

Requested by HOUSE COMMITTEE ON EARLY CHILDHOOD AND FAMILY SUPPORTS

**PROPOSED AMENDMENTS TO
HOUSE BILL 3314**

1 On page 1 of the printed corrected bill, delete lines 5 through 21 and de-
2 lete pages 2 through 7 and insert:

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

4 **“(1) ‘Designated beneficiary’ means the individual for whom with-**
5 **drawals may be made from a designated beneficiary account for the**
6 **payment of qualified post-secondary education expenses.**

7 **“(2) ‘Designated beneficiary account’ means an account established**
8 **by the Department of Consumer and Business Services with a partic-**
9 **ipating financial institution for the benefit of a specific individual**
10 **under sections 1 to 13 of this 2017 Act.**

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

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

16 **“(5) ‘Participating financial institution’ means a financial institu-**
17 **tion that enters into an agreement with the Department of Consumer**
18 **and Business Services under section 6 of this 2017 Act.**

19 **“(6) ‘Post-secondary education institution’ means:**

20 **“(a) A public university;**

21 **“(b) A community college;**

1 “(c) Oregon Health and Science University;

2 “(d) A career school licensed under ORS 345.010 to 345.450 or a sim-
3 ilar law in another state;

4 “(e) A private post-secondary institution authorized to confer aca-
5 demic degrees under ORS 348.594 to 348.615 or a similar law in another
6 state; and

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

9 “(7) ‘Qualified post-secondary education expenses’ means:

10 “(a) Expenses incurred in the acquisition of post-secondary educa-
11 tion or job training at a post-secondary education institution, includ-
12 ing but not limited to tuition and extracurricular nontuition expenses
13 incurred to prepare a designated beneficiary for post-secondary edu-
14 cation or job training; and

15 “(b) Expenses constituting qualified higher education expenses un-
16 der section 529(e) of the Internal Revenue Code.

17 “(8) ‘Qualified withdrawal’ means a withdrawal made from an ac-
18 count to pay the qualified post-secondary education expenses of a
19 designated beneficiary.

20 “SECTION 2. (1) The Oregon Bright Futures Fund is established in
21 the State Treasury, separate and distinct from the General Fund. In-
22 terest earned by the Oregon Bright Futures Fund shall be credited to
23 the fund. All moneys credited to the Oregon Bright Futures Fund are
24 continuously appropriated to the Department of Consumer and Busi-
25 ness Services for the purposes specified in sections 1 to 13 of this 2017
26 Act.

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

28 “(a) Moneys appropriated by the Legislative Assembly for deposit
29 in the fund or for the design, implementation, administration or op-
30 eration of a post-secondary education savings program;

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

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

5 “(d) Earnings on moneys in the fund.

6 “(3) The department may use the moneys in the fund to design,
7 implement, administer and operate the program described in sections
8 1 to 13 of this 2017 Act, to make qualified withdrawals, to pay the ad-
9 ministrative costs and expenses of the department related to sections
10 1 to 13 of this 2017 Act, to provide or make available scholarships,
11 grants and other incentives to designated beneficiaries or to further
12 any other purpose of sections 1 to 13 of this 2017 Act.

13 “(4) The Financial Institution Community Education Subaccount is
14 established as a subaccount to the fund. The department may solicit
15 and accept contributions or donations from participating financial in-
16 stitutions for crediting to the subaccount. Any interest earned by
17 moneys within the subaccount shall be credited to the subaccount.
18 Notwithstanding subsection (5) of this section, moneys from any
19 source not described in this subsection may not be credited to the
20 subaccount. The department may expend moneys credited to the sub-
21 account for any purpose for which moneys in the fund may be used.

22 “(5) The department may establish accounts or subaccounts within
23 the fund as the department determines are necessary or desirable and
24 may credit any interest or income derived from moneys in the fund
25 to any account or subaccount in the fund.

26 “SECTION 3. The Department of Consumer and Business Services
27 shall, by rule, design, implement, administer and operate a savings
28 program for post-secondary education expenses. The program must
29 include the following provisions:

30 “(1) The department must open a designated beneficiary account

1 at a participating financial institution for each child described in sec-
2 tion 5 of this 2017 Act.

3 “(2) Moneys may be contributed to designated beneficiary accounts
4 by the designated beneficiary or by the department. Designated ben-
5 eficiary accounts must be designed such that designated beneficiaries
6 may contribute money to a designated beneficiary account by making
7 a deposit with the participating financial institution at which the
8 designated beneficiary account is held.

9 “(3) Total contributions to a designated beneficiary account may
10 not exceed amounts reasonably necessary to provide for the qualified
11 post-secondary education expenses of the designated beneficiary. The
12 department must establish maximum amounts that may be held in
13 designated beneficiary accounts and may require the provision of any
14 information from a designated beneficiary that the department con-
15 sidered necessary to establish such limits.

16 “(4) The department must maintain separate records and ac-
17 countings for each designated beneficiary account, and make reports
18 at least annually to designated beneficiaries.

19 “(5) Withdrawals from designated beneficiary accounts may be
20 made only for the payment or reimbursement of qualified post-
21 secondary education expenses of the designated beneficiary, and may
22 be made only by the department in the manner provided by rule.

23 “(6) The department must notify a designated beneficiary of any
24 withdrawal from the designated beneficiary account held for the des-
25 igned beneficiary.

26 “(7) If the department determines that moneys in a designated
27 beneficiary account will not be or are highly unlikely to be used to pay
28 qualified post-secondary education expenses, the department may ter-
29 minate the designated beneficiary account and transfer moneys in the
30 designated beneficiary account to the Oregon Bright Futures Fund.

1 **“SECTION 4. (1) For each child born in Oregon to residents of this**
2 **state on or after the date of execution of the agreement described in**
3 **subsection (2) of this section, the State Registrar of the Center for**
4 **Health Statistics shall, on a quarterly basis, send or deliver by secure**
5 **electronic or other reasonable means to the Department of Consumer**
6 **and Business Services a data file containing the names of the child and**
7 **of the parents of the child, the sex, race and ethnicity of the child, the**
8 **county of the child’s birth and the mother’s mailing address for the**
9 **purpose of implementing section 5 of this 2017 Act.**

10 **“(2) The state registrar and the department shall enter into an**
11 **agreement to implement the provisions of this section. The agreement**
12 **must include provisions governing the transfer, storage and de-**
13 **struction of data files.**

14 **“SECTION 5. (1) The department shall, after receiving information**
15 **about the birth of a child from the State Registrar of the Center for**
16 **Health Statistics under section 4 of this 2017 Act, establish a desig-**
17 **nated beneficiary account at a participating financial institution with**
18 **the child as the designated beneficiary.**

19 **“(2) If a parent was an Oregon resident at the time of the birth of**
20 **a child of the parent and the child was born outside of Oregon, the**
21 **parent may apply to the department to establish a designated benefi-**
22 **ciary account under this section, provided that the parent is an**
23 **Oregon resident at the time of application.**

24 **“(3) The department shall, upon determining that a child for whom**
25 **a designated beneficiary account has not been established under this**
26 **section has been lawfully adopted, establish a designated beneficiary**
27 **account and send notice as provided in this section to the adoptive**
28 **parents.**

29 **“(4) After a designated beneficiary account is opened, the depart-**
30 **ment shall send notice to the parents of the designated beneficiary.**

1 The department shall establish the content of the notice.

2 “(5) The department shall, by rule, establish procedures for deter-
3 mining at which participating financial institution a designated bene-
4 ficiary account should be opened.

5 **“SECTION 6. (1) A financial institution may become a participating**
6 **financial institution by entering into an agreement with the Depart-**
7 **ment of Consumer and Business Services that, at a minimum, provides**
8 **a method for the department to open designated beneficiary accounts**
9 **with the financial institution according to terms and conditions spec-**
10 **ified by the department. The department may, by rule, establish other**
11 **requirements or prerequisites for participating financial institutions.**

12 “(2) No financial institution is required to become a participating
13 financial institution.

14 **“SECTION 7. Notwithstanding any other provision of law that re-**
15 **quires consideration of one or more financial circumstances of an in-**
16 **dividual for the purpose of determining the eligibility to receive, or the**
17 **amount of, any assistance or benefit authorized by law to be provided**
18 **to or for the benefit of the individual, any amount in a designated**
19 **beneficiary account established under sections 1 to 13 of this 2017 Act**
20 **for the benefit of the individual, including earnings on the account,**
21 **any contributions to the account and any qualified withdrawal, shall**
22 **be disregarded for such purpose.**

23 **“SECTION 8. The Department of Consumer and Business Services**
24 **has the following powers, duties and functions:**

25 “(1) To design, implement, administer and operate a savings pro-
26 gram for post-secondary education expenses as described in section 3
27 of this 2017 Act.

28 “(2) To adopt rules for the general administration of sections 1 to
29 13 of this 2017 Act.

30 “(3) To make and enter into any and all contracts, agreements or

1 arrangements, and to retain, employ and contract for the services of
2 private and public financial institutions, depositories, consultants, in-
3 vestment advisors or managers and third-party plan administrators
4 and for research, technical and other services necessary or desirable
5 for carrying out the purposes of sections 1 to 13 of this 2017 Act.

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

10 “(5) To award scholarships or grants, provide or make available
11 other incentives to designated beneficiaries or enter into promotional
12 arrangements with third parties as the department considers desirable.

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

18 **“SECTION 10.** (1) The Department of Consumer and Business Ser-
19 vices may purchase, develop or contract for the development of soft-
20 ware for communicating with designated beneficiaries or their families
21 regarding designated beneficiary accounts.

22 “(2) The department may purchase, develop or contract for the de-
23 velopment of financial aggregation software that will enable users to
24 view information about multiple financial accounts, including desig-
25 nated beneficiary accounts, accounts established under the Oregon 529
26 Savings Network or other accounts as specified by the department by
27 rule.

28 “(3) The department shall allow information regarding amounts
29 held in designated beneficiary accounts to be electronically linked us-
30 ing financial aggregation software to financial accounts held at fi-

1 nancial institutions, to accounts established under the Oregon 529
2 Savings Network or other accounts as specified by the department by
3 rule.

4 **“SECTION 11. (1) The Department of Consumer and Business Ser-**
5 **VICES and the State of Oregon may not insure any account or guaran-**
6 **tee any rate of return or any interest rate on any moneys in a**
7 **designated beneficiary account.**

8 **“(2) The department and the State of Oregon are not liable for any**
9 **loss incurred by any person as a result of having a designated benefi-**
10 **ciary account established for the person’s benefit or as a result of**
11 **contributing to a designated beneficiary account.**

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

15 **“(2) The right of a designated beneficiary to the payment of quali-**
16 **fied post-secondary education expenses, or to payments and with-**
17 **drawals made in exercise of that right, and to moneys or property held**
18 **within an account is exempt from garnishment and is not subject to**
19 **execution, attachment or any other process or to the operation of any**
20 **bankruptcy or insolvency law.**

21 **“(3) A refund of a qualified withdrawal may not be paid by a post-**
22 **secondary education institution directly to the designated beneficiary.**
23 **Any refund owed by a post-secondary education institution on account**
24 **of an overpayment made or reimbursed from a qualified withdrawal**
25 **must be refunded to the Department of Consumer and Business Ser-**
26 **vices for deposit in the appropriate designated beneficiary account.**

27 **“SECTION 13. (1) Subject to subsection (2) of this section, infor-**
28 **mation relating to designated beneficiary accounts, including but not**
29 **limited to names, addresses, telephone numbers, balances, amounts**
30 **contributed and earnings on amounts contributed, is confidential and**

1 **may not be disclosed.**

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

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

6 **“(b) To the extent necessary to administer sections 1 to 13 of this**
7 **2017 Act;**

8 **“(c) If the person to whom the information relates expressly agrees**
9 **in writing that the information may be disclosed; or**

10 **“(d) In accordance with the provisions of ORS 192.583 to 192.607 or**
11 **12 U.S.C. 3401 et seq.**

12 **“SECTION 14. (1) The Department of Consumer and Business Ser-**
13 **vices shall report the department’s findings and recommendations re-**
14 **garding the implementation of sections 1 to 13 of this 2017 Act to the**
15 **interim committees of the Legislative Assembly related to education,**
16 **in the manner provided by ORS 192.245, no later than September 15,**
17 **2020, and may include recommendations for legislation.**

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

23 **“SECTION 15. ORS 295.101 is amended to read:**

24 **“295.101. (1) The following public funds are not subject to the provisions**
25 **of ORS 295.001 to 295.108:**

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

30 **“(b) Funds that are invested in authorized investments under provisions**

1 of law other than ORS 295.001 to 295.108. Funds invested under ORS 293.701
2 to 293.857 are invested in authorized investments for purposes of this sub-
3 section from the time the funds are transferred by the State Treasurer to a
4 third party under the terms of a contract for investment or administration
5 of the funds that requires such a transfer until the time the funds are re-
6 turned to the treasurer or paid to another party under the terms of the
7 contract.

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

10 “(d) Funds that are held by a public official and are required by federal
11 law or contractual provisions to be collateralized at 100 percent, if the funds
12 are deposited in an account that is separate from other accounts of the
13 public official in a depository, and the public official and the depository have
14 entered into a written agreement that provides a perfected security interest
15 to the public official in collateral valued at an amount at least equal to the
16 amount of funds in the account in a manner substantially similar to a pledge
17 agreement described in ORS 295.001 (15).

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

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

23 **“SECTION 16. (1) Sections 1 to 13 of this 2017 Act and the amend-
24 ments to ORS 295.101 by section 15 of this 2017 Act become operative
25 on January 1, 2018, or the date on which the Department of Consumer
26 and Business Services determines that sufficient moneys are available
27 to the department to carry out the duties, functions and powers con-
28 ferred on the department by sections 1 to 13 of this 2017 Act, whichever
29 is later.**

30 **“(2) The State Registrar of the Center for Health Statistics and the**

1 department may take any action before the operative date specified in
2 subsection (1) of this section that is necessary to enable the state
3 registrar or department to exercise, on and after the operative date
4 specified in subsection (1) of this section, all the duties, functions and
5 powers conferred on the state registrar or department by sections 1
6 to 13 of this 2017 Act.

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

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