

A-Engrossed Senate Bill 996

Ordered by the Senate April 19
Including Senate Amendments dated April 19

Sponsored by Senator ROBLAN, Representatives POWER, BUEHLER, BYNUM; Senator HASS

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.

Directs Department of Consumer and Business Services to design, implement, administer and operate savings program for post-secondary education expenses. Directs department to establish individual savings accounts for children born in Oregon to residents of this state at participating financial institutions. Provides that deposits may be made to savings account by department or by account beneficiary.

Directs State Registrar of Center for Health Statistics to send to department [*of Consumer and Business Services*] each calendar quarter names of children born in Oregon to residents of this state.

Establishes Oregon Bright Futures Fund. [*Directs department to create cohort account within fund for all children born each calendar quarter.*] **Continuously appropriates moneys in fund to department for purposes of savings program.**

Permits financial institutions to opt in to participation. [*Directs department to establish designated beneficiary account at participating financial institution for each child.*]

[*Directs department to deposit moneys into each designated beneficiary account. Allows use of moneys in designated beneficiary accounts for payment of qualified post-secondary education expenses. Allows contributions to cohort and designated beneficiary accounts. Allows linkage to private financial accounts.*]

Permits department to develop or acquire software for communicating with account beneficiaries and for viewing information regarding multiple financial accounts.

[*Establishes Financial Institution Community Education Fund. Specifies purposes of fund. Permits participating financial institutions to contribute to fund.*]

Directs department to report to Legislative Assembly in [*2018 and 2019*] **2020 and 2021** on implementation of Act.

Exempts funds maintained by department under Act from public funds depository requirements.

Becomes operative on January 1, 2018, or date on which department determines that sufficient moneys are available to carry out purposes of Act, whichever is later.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to post-secondary education expenses; creating new provisions; amending ORS 295.101; and
3 declaring an emergency.

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

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

6 (1) **"Designated beneficiary"** means the individual for whom withdrawals may be made
7 from a designated beneficiary account for the payment of qualified post-secondary education
8 expenses.

9 (2) **"Designated beneficiary account"** means an account established by the Department
10 of Consumer and Business Services with a participating financial institution for the benefit
11 of a specific individual under sections 1 to 13 of this 2017 Act.

12 (3) **"Financial institution"** means a bank, a commercial bank, a national bank, a savings
13 bank, a savings and loan, a thrift institution or a credit union authorized to do business in
14 this state.

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

3 (5) "Participating financial institution" means a financial institution that enters into an
4 agreement with the Department of Consumer and Business Services under section 6 of this
5 2017 Act.

6 (6) "Post-secondary education institution" means:

7 (a) A public university;

8 (b) A community college;

9 (c) Oregon Health and Science University;

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

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

14 (f) A private post-secondary institution that meets the criteria set forth in ORS 348.597
15 (2).

16 (7) "Qualified post-secondary education expenses" means:

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

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

23 (8) "Qualified withdrawal" means a withdrawal made from an account to pay the qualified
24 post-secondary education expenses of a designated beneficiary.

25 SECTION 2. (1) The Oregon Bright Futures Fund is established in the State Treasury,
26 separate and distinct from the General Fund. Interest earned by the Oregon Bright Futures
27 Fund shall be credited to the fund. All moneys credited to the Oregon Bright Futures Fund
28 are continuously appropriated to the Department of Consumer and Business Services for the
29 purposes specified in sections 1 to 13 of this 2017 Act.

30 (2) The Oregon Bright Futures Fund shall consist of:

31 (a) Moneys appropriated by the Legislative Assembly for deposit in the fund or for the
32 design, implementation, administration or operation of a post-secondary education savings
33 program;

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

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

38 (d) Earnings on moneys in the fund.

39 (3) The department may use the moneys in the fund to design, implement, administer and
40 operate the program described in sections 1 to 13 of this 2017 Act, to make qualified with-
41 drawals, to pay the administrative costs and expenses of the department related to sections
42 1 to 13 of this 2017 Act, to provide or make available scholarships, grants and other incen-
43 tives to designated beneficiaries or to further any other purpose of sections 1 to 13 of this
44 2017 Act.

45 (4) The Financial Institution Community Education Subaccount is established as a sub-

1 account to the fund. The department may solicit and accept contributions or donations from
2 participating financial institutions for crediting to the subaccount. Any interest earned by
3 moneys within the subaccount shall be credited to the subaccount. Notwithstanding sub-
4 section (5) of this section, moneys from any source not described in this subsection may not
5 be credited to the subaccount. The department may expend moneys credited to the subac-
6 count for any purpose for which moneys in the fund may be used.

7 (5) The department may establish accounts or subaccounts within the fund as the de-
8 partment determines are necessary or desirable and may credit any interest or income de-
9 rived from moneys in the fund to any account or subaccount in the fund.

10 **SECTION 3.** The Department of Consumer and Business Services shall, by rule, design,
11 implement, administer and operate a savings program for post-secondary education expenses.
12 The program must include the following provisions:

13 (1) The department must open a designated beneficiary account at a participating finan-
14 cial institution for each child described in section 5 of this 2017 Act.

15 (2) Moneys may be contributed to designated beneficiary accounts by the designated
16 beneficiary or by the department. Designated beneficiary accounts must be designed such
17 that designated beneficiaries may contribute money to a designated beneficiary account by
18 making a deposit with the participating financial institution at which the designated benefi-
19 ciary account is held.

20 (3) Total contributions to a designated beneficiary account may not exceed amounts
21 reasonably necessary to provide for the qualified post-secondary education expenses of the
22 designated beneficiary. The department must establish maximum amounts that may be held
23 in designated beneficiary accounts and may require the provision of any information from a
24 designated beneficiary that the department considers necessary to establish such limits.

25 (4) The department must maintain separate records and accountings for each designated
26 beneficiary account, and make reports at least annually to designated beneficiaries.

27 (5) Withdrawals from designated beneficiary accounts may be made only for the payment
28 or reimbursement of qualified post-secondary education expenses of the designated benefi-
29 ciary, and may be made only by the department in the manner provided by rule.

30 (6) The department must notify a designated beneficiary of any withdrawal from the
31 designated beneficiary account held for the designated beneficiary.

32 (7) If the department determines that moneys in a designated beneficiary account will
33 not be or are highly unlikely to be used to pay qualified post-secondary education expenses,
34 the department may terminate the designated beneficiary account and transfer moneys in
35 the designated beneficiary account to the Oregon Bright Futures Fund.

36 **SECTION 4.** (1) For each child born in Oregon to residents of this state on or after the
37 date of execution of the agreement described in subsection (2) of this section, 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 Department of Consumer and Business
40 Services a data file containing the names of the child and of the parents of the child, the sex,
41 race and ethnicity of the child, the county of the child's birth and the mother's mailing ad-
42 dress for the purpose of implementing section 5 of this 2017 Act.

43 (2) The state registrar and the department shall enter into an agreement to implement
44 the provisions of this section. The agreement must include provisions governing the transfer,
45 storage and destruction of data files.

1 **SECTION 5.** (1) The Department of Consumer and Business Services shall, after receiving
2 information about the birth of a child from the State Registrar of the Center for Health
3 Statistics under section 4 of this 2017 Act, establish a designated beneficiary account at a
4 participating financial institution with the child as the designated beneficiary.

5 (2) If a parent was an Oregon resident at the time of the birth of a child of the parent
6 and the child was born outside of Oregon, the parent may apply to the department to es-
7 tablish a designated beneficiary account under this section, provided that the parent is an
8 Oregon resident at the time of application.

9 (3) The department shall, upon determining that a child for whom a designated benefi-
10 cary account has not been established under this section has been lawfully adopted, establish
11 a designated beneficiary account and send notice as provided in this section to the adoptive
12 parents.

13 (4) After a designated beneficiary account is opened, the department shall send notice to
14 the parents of the designated beneficiary. The department shall establish the content of the
15 notice.

16 (5) The department shall, by rule, establish procedures for determining at which partic-
17 ipating financial institution a designated beneficiary account should be opened.

18 **SECTION 6.** (1) A financial institution may become a participating financial institution
19 by entering into an agreement with the Department of Consumer and Business Services that,
20 at a minimum, provides a method for the department to open designated beneficiary ac-
21 counts with the financial institution according to terms and conditions specified by the de-
22 partment. The department may, by rule, establish other requirements or prerequisites for
23 participating financial institutions.

24 (2) No financial institution is required to become a participating financial institution.

25 **SECTION 7.** Notwithstanding any other provision of law that requires consideration of
26 one or more financial circumstances of an individual for the purpose of determining the el-
27 igibility to receive, or the amount of, any assistance or benefit authorized by law to be pro-
28 vided to or for the benefit of the individual, any amount in a designated beneficiary account
29 established under sections 1 to 13 of this 2017 Act for the benefit of the individual, including
30 earnings on the account, any contributions to the account and any qualified withdrawal, shall
31 be disregarded for such purpose.

32 **SECTION 8.** The Department of Consumer and Business Services has the following pow-
33 ers, duties and functions:

34 (1) To design, implement, administer and operate a savings program for post-secondary
35 education expenses as described in section 3 of this 2017 Act.

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

37 (3) To make and enter into any and all contracts, agreements or arrangements, and to
38 retain, employ and contract for the services of private and public financial institutions, de-
39 positories, consultants, investment advisors or managers and third-party plan administrators
40 and for research, technical and other services necessary or desirable for carrying out the
41 purposes of sections 1 to 13 of this 2017 Act.

42 (4) To accept donations or contributions or otherwise receive moneys into the Oregon
43 Bright Futures Fund for purposes of providing scholarships, grants and other incentives to
44 designated beneficiaries or furthering any of the purposes of sections 1 to 13 of this 2017 Act.

45 (5) To award scholarships or grants, provide or make available other incentives to des-

1 **ignated beneficiaries or enter into promotional arrangements with third parties as the de-**
2 **partment considers desirable.**

3 **SECTION 9. Moneys deposited into designated beneficiary accounts under sections 1 to**
4 **13 of this 2017 Act are considered moneys of the State of Oregon, regardless of the source**
5 **of the moneys. Except as otherwise provided by law, the Department of Consumer and**
6 **Business Services is the trustee of the moneys and earnings.**

7 **SECTION 10. (1) The Department of Consumer and Business Services may purchase, de-**
8 **velop or contract for the development of software for communicating with designated bene-**
9 **ficiaries or their families regarding designated beneficiary accounts.**

10 **(2) The department may purchase, develop or contract for the development of financial**
11 **aggregation software that will enable users to view information about multiple financial ac-**
12 **counts, including designated beneficiary accounts, accounts established under the Oregon 529**
13 **Savings Network or other accounts as specified by the department by rule.**

14 **(3) The department shall allow information regarding amounts held in designated benefi-**
15 **ciary accounts to be electronically linked using financial aggregation software to financial**
16 **accounts held at financial institutions, to accounts established under the Oregon 529 Savings**
17 **Network or to other accounts, entities, persons or locations as specified by the department**
18 **by rule.**

19 **SECTION 11. (1) The Department of Consumer and Business Services and the State of**
20 **Oregon may not insure any account or guarantee any rate of return or any interest rate on**
21 **any moneys in a designated beneficiary account.**

22 **(2) The department and the State of Oregon are not liable for any loss incurred by any**
23 **person as a result of having a designated beneficiary account established for the person's**
24 **benefit or as a result of contributing to a designated beneficiary account.**

25 **SECTION 12. (1) Moneys in an account, including any interest, may not be assigned or**
26 **pledged or otherwise used to secure or obtain a loan or other advancement.**

27 **(2) The right of a designated beneficiary to the payment of qualified post-secondary edu-**
28 **cation expenses, or to payments and withdrawals made in exercise of that right, and to**
29 **moneys or property held within an account is exempt from garnishment and is not subject**
30 **to execution, attachment or any other process or to the operation of any bankruptcy or**
31 **insolvency law.**

32 **(3) A refund of a qualified withdrawal may not be paid by a post-secondary education in-**
33 **stitution directly to the designated beneficiary. Any refund owed by a post-secondary educa-**
34 **tion institution on account of an overpayment made or reimbursed from a qualified**
35 **withdrawal must be refunded to the Department of Consumer and Business Services for de-**
36 **posit in the appropriate designated beneficiary account.**

37 **SECTION 13. (1) Subject to subsection (2) of this section, information relating to desig-**
38 **nated beneficiary accounts, including but not limited to names, addresses, telephone num-**
39 **bers, balances, amounts contributed and earnings on amounts contributed, is confidential**
40 **and may not be disclosed.**

41 **(2) Information relating to designated beneficiary accounts may be disclosed:**

42 **(a) In the aggregate, such that the disclosed information cannot be used to identify,**
43 **contact or locate any single individual;**

44 **(b) To the extent necessary to administer sections 1 to 13 of this 2017 Act;**

45 **(c) If the person to whom the information relates expressly agrees in writing that the**

1 information may be disclosed; or

2 (d) In accordance with the provisions of ORS 192.583 to 192.607 or 12 U.S.C. 3401 et seq.

3 **SECTION 14.** (1) The Department of Consumer and Business Services shall report the
4 department's findings and recommendations regarding the implementation of sections 1 to
5 13 of this 2017 Act to the interim committees of the Legislative Assembly related to educa-
6 tion, in the manner provided by ORS 192.245, no later than September 15, 2020, and may in-
7 clude recommendations for legislation.

8 (2) In addition to the report required under subsection (1) of this section, the department
9 shall report its findings and recommendations regarding the implementation of sections 1 to
10 13 of this 2017 Act to the Legislative Assembly in the manner provided by ORS 192.245 no
11 later than April 1, 2021, and may include recommendations for legislation.

12 **SECTION 15.** ORS 295.101 is amended to read:

13 295.101. (1) The following public funds are not subject to the provisions of ORS 295.001 to
14 295.108:

15 (a) Funds that are deposited for the purpose of paying principal, interest or premium, if any, on
16 bonds, as defined in ORS 286A.001 and 287A.001, and related costs or securing a borrowing related
17 to an agreement for exchange of interest rates entered into under ORS 286A.110 or 287A.335.

18 (b) Funds that are invested in authorized investments under provisions of law other than ORS
19 295.001 to 295.108. Funds invested under ORS 293.701 to 293.857 are invested in authorized invest-
20 ments for purposes of this subsection from the time the funds are transferred by the State Treasurer
21 to a third party under the terms of a contract for investment or administration of the funds that
22 requires such a transfer until the time the funds are returned to the treasurer or paid to another
23 party under the terms of the contract.

24 (c) Negotiable certificates of deposit purchased by the State Treasurer under ORS 293.736 or
25 by an investment manager under ORS 293.741.

26 (d) Funds that are held by a public official and are required by federal law or contractual pro-
27 visions to be collateralized at 100 percent, if the funds are deposited in an account that is separate
28 from other accounts of the public official in a depository, and the public official and the depository
29 have entered into a written agreement that provides a perfected security interest to the public of-
30 ficial in collateral valued at an amount at least equal to the amount of funds in the account in a
31 manner substantially similar to a pledge agreement described in ORS 295.001 (15).

32 (e) **Funds that are maintained by the Department of Consumer and Business Services**
33 **under sections 1 to 13 of this 2017 Act.**

34 (2) Notwithstanding subsection (1) of this section, funds deposited by a custodial officer under
35 ORS 294.035 (3)(d) are subject to the provisions of ORS 295.001 to 295.108.

36 **SECTION 16.** (1) **Sections 1 to 13 of this 2017 Act and the amendments to ORS 295.101**
37 **by section 15 of this 2017 Act become operative on January 1, 2018, or the date on which the**
38 **Department of Consumer and Business Services determines that sufficient moneys are**
39 **available to the department to carry out the duties, functions and powers conferred on the**
40 **department by sections 1 to 13 of this 2017 Act, whichever is later.**

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

1 **SECTION 17. This 2017 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
3 **on its passage.**

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