

House Bill 2416

Sponsored by Representative PARRISH (Pre-session filed.)

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.

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 in account to Department of Education for purpose of paying expenses of department related to program.

Establishes Treasurer Empowerment Account. Continuously appropriates moneys in account to State Treasurer for purpose of paying expenses of State Treasurer related to program.

Establishes Oregon Empowerment Scholarship Account within State School Fund. Continuously appropriates moneys in account to Department of Education for purpose of making transfers related to 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 2017 Act may be cited as the Education Equity**
6 **Emergency Act.**

7 **SECTION 2. As used in sections 1 to 7 of this 2017 Act:**

8 (1) "Parent" means a resident of this state who is a parent or legal guardian of a qualified
9 student.

10 (2) "Participating school" means a provider of educational services as described in ORS
11 339.030 (1)(a), (d) or (e).

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 a qualified student:

19 (a) Tuition or fees at a participating school for a complete course of study for a partic-
20 ular content area or grade level, including the costs for any textbooks or required course
21 materials;

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

24 (c) Related services, as defined in ORS 343.035;

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 (d) Educational therapies or educational services provided by a licensed or accredited
2 practitioner or provider;

3 (e) Tutoring services provided by a person licensed by the Teacher Standards and Prac-
4 tices Commission or licensed or accredited by any state, regional or national accreditation
5 organization;

6 (f) Tuition, fees, textbooks or required course materials for a private online learning
7 program;

8 (g) Tuition, fees, textbooks or required course materials at a post-secondary institution
9 of education;

10 (h) Fees for a nationally normed assessment, an advanced placement examination or any
11 other assessment or examination related to admission at, or receipt of credit through, a
12 post-secondary institution of education;

13 (i) Contributions to an account in the Oregon 529 Savings Network; and

14 (j) Fees for management of an individual account established under the Oregon
15 Empowerment Scholarship Program.

16 (5) “Qualified student” means a student who is a resident of this state and is enrolled in
17 the Oregon Empowerment Scholarship Program.

18 (6) “Statewide average distribution” means an amount determined by the Department of
19 Education each school year that equals the average per student distribution of the State
20 School Fund as general purpose grants for all school districts in this state, as adjusted by
21 any weights described in ORS 327.013 (1)(c)(A)(i) and (ii).

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

24 (2)(a) A parent may enroll a student in the program by submitting an application to the
25 Department of Education on the form and by the date required by the department. The stu-
26 dent must be a resident of this state who has not completed high school and who meets the
27 requirements of paragraph (b) or (c) of this subsection.

28 (b) For the first school year for which a parent is seeking enrollment for a student, the
29 student must have attended a public school in this state during the previous school year for
30 at least 100 instructional days and must be:

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

32 (B) A child who needs additional educational services, as identified by a school district;

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

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

36 (c) For the second and subsequent school years for which a parent is seeking enrollment
37 for a student, the student must have participated in the program during the previous school
38 year. Any changes in qualifications described in paragraph (b) of this subsection do not affect
39 the student’s eligibility to enroll in subsequent school years.

40 (d) Enrollment in the program is valid for one school year only and a parent must enroll
41 the student in the program for each subsequent school year.

42 (3) The Department of Education shall enroll the student in the program upon:

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

45 (b) Receiving acknowledgment from the parent that the parent accepts the terms of

1 participation in the program, including:

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

4 (B) The requirement that the student:

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

6 (ii) Comply with the examination or evaluation requirements specified in ORS 339.035 (3)
7 or (5), except that the parent is not required to submit the results of the examination or
8 evaluation to an education service district, but may be required to submit the results to the
9 department.

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

13 (b) A qualified student who complies with the examination or evaluation requirements
14 specified in ORS 339.035 (3) or (5) may not be subject to the provisions of ORS 339.035 (4).

15 (5)(a) Upon enrolling a qualified student in the program, the department shall notify the
16 State Treasurer of the enrollment.

17 (b) The State Treasurer shall ensure that an account is established for each qualified
18 student as described in section 4 of this 2017 Act. After an account is established, the State
19 Treasurer shall notify the department.

20 (c) Upon receiving a notice as provided by paragraph (b) of this subsection, the depart-
21 ment shall, for each student enrolled, transfer from the Oregon Empowerment Scholarship
22 Account established by section 10 of this 2017 Act to:

23 (A) An account established under section 4 of this 2017 Act an amount that equals 90
24 percent of the statewide average distribution.

25 (B) The Department of Education Empowerment Account established by section 5 of this
26 2017 Act a percentage of the statewide average distribution. The percentage shall be estab-
27 lished by rule of the State Board of Education and may not exceed four percent.

28 (C) The Treasurer Empowerment Account established by section 6 of this 2017 Act one
29 percent of the statewide average distribution.

30 (6) A participating school or any other provider of services purchased pursuant to the
31 program may not in any manner share with the parent or qualified student, or refund or
32 rebate to the parent or qualified student, any moneys received through the program.

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

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

39 (2) Separate records and reports are required for each account established as provided
40 by this section. The State Treasurer shall ensure that, no less frequently than annually, a
41 report on the account is made available to the parent.

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

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

45 (a) May not be assigned, pledged or otherwise used to secure or obtain a loan or other

1 advancement.

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

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

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

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

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

10 (6) A parent, qualified student or provider of services purchased pursuant to the program
11 may be disqualified from program participation if the person is found to have committed an
12 intentional program violation consisting of any misrepresentation or other act that mate-
13 rially violates a law or rule governing the program. The department may remove any parent
14 or qualified student from eligibility for participating in the program and shall notify the State
15 Treasurer. A parent may appeal the department's decision pursuant to the contested case
16 process described in ORS chapter 183.

17 (7) Individual account information, including names, addresses, telephone numbers and
18 other personal identification information, is confidential and must be maintained as confi-
19 dential unless the person who provides the information, or is the subject of the information,
20 expressly agrees in writing that the information may be disclosed.

21 (8) Upon the qualified student's graduation from a post-secondary institution of education
22 or after any period of four consecutive years after high school completion in which the stu-
23 dent is not enrolled in a post-secondary institution of education, the qualified student's ac-
24 count shall be closed and any remaining funds shall be deposited in the State School Fund.

25 **SECTION 5.** (1) The Department of Education Empowerment Account is established in
26 the State Treasury, separate and distinct from the General Fund. Interest earned by the
27 account shall be credited to the account. All moneys credited to the account are contin-
28 uously appropriated to the Department of Education for the payment of expenses of the de-
29 partment under sections 1 to 7 of this 2017 Act.

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

31 (a) Moneys transferred as provided by section 3 (5)(c)(B) of this 2017 Act;

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

33 (c) Any other moneys deposited into the account from state or federal sources.

34 **SECTION 6.** (1) The Treasurer Empowerment Account is established in the State Treas-
35 ury, separate and distinct from the General Fund. Interest earned by the account shall be
36 credited to the account. All moneys credited to the account are continuously appropriated
37 to the State Treasurer for the payment of expenses of the State Treasurer under sections 1
38 to 7 of this 2017 Act.

39 (2) The Treasurer Empowerment Account consists of:

40 (a) Moneys transferred as provided by section 3 (5)(c)(C) of this 2017 Act;

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

42 (c) Any other moneys deposited into the account from state or federal sources.

43 **SECTION 7.** (1) Nothing in sections 1 to 7 of this 2017 Act:

44 (a) Permits a government agency to exercise control or supervision over any participat-
45 ing school.

1 **(b) Makes a participating school that accepts a payment pursuant to sections 1 to 7 of**
 2 **this 2017 Act an agent of the state or federal government.**

3 **(c) Requires a participating school to change its creed, practices, admission policy or**
 4 **curriculum in order to accept qualified students who pay tuition or fees as provided by**
 5 **sections 1 to 7 of this 2017 Act.**

6 **(2) In any legal proceeding challenging the application of sections 1 to 7 of this 2017 Act**
 7 **to a participating school, the state bears the burden of establishing that the law or rule is**
 8 **necessary and does not impose any undue burden on a participating school.**

9 **SECTION 8.** **(1) Sections 1 to 7 of this 2017 Act become operative January 1, 2018.**

10 **(2) The State Board of Education, Department of Education and State Treasurer may**
 11 **take any action before the operative date specified in subsection (1) of this section to ensure**
 12 **that students first be allowed to participate in the Oregon Empowerment Scholarship Pro-**
 13 **gram during the 2018-2019 school year.**

14 **SECTION 9.** **Section 10 of this 2017 Act is added to and made a part of ORS chapter 327.**

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

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

20 **(3) Moneys in the account are continuously appropriated to the Department of Education**
 21 **for the purpose of making transfers under section 3 (5)(c) of this 2017 Act.**

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

25 **SECTION 11.** **ORS 327.008 is amended to read:**

26 327.008. (1)(a) There is established a State School Fund in the General Fund.

27 (b) The Department of Education, on behalf of the State of Oregon, may solicit and accept gifts,
 28 grants, donations and other moneys from public and private sources for the State School Fund.
 29 Moneys received as provided in this paragraph shall be deposited into the State School Fund.

30 (c) The State School Fund shall consist of moneys appropriated by the Legislative Assembly,
 31 moneys transferred from the Education Stability Fund and moneys received as provided in paragraph
 32 (b) of this subsection.

33 (d) The State School Fund is continuously appropriated to the Department of Education for the
 34 purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 336.575,
 35 336.580, 336.635, 343.243, 343.533, 343.941 and 343.961 and sections 1 to 3, chapter 735, Oregon Laws
 36 2013, and sections 1 to 7 of this 2017 Act.

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

41 **(3) For the first school year after a public charter school ceases to operate because of dissol-**
 42 **ution or closure or because of termination or nonrenewal of a charter, there shall be apportioned**
 43 **from the State School Fund to each school district that had sponsored a public charter school that**
 44 **ceased to operate an amount equal to the school district's general purpose grant per extended**
 45 **ADMw multiplied by five percent of the ADM of the public charter school for the previous school**

1 year.

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

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

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

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

10 (8) The total amount of the State School Fund that is distributed as facility grants may not ex-
11 ceed \$9 million in any biennium. If the total amount to be distributed as facility grants exceeds this
12 limitation, the Department of Education shall prorate the amount of funds available for facility
13 grants among those school districts that qualified for a facility grant. If the total amount to be dis-
14 tributed as facility grants does not exceed this limitation, any remaining amounts shall be expended
15 for expenses incurred by the Office of School Facilities as provided in ORS 326.125 (1).

16 (9) Each biennium, the Department of Education may expend from the State School Fund no
17 more than \$6 million for expenses incurred by the Office of School Facilities under ORS 326.125 (2)
18 to (6).

19 (10) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Fa-
20 cility Account established in ORS 327.022 the amount necessary to pay the costs of educational
21 services provided to students admitted to pediatric nursing facilities as provided in ORS 343.941.

22 (11) Each fiscal year, the Department of Education shall transfer the amount of \$35 million from
23 the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

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

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

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

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

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

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

37 (13) Each biennium, the Department of Education shall transfer \$12.5 million from the State
38 School Fund to the Statewide English Language Learner Program Account established under ORS
39 327.344.

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

44 (15) Each biennium, the Department of Education may expend up to \$350,000 from the State
45 School Fund to provide administration of and support for the development of talented and gifted

1 education under ORS 343.404.

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

5 **(17) Each fiscal year, the Department of Education shall transfer to the Oregon
 6 Empowerment Scholarship Account established in section 10 of this 2017 Act the amount
 7 necessary to make the transfers required by section 3 (5)(c) of this 2017 Act.**

8 ~~[(17)]~~ (18) Each fiscal year, the Department of Education shall transfer the amount of \$2.5
 9 million from the State School Fund to the Small School District Supplement Fund established in
 10 section 3, chapter 735, Oregon Laws 2013.

11 **SECTION 12.** ORS 327.008, as amended by section 7, chapter 735, Oregon Laws 2013, section
 12 7, chapter 81, Oregon Laws 2014, section 2, chapter 68, Oregon Laws 2015, section 38, chapter 245,
 13 Oregon Laws 2015, section 2, chapter 555, Oregon Laws 2015, section 11, chapter 604, Oregon Laws
 14 2015, section 2, chapter 644, Oregon Laws 2015, and section 8, chapter 783, Oregon Laws 2015, is
 15 amended to read:

16 327.008. (1)(a) There is established a State School Fund in the General Fund.

17 (b) The Department of Education, on behalf of the State of Oregon, may solicit and accept gifts,
 18 grants, donations and other moneys from public and private sources for the State School Fund.
 19 Moneys received as provided in this paragraph shall be deposited into the State School Fund.

20 (c) The State School Fund shall consist of moneys appropriated by the Legislative Assembly,
 21 moneys transferred from the Education Stability Fund and moneys received as provided in paragraph
 22 (b) of this subsection.

23 (d) The State School Fund is continuously appropriated to the Department of Education for the
 24 purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 336.575,
 25 336.580, 336.635, 343.243, 343.533, 343.941 and 343.961 **and sections 1 to 7 of this 2017 Act.**

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

30 (3) For the first school year after a public charter school ceases to operate because of dissol-
 31 ution or closure or because of termination or nonrenewal of a charter, there shall be apportioned
 32 from the State School Fund to each school district that had sponsored a public charter school that
 33 ceased to operate an amount equal to the school district's general purpose grant per extended
 34 ADMw multiplied by five percent of the ADM of the public charter school for the previous school
 35 year.

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

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

40 (6) Numbers of students in average daily membership used in the distribution formula shall be
 41 the numbers as of June of the year of distribution.

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

44 (8) The total amount of the State School Fund that is distributed as facility grants may not ex-
 45 ceed \$9 million in any biennium. If the total amount to be distributed as facility grants exceeds this

1 limitation, the Department of Education shall prorate the amount of funds available for facility
2 grants among those school districts that qualified for a facility grant. If the total amount to be dis-
3 tributed as facility grants does not exceed this limitation, any remaining amounts shall be expended
4 for expenses incurred by the Office of School Facilities as provided in ORS 326.125 (1).

5 (9) Each biennium, the Department of Education may expend from the State School Fund no
6 more than \$6 million for expenses incurred by the Office of School Facilities under ORS 326.125 (2)
7 to (6).

8 (10) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Fa-
9 cility Account established in ORS 327.022 the amount necessary to pay the costs of educational
10 services provided to students admitted to pediatric nursing facilities as provided in ORS 343.941.

11 (11) Each fiscal year, the Department of Education shall transfer the amount of \$35 million from
12 the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

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

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

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

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

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

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

26 (13) Each biennium, the Department of Education shall transfer \$12.5 million from the State
27 School Fund to the Statewide English Language Learner Program Account established under ORS
28 327.344.

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

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

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

39 **(17) Each fiscal year, the Department of Education shall transfer to the Oregon**
40 **Empowerment Scholarship Account established in section 10 of this 2017 Act the amount**
41 **necessary to make the transfers required by section 3 (5)(c) of this 2017 Act.**

42 **SECTION 13. (1) The amendments to ORS 327.008 by sections 11 and 12 of this 2017 Act**
43 **become operative July 1, 2018.**

44 **(2) The amendments to ORS 327.008 by sections 11 and 12 of this 2017 Act apply to State**
45 **School Fund distributions commencing with the 2018-2019 school year distributions.**

SECTION 14. ORS 339.030 is amended to read:

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

(a) Children being taught in a private or parochial school in the courses of study usually taught in kindergarten through grade 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools in the 1994-1995 school year.

(b) Children proving to the satisfaction of the district school board that they have acquired equivalent knowledge to that acquired in the courses of study taught in kindergarten through grade 12 in the public schools.

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

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

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

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

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

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

SECTION 15. ORS 339.505 is amended to read:

339.505. (1) For purposes of the student accounting system required by ORS 339.515, the following definitions shall be used:

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

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

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

(C) Received one of the following:

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

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

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

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

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

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

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

(B) Is not a high school graduate;

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

(D) Has withdrawn from school.

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

(A) A student who has transferred to another educational system or institution that leads to

1 graduation and the school district has received a written request for the transfer of the student's
 2 records or transcripts.

3 (B) A student who is deceased.

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

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

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

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

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

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

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

17 (2) The State Board of Education shall prescribe by rule when an unexplained absence becomes
 18 withdrawal, when a student is considered enrolled in school, acceptable alternative education pro-
 19 grams under ORS 336.615 to 336.665 and the standards for excused absences for purposes of ORS
 20 339.065 for family emergencies and health and medical problems.

21 **SECTION 16. (1) Notwithstanding section 3 of this 2017 Act, the Department of Education**
 22 **may not enroll in the Oregon Empowerment Scholarship Program more than 0.5 percent of**
 23 **the students who reside in a school district unless the school district provides written con-**
 24 **sent for the department to enroll a greater percentage.**

25 **(2) Notwithstanding section 3 of this 2017 Act, if the number of applications from stu-**
 26 **dents who reside in the school district exceeds the limit designated under subsection (1) of**
 27 **this section, and the school district has not provided written consent as described in sub-**
 28 **section (1) of this section, the department shall select students for enrollment through an**
 29 **equitable lottery selection process. The department shall give priority to students who en-**
 30 **rolled in the Oregon Empowerment Scholarship Program the previous school year and to**
 31 **siblings of students who enrolled in the program the previous school year.**

32 **(3) The department shall provide timely notice to students who are not allowed to enroll**
 33 **in the program because of the limit designated under subsection (1) of this section. The no-**
 34 **tice must provide an explanation from the school district about why the school district chose**
 35 **not to give consent for the department to enroll a greater percentage of students as allowed**
 36 **under subsection (1) of this section.**

37 **SECTION 17. (1) Section 16 of this 2017 Act is repealed on July 1, 2028.**

38 **(2) Section 16 of this 2017 Act applies only to applications submitted for any school year**
 39 **from the 2018-2019 school year through the 2028-2029 school year.**

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

43 **(a) Assistance or service in violation of sections 1 to 7 of this 2017 Act;**

44 **(b) Assistance or service that is greater than that allowed under sections 1 to 7 of this**
 45 **2017 Act; or**

1 (c) Assistance or service that is not a qualified expense as defined in section 2 of this 2017
2 Act.

3 (2) Any action that is considered an act of scholarship savings account fraud under this
4 section is an act of theft by deception under ORS 164.085 and is punishable as an act of theft
5 by deception.

6 SECTION 19. This 2017 Act being necessary for the immediate preservation of the public
7 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
8 on its passage.

9
