of Education shall transfer \$33 million from the State
31 School Fund to the Network of Quality Teaching and Learning Fund established under ORS 342.953.

32 (b) For the purpose of making the transfer under this subsection:

33 (A) The total amount available for all distributions from the State School Fund shall be reduced
34 by \$5 million;

35 (B) The amount distributed to school districts from the State School Fund under this section and
36 ORS 327.013 shall be reduced by \$14 million; and

37 (C) The amount distributed to education service districts from the State School Fund under this
38 section and ORS 327.019 shall be reduced by \$14 million.

39 (c) For each biennium, the amounts identified in paragraph (b)(B) and (C) of this subsection shall
40 be adjusted by the same percentage by which the amount appropriated to the State School Fund for
41 that biennium is increased or decreased compared to the preceding biennium, as determined by the
42 Department of Education after consultation with the Legislative Fiscal Officer.

43 (11) Each fiscal year, the Department of Education may expend up to \$550,000 from the State
44 School Fund for the contract described in ORS 329.488. The amount distributed to education service
45 districts from the State School Fund under this section and ORS 327.019 shall be reduced by the

1 amount expended by the department under this subsection.

2 (12) Each biennium, the Department of Education may expend up to \$350,000 from the State
3 School Fund to provide administration of and support for the development of talented and gifted
4 education under ORS 343.404.

5 (13) Each biennium, the Department of Education may expend up to \$150,000 from the State
6 School Fund for the administration of a program to increase the number of speech-language
7 pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

8 (14) Each fiscal year, the Department of Education shall transfer the amount of \$2.5 million from
9 the State School Fund to the Small School District Supplement Fund established in section 3, chap-
10 ter 735, Oregon Laws 2013.

11 (15) Each fiscal year, the Department of Education shall transfer to the Oregon
12 Empowerment Scholarship Account established in section 10 of this 2015 Act the amount
13 necessary to make the transfers required by section 3 (5)(c) of this 2015 Act.

14 **SECTION 12.** ORS 327.008, as amended by section 7, chapter 735, Oregon Laws 2013, and sec-
15 tion 7, chapter 81, Oregon Laws 2014, is amended to read:

16 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist
17 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education
18 Stability Fund. The State School Fund is continuously appropriated to the Department of Education
19 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,
20 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961 and section 2, chapter 81, Oregon
21 Laws 2014, and sections 1 to 7 of this 2015 Act.

22 (2) There shall be apportioned from the State School Fund to each school district a State School
23 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant
24 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-
25 vided in ORS 327.011 and 327.013.

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

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

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

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

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

38 (8) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facil-
39 ity Account established in section 5, chapter 81, Oregon Laws 2014, the amount necessary to pay
40 the costs of educational services provided to students admitted to pediatric nursing facilities as
41 provided in section 2, chapter 81, Oregon Laws 2014.

42 (9) Each fiscal year, the Department of Education shall transfer the amount of \$18 million from
43 the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

44 (10)(a) Each biennium, the Department of Education shall transfer \$33 million from the State
45 School Fund to the Network of Quality Teaching and Learning Fund established under ORS 342.953.

1 (b) For the purpose of making the transfer under this subsection:

2 (A) The total amount available for all distributions from the State School Fund shall be reduced
3 by \$5 million;

4 (B) The amount distributed to school districts from the State School Fund under this section and
5 ORS 327.013 shall be reduced by \$14 million; and

6 (C) The amount distributed to education service districts from the State School Fund under this
7 section and ORS 327.019 shall be reduced by \$14 million.

8 (c) For each biennium, the amounts identified in paragraph (b)(B) and (C) of this subsection shall
9 be adjusted by the same percentage by which the amount appropriated to the State School Fund for
10 that biennium is increased or decreased compared to the preceding biennium, as determined by the
11 Department of Education after consultation with the Legislative Fiscal Officer.

12 (11) Each fiscal year, the Department of Education may expend up to \$550,000 from the State
13 School Fund for the contract described in ORS 329.488. The amount distributed to education service
14 districts from the State School Fund under this section and ORS 327.019 shall be reduced by the
15 amount expended by the department under this subsection.

16 (12) Each biennium, the Department of Education may expend up to \$350,000 from the State
17 School Fund to provide administration of and support for the development of talented and gifted
18 education under ORS 343.404.

19 (13) Each biennium, the Department of Education may expend up to \$150,000 from the State
20 School Fund for the administration of a program to increase the number of speech-language
21 pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

22 (14) **Each fiscal year, the Department of Education shall transfer to the Oregon
23 Empowerment Scholarship Account established in section 10 of this 2015 Act the amount
24 necessary to make the transfers required by section 3 (5)(c) of this 2015 Act.**

25 **SECTION 13. (1) The amendments to ORS 327.008 by sections 11 and 12 of this 2015 Act
26 become operative July 1, 2016.**

27 **(2) The amendments to ORS 327.008 by sections 11 and 12 of this 2015 Act apply to State
28 School Fund distributions commencing with the 2016-2017 school year distributions.**

29 **SECTION 14.** ORS 339.030 is amended to read:

30 339.030. (1) In the following cases, children may not be required to attend public full-time
31 schools:

32 (a) Children being taught in a private or parochial school in the courses of study usually taught
33 in grades 1 through 12 in the public schools and in attendance for a period equivalent to that re-
34 quired of children attending public schools in the 1994-1995 school year.

35 (b) Children proving to the satisfaction of the district school board that they have acquired
36 equivalent knowledge to that acquired in the courses of study taught in grades 1 through 12 in the
37 public schools.

38 (c) Children who have received a high school diploma.

39 (d) Children being taught for a period equivalent to that required of children attending public
40 schools by a private teacher the courses of study usually taught in grades 1 through 12 in the public
41 school.

42 (e) Children being educated in the children's home by a parent or legal guardian.

43 **(f) Children who are considered to be taught by a parent or legal guardian because of
44 participation in the Oregon Empowerment Scholarship Program.**

45 **[(f)] (g) Children excluded from attendance as provided by law.**

1 (2) The State Board of Education and the Higher Education Coordinating Commission by rule
 2 shall establish procedures whereby, on a semiannual basis, an exemption from compulsory attend-
 3 ance may be granted to the parent or legal guardian of any child 16 or 17 years of age who is
 4 lawfully employed full-time, lawfully employed part-time and enrolled in school, a community college
 5 or an alternative education program as defined in ORS 336.615. An exemption also may be granted
 6 to any child who is an emancipated minor or who has initiated the procedure for emancipation under
 7 ORS 419B.550 to 419B.558.

8 **SECTION 15.** ORS 339.505 is amended to read:

9 339.505. (1) For purposes of the student accounting system required by ORS 339.515, the follow-
 10 ing definitions shall be used:

11 (a) "Graduate" means an individual who has:

12 (A) Not reached 21 years of age or whose 21st birthday occurs during the current school year;

13 (B) Met all state requirements and local requirements for attendance, competence and units of
 14 credit for high school; and

15 (C) Received one of the following:

16 (i) A high school diploma issued by a school district or a public charter school.

17 (ii) A high school diploma issued by an authorized community college.

18 (iii) A modified diploma issued by a school district or a public charter school.

19 (iv) An extended diploma issued by a school district or a public charter school.

20 (v) An alternative certificate issued by a school district or a public charter school.

21 (b) "School dropout" means an individual who:

22 (A) Has enrolled for the current school year, or was enrolled in the previous school year and
 23 did not attend during the current school year;

24 (B) Is not a high school graduate;

25 (C) Has not received a General Educational Development (GED) certificate; and

26 (D) Has withdrawn from school.

27 (c) "School dropout" does not include a student described by at least one of the following:

28 (A) A student who has transferred to another educational system or institution that leads to
 29 graduation and the school district has received a written request for the transfer of the student's
 30 records or transcripts.

31 (B) A student who is deceased.

32 (C) A student who is participating in home instruction paid for by the district.

33 (D) A student who is being taught by a private teacher, parent or legal guardian pursuant to
 34 ORS 339.030 (1)(d), [or] (e) or (f).

35 (E) A student who is participating in a Department of Education approved public or private
 36 education program, an alternative education program as defined in ORS 336.615 or a hospital edu-
 37 cation program, or is residing in a Department of Human Services or an Oregon Health Authority
 38 facility.

39 (F) A student who is temporarily residing in a shelter care program certified by the Oregon
 40 Youth Authority or in a juvenile detention facility.

41 (G) A student who is enrolled in a foreign exchange program.

42 (H) A student who is temporarily absent from school because of suspension, a family emergency,
 43 or severe health or medical problems that prohibit the student from attending school.

44 (I) A student who has received a General Educational Development (GED) certificate.

45 (2) The State Board of Education shall prescribe by rule when an unexplained absence becomes

1 withdrawal, when a student is considered enrolled in school, acceptable alternative education pro-
2 grams under ORS 336.615 to 336.665 and the standards for excused absences for purposes of ORS
3 339.065 for family emergencies and health and medical problems.

4 **SECTION 16. (1) Notwithstanding section 3 of this 2015 Act, the Department of Education**
5 **may not enroll in the Oregon Empowerment Scholarship Program more than 0.5 percent of**
6 **the students who reside in a school district unless the school district provides written con-**
7 **sent for the department to enroll a greater percentage.**

8 **(2) Notwithstanding section 3 of this 2015 Act, if the number of applications from stu-**
9 **dents who reside in the school district exceeds the limit designated under subsection (1) of**
10 **this section, the department shall select students for enrollment through an equitable lottery**
11 **selection process. The department shall give priority to students who enrolled in the Oregon**
12 **Empowerment Scholarship Program the previous school year and to siblings of students who**
13 **enrolled in the program the previous school year.**

14 **(3) The department shall provide timely notice to students who are not allowed to enroll**
15 **in the program because of the limit designated under subsection (1) of this section. The no-**
16 **tice must provide an explanation from the school district about why the school district chose**
17 **not to request that the department enroll a greater percentage of students as allowed under**
18 **subsection (1) of this section.**

19 **SECTION 17. (1) Section 16 of this 2015 Act is repealed on July 1, 2026.**

20 **(2) Section 16 of this 2015 Act applies only to applications submitted for any school year**
21 **from the 2016-2017 school year through the 2026-2027 school year.**

22 **SECTION 18. (1) A person commits scholarship savings account fraud if the person**
23 **knowingly obtains, by means of a false statement or representation, by impersonation or by**
24 **other fraudulent device, any of the following:**

25 **(a) Assistance or service in violation of sections 1 to 7 of this 2015 Act;**

26 **(b) Assistance or service that is greater than that allowed under sections 1 to 7 of this**
27 **2015 Act; or**

28 **(c) Assistance or service that is not a qualified expense as defined in section 2 of this 2015**
29 **Act.**

30 **(2) Any action that is considered an act of scholarship savings account fraud under this**
31 **section is an act of theft by deception under ORS 164.085 and is punishable as an act of theft**
32 **by deception.**

33 **SECTION 19. This 2015 Act being necessary for the immediate preservation of the public**
34 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
35 **on its passage.**