

House Bill 3367

Sponsored by Representatives POWER, BYNUM, Senator ROBLAN, Representative BUEHLER; Representative DOHERTY, Senator MONROE

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**.

Directs State Registrar of Center for Health Statistics to send to State Treasurer each calendar quarter names of children born in Oregon to residents of this state.

Establishes Oregon Bright Futures Savings Fund for payment of qualified post-secondary education expenses for designated beneficiaries. Directs State Treasurer to create cohort account for all children born each calendar quarter and earmark moneys for each child.

Allows use of earmarked moneys for payment of qualified post-secondary education expenses. Allows certain contributions to fund. Specifies purposes for which moneys may be used. Allows linkage to private financial accounts through financial aggregation software.

Directs State Treasurer to report to Legislative Assembly in 2018 and 2019 on implementation of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to post-secondary education expenses; and declaring an emergency.

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

SECTION 1. As used in sections 1 to 13 of this 2017 Act:

(1) **“Account” means a cohort account established in accordance with sections 1 to 13 of this 2017 Act.**

(2) **“Designated beneficiary” means an individual associated with a unique identifier within a cohort account for whom the State Treasurer may make qualified withdrawals for the payment of qualified post-secondary education expenses.**

(3) **“Financial institution” means a bank, a commercial bank, a national bank, a savings bank, a savings and loan, a thrift institution, a credit union, an insurance company, a trust company, a mutual fund, an investment firm or other similar entity authorized to do business in this state.**

(4) **“Internal Revenue Code” means the federal Internal Revenue Code, as amended and in effect on December 31, 2016.**

(5) **“Post-secondary education institution” means:**

(a) **A public university;**

(b) **A community college;**

(c) **Oregon Health and Science University;**

(d) **A career school licensed under ORS 345.010 to 345.450 or a similar law in another state;**

(e) **A private post-secondary institution authorized to confer academic degrees under ORS 348.594 to 348.615 or a similar law in another state; and**

(f) **A private post-secondary institution that meets the criteria set forth in ORS 348.597**
(2).

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 (6) “Qualified post-secondary education expenses” means:

2 (a) Expenses incurred in the acquisition of post-secondary education or job training at a
 3 post-secondary education institution, including but not limited to tuition and extracurricular
 4 nontuition expenses designed to prepare a designated beneficiary for post-secondary educa-
 5 tion or job training; and

6 (b) Expenses constituting qualified higher education expenses under section 529(e) of the
 7 Internal Revenue Code.

8 (7) “Qualified withdrawal” means a withdrawal made as prescribed in section 13 of this
 9 2017 Act and made from an account to pay the qualified post-secondary education expenses
 10 of the designated beneficiary.

11 **SECTION 2.** (1) The Oregon Bright Futures Savings Fund is established in the State
 12 Treasury, separate and distinct from the General Fund. Interest earned by the Oregon
 13 Bright Futures Savings Fund shall be credited to the fund. All moneys in the Oregon Bright
 14 Futures Savings Fund are continuously appropriated to the State Treasurer for purposes of
 15 administering sections 1 to 13 of this 2017 Act.

16 (2) The Oregon Bright Futures Savings Fund shall contain cohort accounts established
 17 by the State Treasurer for each calendar year quarter. Each cohort account shall contain
 18 moneys earmarked for children for whom the State Treasurer received notice under section
 19 3 of this 2017 Act for that calendar year quarter. The fund and cohort accounts within the
 20 fund may contain moneys that are not earmarked. The State Treasurer shall invest and
 21 track separately the amounts in the fund and in each cohort account in the manner provided
 22 in ORS 293.701 to 293.857.

23 (3) The Oregon Bright Futures Savings Fund shall consist of:

24 (a) Moneys appropriated by the Legislative Assembly for deposit in the fund;

25 (b) Moneys transferred to the fund from the federal government or any public body as
 26 defined in ORS 174.109;

27 (c) Any gifts, contributions or donations made to the State of Oregon for deposit in the
 28 fund; and

29 (d) Earnings on moneys in the fund.

30 (4) The State Treasurer may use the moneys in the Oregon Bright Futures Savings Fund
 31 to make qualified withdrawals for post-secondary education expenses of a designated benefi-
 32 ciary, to pay the administrative costs and expenses of the State Treasurer related to the
 33 administration of accounts established for qualified post-secondary education expenses under
 34 sections 1 to 13 of this 2017 Act, to provide or make available scholarships, grants and other
 35 incentives to designated beneficiaries or to further any other purpose of sections 1 to 13 of
 36 this 2017 Act.

37 **SECTION 3.** (1) For each child born in Oregon to residents of this state, the State
 38 Registrar of the Center for Health Statistics shall, on a quarterly basis, send or deliver by
 39 secure electronic or other reasonable means to the State Treasurer a data file containing the
 40 name of the child, the names of the parents of the child and the mother’s mailing address
 41 for the purpose of implementing section 4 of this 2017 Act.

42 (2) The state registrar and the State Treasurer shall enter into an agreement to imple-
 43 ment the provisions of this section, including but not limited to the transfer, storage and
 44 destruction of data files.

45 **SECTION 4.** (1) Within 120 days after receiving information about the birth of a child

1 from the State Registrar of the Center for Health Statistics under section 3 of this 2017 Act,
 2 the State Treasurer shall:

3 (a) Establish a unique identifier associated with the child to be used for the purposes of
 4 earmarking moneys within the appropriate cohort account for the child;

5 (b) Establish a record associating the unique identifier with the name of the child and
 6 the county of the child's birth; and

7 (c) Notify the parents of the child whose birth information was received of the unique
 8 identifier assigned to the child.

9 (2) Notice shall be sent to the mother's mailing address as received from the state
 10 registrar and must include, at a minimum, the following:

11 (a) The purpose of the cohort account and the unique identifier;

12 (b) Any actions the parents may take to participate in the post-secondary education
 13 savings provisions of sections 1 to 13 of this 2017 Act; and

14 (c) How, when and for what purposes the State Treasurer may make qualified with-
 15 drawals from the cohort account.

16 (3) If a parent was an Oregon resident at the time of the birth of a child of the parent
 17 and the child was born outside of Oregon, the parent may apply to the State Treasurer to
 18 establish a unique identifier under this section, provided that the parent is an Oregon resi-
 19 dent at the time of application.

20 (4) The State Treasurer shall, upon determining that a child for whom a unique identifier
 21 has not been established under this section has been lawfully adopted, establish a unique
 22 identifier and send notice as provided in this section to the adoptive parents.

23 **SECTION 5.** Notwithstanding any other provision of law that requires consideration of
 24 one or more financial circumstances of an individual for the purpose of determining the el-
 25 igibility to receive, or the amount of, any assistance or benefit authorized by law to be pro-
 26 vided to or for the benefit of the individual, any moneys in the Oregon Bright Futures
 27 Savings Fund earmarked for an individual under sections 1 to 13 of this 2017 Act, and any
 28 qualified withdrawals from the fund, shall be disregarded for such purpose.

29 **SECTION 6.** Upon the establishment of a unique identifier for a child in a cohort account
 30 under section 4 of this 2017 Act, the State Treasurer, out of moneys appropriated for such
 31 purpose, shall deposit the amount of \$_____ in the cohort account and earmark the amount
 32 for the child.

33 **SECTION 7.** For purposes of sections 1 to 13 of this 2017 Act, the State Treasurer has
 34 the following powers, duties and functions:

35 (1) To establish, develop, implement and maintain accounts and unique identifiers re-
 36 quired under section 4 of this 2017 Act.

37 (2) To adopt rules for the general administration of sections 1 to 13 of this 2017 Act.

38 (3) To maintain, invest and reinvest the funds maintained in cohort accounts within the
 39 Oregon Bright Futures Savings Fund established pursuant to section 2 of this 2017 Act. In
 40 making investments, the State Treasurer shall exercise the judgment and care then prevail-
 41 ing that persons of prudence, discretion and intelligence exercise in the management of their
 42 own affairs with due regard to the probable income and level of risk from certain types of
 43 investments of money.

44 (4) To make and enter into any and all contracts, agreements or arrangements, and to
 45 retain, employ and contract for the services of private and public financial institutions, de-

1 positories, consultants, investment advisors or managers and third-party plan administrators
 2 and for research, technical and other services necessary or desirable for carrying out the
 3 purposes of sections 1 to 13 of this 2017 Act.

4 (5) To accept donations or receive funds for purposes of providing scholarships, grants
 5 and other incentives to designated beneficiaries or furthering any of the purposes of sections
 6 1 to 13 of this 2017 Act.

7 (6) To award scholarships or grants, provide or make available other incentives to des-
 8 ignated beneficiaries or enter into promotional arrangements with third parties as the State
 9 Treasurer considers desirable.

10 **SECTION 8.** Moneys deposited into accounts under sections 1 to 13 of this 2017 Act are
 11 considered moneys of the State of Oregon. Except as otherwise provided by law, the State
 12 Treasurer is the trustee of the moneys and earnings.

13 **SECTION 9.** (1) The State Treasurer may accept contributions from any person to a
 14 cohort account once an account is established. The State Treasurer shall adopt rules de-
 15 scribing persons who may contribute and establishing conditions that apply to contributions.

16 (2) Moneys contributed to a cohort account may not be earmarked for specific individuals
 17 unless the moneys are contributed by a public body as defined in ORS 174.109.

18 (3) Contributions to an account may be made only in cash.

19 **SECTION 9a.** (1) Total amounts earmarked for an individual in the Oregon Bright Fu-
 20 tures Savings Fund may not exceed amounts reasonably necessary to provide for the quali-
 21 fied post-secondary education expenses of the individual.

22 (2) The State Treasurer shall maintain separate records and accountings for each cohort
 23 account. The State Treasurer shall, at least annually, report to designated beneficiaries the
 24 amounts earmarked for the designated beneficiaries.

25 (3) If the State Treasurer determines that moneys in the fund earmarked for an indi-
 26 vidual will not be or are highly unlikely to be used to pay qualified post-secondary education
 27 expenses, the State Treasurer shall remove the earmark but maintain the moneys in the
 28 appropriate cohort account.

29 (4) The State Treasurer shall allow information regarding amounts earmarked for an in-
 30 dividual in the fund to be electronically linked using financial aggregation software to finan-
 31 cial accounts held at financial institutions, to accounts established under the Oregon 529
 32 Savings Network or to other accounts, entities, persons or locations as specified by the State
 33 Treasurer by rule.

34 (5) The State Treasurer may require the provision of information from a designated
 35 beneficiary as the State Treasurer considers necessary to administer the provisions of this
 36 section.

37 **SECTION 10.** (1) Only the State Treasurer may direct the investment of any moneys in
 38 an account.

39 (2) The State Treasurer and the State of Oregon may not insure any account or guar-
 40 antee any rate of return or any interest rate on any moneys in an account. The State
 41 Treasurer and the State of Oregon are not liable for any loss incurred by any person as a
 42 result of having moneys earmarked in an account established under section 4 of this 2017
 43 Act or as a result of establishing or contributing to an account.

44 **SECTION 11.** (1) Amounts earmarked for an individual in a cohort account and any in-
 45 terest thereon may not be assigned or pledged or otherwise used to secure or obtain a loan

1 or other advancement.

2 (2) Payments and withdrawals made from the Oregon Bright Futures Savings Fund for
3 qualified post-secondary education expenses are exempt from garnishment and are not sub-
4 ject to execution, attachment or any other process or to the operation of any bankruptcy
5 or insolvency law.

6 (3) A refund of a qualified post-secondary education expense payment may not be paid
7 by a post-secondary education institution directly to the designated beneficiary. Any refund
8 of qualified post-secondary education expenses owed by a post-secondary education institu-
9 tion on account of an overpayment of educational expenses from the fund must be refunded
10 to the State Treasurer.

11 (4) A qualified withdrawal that is used to pay for qualified post-secondary education ex-
12 penses must be paid as prescribed by rules adopted by the State Treasurer.

13 SECTION 12. Information relating to an individual, including but not limited to names,
14 addresses, telephone numbers, personal identification information, amounts earmarked to
15 the individual and the unique identifier assigned by the State Treasurer, is confidential and
16 may not be disclosed:

17 (1) Except to the extent necessary to administer sections 1 to 13 of this 2017 Act; or

18 (2) Unless the person who provides the information or is the subject of the information
19 expressly agrees in writing that the information may be disclosed.

20 SECTION 13. (1) The State Treasurer may withdraw moneys from the Oregon Bright
21 Futures Savings Fund for the payment of qualified post-secondary education expenses only
22 in the manner prescribed by the State Treasurer by rule.

23 (2) The State Treasurer shall notify a designated beneficiary of any withdrawal of moneys
24 earmarked for the designated beneficiary.

25 SECTION 14. In addition to and not in lieu of any other appropriation, there is appro-
26 priated to the State Treasurer, for the biennium beginning July 1, 2017, out of the General
27 Fund, the amount of \$_____, to be deposited in the Oregon Bright Futures Savings Fund
28 established under section 2 of this 2017 Act.

29 SECTION 15. (1) The State Treasurer shall report the State Treasurer's findings and
30 recommendations regarding the implementation of sections 1 to 13 of this 2017 Act to the
31 interim committees of the Legislative Assembly related to education, in the manner provided
32 by ORS 192.245, no later than September 15, 2018, and may include recommendations for
33 legislation.

34 (2) In addition to the report required under subsection (1) of this section, the State
35 Treasurer shall report the State Treasurer's findings and recommendations regarding the
36 implementation of sections 1 to 13 of this 2017 Act to the Legislative Assembly in the manner
37 provided by ORS 192.245 no later than April 1, 2019, and may include recommendations for
38 legislation.

39 SECTION 16. (1) Sections 1 to 13 of this 2017 Act become operative on January 1, 2018.

40 (2) The State Registrar of the Center for Health Statistics and the State Treasurer may
41 take any action before the operative date specified in subsection (1) of this section that is
42 necessary to enable the state registrar or State Treasurer to exercise, on and after the op-
43 erative date specified in subsection (1) of this section, all the duties, functions and powers
44 conferred on the state registrar or State Treasurer by sections 1 to 13 of this 2017 Act.

45 SECTION 17. This 2017 Act being necessary for the immediate preservation of the public

1 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
2 **on its passage.**

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