

House Bill 2560

Sponsored by Representative OWENS, Senator FINDLEY, Representative DIEHL; Representatives MORGAN, WRIGHT (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 education savings account (ESA) program. Allows participating students to obtain grants from education savings accounts to pay for qualified education expenses for specified types of schools or education programs.

Establishes Education Savings Program Fund and transfers moneys from State School Fund distributions for use in education savings accounts.

Requires Department of Education, in consultation with State Treasurer, to establish parent advisory committee.

First applies to 2024-2025 school year.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to education savings accounts; creating new provisions; amending ORS 327.008; and de-
3 claring an emergency.

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

SECTION 1. As used in sections 1 to 7 of this 2023 Act:

5
6 (1) **“Curriculum” means a complete course of study for a particular content area or grade**
7 **level.**

8 (2) **“Education savings account” or “ESA” means an account to which funds are trans-**
9 **ferred by the State Treasurer for use by the parent of a participating student in order to pay**
10 **for the qualified education expenses of the participating student pursuant to the require-**
11 **ments and conditions of sections 1 to 7 of this 2023 Act.**

12 (3) **“Education service provider” means an individual or organization that receives pay-**
13 **ments from an education savings account in exchange for qualified education expenses.**

14 (4) **“Parent” means a person who is eligible to establish or has established an education**
15 **savings account pursuant to section 2 of this 2023 Act.**

16 (5) **“Participating student” means a student who is participating in the ESA program**
17 **under sections 1 to 7 of this 2023 Act.**

18 (6) **“Qualified education expenses” means expenses identified in section 4 of this 2023 Act**
19 **for which moneys deposited in an education savings account may be used.**

20 (7) **“State institution of higher education” means:**

21 (a) **A public university listed in ORS 352.002;**

22 (b) **A community college operated under ORS chapter 341; or**

23 (c) **Any other post-secondary institution of education that was originally established in**
24 **this state, is tax exempt under section 501(c)(3) of the Internal Revenue Code and is ac-**
25 **credited by a regional or national accrediting agency recognized by the United States De-**
26 **partment of Education.**

27 **SECTION 2. (1) A person may establish an education savings account for a student if:**

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 (a) The person is the parent, legal guardian or other person who has the legal duty to
 2 ensure a child receives an education as provided by ORS 339.020; and

3 (b) The student is a resident of this state and is eligible to:

4 (A) Enroll in a public elementary or secondary school of this state; or

5 (B) Enroll in or receive services from any other education service provider.

6 (2) An education savings account shall be established when a person enters into a written
 7 agreement as provided by this section. A written agreement is valid for one year and must
 8 be renewed for each subsequent school year. Renewals of written agreements shall be as
 9 provided by section 3 (5) of this 2023 Act.

10 (3)(a) The State Treasurer shall create a form for a standard written agreement that can
 11 be used to establish an education savings account. The State Treasurer shall ensure that
 12 forms for a written agreement are available online and may be submitted online.

13 (b) The State Treasurer must approve the establishment of an education savings account
 14 if a written agreement is entered into pursuant to this section.

15 (c) A parent must enter into a separate written agreement for each participating student
 16 of the parent. Only one education savings account may be established for each participating
 17 student.

18 (4) A written agreement for an education savings account must provide that:

19 (a) The participating student will receive, for the school year to which the written
 20 agreement applies, instruction in at least the subjects of mathematics, science, language arts
 21 and social studies;

22 (b) The participating student will not enroll as a full-time student in a public school of
 23 this state for the school year to which the written agreement applies;

24 (c) The parent will use the funds in the education savings account only for qualified ed-
 25 ucation expenses;

26 (d) The parent and the participating student will comply with the rules and requirements
 27 of sections 1 to 7 of this 2023 Act and any related rules or policies adopted by the State
 28 Treasurer;

29 (e) The participating student will receive a grant, in the form of moneys deposited pur-
 30 suant to section 3 of this 2023 Act, in the education savings account established for the
 31 participating student; and

32 (f) If the participating student qualifies as a child with a disability, as defined in ORS
 33 343.035, the State Treasurer shall ensure that the parent who signs the written agreement
 34 receives notice that participation in the ESA program is a parental placement of the student
 35 under 20 U.S.C. 1412 along with an explanation of the rights that parentally placed students
 36 possess under the federal Individuals with Disabilities Act and any applicable state laws.

37 (5) Upon entering into or renewing a written agreement, the State Treasurer shall pro-
 38 vide a parent with a written explanation of the allowable uses of ESA funds, the responsi-
 39 bilities of the parent, the duties of the State Treasurer and the role of any private financial
 40 management firms or other private organizations that the State Treasurer may contract
 41 with to administer sections 1 to 7 of this 2023 Act pursuant to section 5 of this 2023 Act.

42 (6) Compliance with the written agreement shall satisfy the compulsory school attend-
 43 ance requirements of ORS 339.010. Participating students who are not enrolled as full-time
 44 students in a private school are exempt from the requirements of ORS 339.035.

45 (7) The State Treasurer shall annually renew an education savings account unless noti-

1 **fied by a parent that the parent wishes to terminate the account. A participating student**
 2 **with a disability shall remain eligible for renewal of an education savings account as long as**
 3 **the student remains eligible to be enrolled in a public school in this state.**

4 **(8)(a) Upon notice to the State Treasurer, a participating student may enroll full-time in**
 5 **a public school in this state. When the participating student enrolls full-time in a public**
 6 **school:**

7 **(A) The written agreement between the parent and the State Treasurer shall be sus-**
 8 **pending, and no further funds shall be deposited into the student’s education savings account**
 9 **until the student requalifies for qualified education expenses pursuant to the requirements**
 10 **and conditions of sections 1 to 7 of this 2023 Act.**

11 **(B) The written agreement between the parent and the State Treasurer terminates upon**
 12 **the request of the parent or upon the participating student attaining 25 years of age,**
 13 **whichever occurs first. Any remaining ESA funds in the participating student’s education**
 14 **savings account upon termination revert to the General Fund.**

15 **(b) The State Treasurer shall adopt rules and policies to allow participating students to**
 16 **enroll full-time in a public school in this state at any time in order to provide the least dis-**
 17 **ruptive process.**

18 **(9) Nothing in sections 1 to 7 of this 2023 Act shall be construed to require that a parti-**
 19 **cipating student be enrolled, full-time or part-time, in a private school.**

20 **(10) A written agreement terminates automatically if a participating student no longer**
 21 **resides in this state. Upon termination, any moneys remaining in the education savings ac-**
 22 **count revert to the General Fund.**

23 **SECTION 3. (1) If the parent of a student enters into a written agreement for an edu-**
 24 **cation savings account pursuant to section 2 of this 2023 Act, a grant of moneys must be**
 25 **transferred at the beginning of the school year by the State Treasurer from the Education**
 26 **Savings Program Fund established under section 12 of this 2023 Act into the education**
 27 **savings account of the participating student.**

28 **(2)(a) Except as otherwise provided in subsections (3) and (4) of this section, the grant**
 29 **required by subsection (1) of this section must, for the school year for which the grant is**
 30 **made, be in an amount equal to one of the following:**

31 **(A) For a participating student who is a child with a disability, as defined in ORS 343.035,**
 32 **\$6,500.**

33 **(B) For a participating student with a household income that is less than 185 percent of**
 34 **the federal poverty guidelines, \$6,500.**

35 **(C) For a participating student not described in subparagraph (A) or (B) of this para-**
 36 **graph, \$4,900.**

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

42 **(3) The State Treasurer may deduct no more than three percent from each grant for the**
 43 **administrative costs incurred by the State Treasurer in implementing the provisions of**
 44 **sections 1 to 7 of this 2023 Act.**

45 **(4) Any moneys remaining in an education savings account at the end of a school year**

1 shall roll over to the next school year.

2 (5) A written agreement is automatically renewed for each school year until:

3 (a) The participating student is no longer a resident of this state;

4 (b) The participating student graduates from college with a bachelor's degree;

5 (c) The participating student attains 25 years of age; or

6 (d) The State Treasurer revokes the participating student's education savings account for
7 substantial misuse of funds.

8 (6) The State Treasurer shall close an education savings account, and any unused funds
9 in the account shall revert to the General Fund, after the earlier of the participating stu-
10 dent:

11 (a) Not enrolling in a state institution of higher education within four years after high
12 school graduation; or

13 (b) Attaining 25 years of age.

14 (7) If a written agreement is terminated for any reason, any moneys remaining in the
15 education savings account shall revert to the General Fund.

16 **SECTION 4.** (1) Moneys deposited in an education savings account pursuant to section 3
17 of this 2023 Act may be expended only for qualified education expenses identified in this
18 section. Qualified education expenses are:

19 (a) Tuition and fees at a private school;

20 (b) Tuition and fees for nonpublic online learning programs or courses;

21 (c) Private tutoring services that are provided by:

22 (A) A tutor or tutoring facility that is accredited by a regional or national accrediting
23 agency recognized by the United States Department of Education; or

24 (B) A person who:

25 (i) Is licensed as a teacher in this state;

26 (ii) Has taught at an institution of higher education;

27 (iii) Is a subject matter expert; or

28 (iv) Is otherwise approved by the State Treasurer;

29 (d) Services contracted for and provided by a public school or public charter school, in-
30 cluding individual classes, extracurricular activities and programs in these schools;

31 (e) Textbooks, curriculum or other instructional materials, including any supplemental
32 materials required by a curriculum, private school, private online learning program, state
33 institution of higher education or public school;

34 (f) Computer hardware or other technological devices that are primarily used to help
35 meet a participating student's educational needs;

36 (g) Educational software and applications;

37 (h) Uniforms purchased from or through a private school;

38 (i) Fees for nationally standardized assessments, advanced placement examinations,
39 state-recognized industry certification exams and examinations related to admission to a
40 post-secondary institution of education, and any tuition and fees for related preparatory
41 courses;

42 (j) Fees for summer education programs and specialized after-school education programs,
43 but not for after-school child care;

44 (k) Educational services and therapies, including occupational, behavioral, physical,
45 speech-language and audiology therapies;

1 (L) Tuition and fees at a state institution of higher education;

2 (m) Fees for transportation paid to a fee-for-service transportation provider for a par-
 3 ticipating student to travel to and from a participating education service provider;

4 (n) Fees for the management of the education savings account; and

5 (o) Any other education expense approved by the State Treasurer.

6 (2) ESA funds may not be refunded or rebated to or shared with a parent or participating
 7 student in any manner.

8 (3) Any refund or rebate for goods or services purchased with ESA funds shall be credited
 9 directly to the education savings account of the participating student.

10 (4) Parents may make payments for the costs of educational goods and services not
 11 covered by the funds available in the participating student's education savings account.

12 (5) Personal deposits into an education savings account are not permitted.

13 (6) Funds deposited in a participating student's education savings account do not consti-
 14 tute taxable income to the parent or the participating student.

15 **SECTION 5.** (1) The State Treasurer may contract with private organizations to carry
 16 out sections 1 to 7 of this 2023 Act as long as the private organizations charge reasonable
 17 fees, based on market rates, for services. The authority of this subsection includes con-
 18 tracting with private financial management firms to manage education savings accounts.

19 (2) The State Treasurer shall implement a system for payment for services from educa-
 20 tion savings accounts to education service providers by electronic funds transfer, including
 21 debit cards, electronic payment systems or any other means of electronic payment that the
 22 State Treasurer determines to be commercially viable, cost-effective and user-friendly. The
 23 State Treasurer may not adopt a system that relies exclusively on requiring parents to be
 24 reimbursed for out-of-pocket expenses. The State Treasurer shall provide maximum flexibil-
 25 ity to parents by facilitating direct payments to education service providers and requests for
 26 preapproval and reimbursement for qualified education expenses.

27 (3) The State Treasurer shall implement a commercially viable, cost-effective and user-
 28 friendly system for publicly rating, reviewing and sharing information about education ser-
 29 vice providers.

30 (4) If an education service provider requires advance payment of tuition or fees prior to
 31 the start of the school year to reserve space for a participating student admitted to the ed-
 32 ucation service provider, the advance payment may be paid by the State Treasurer prior to
 33 the start of the school year in which the participating student is awarded a grant. The ad-
 34 vance payment may not exceed \$3,500 and must be deducted in an equitable manner from
 35 subsequent deposits into the participating student's education savings account to ensure
 36 adequate funds remain available throughout the school year. If a participating student de-
 37 cides not to attend the education service provider, the amount of the advance payment must
 38 be returned to the State Treasurer by the education service provider. Only one advance
 39 payment per participating student may be made per year as allowed by this subsection.

40 (5) The State Treasurer has the authority to conduct or contract for the auditing of in-
 41 dividual ESAs and shall, at a minimum, conduct random audits of ESAs on an annual basis.

42 (6)(a) The State Treasurer has the authority to terminate a written agreement and to
 43 deem any parent ineligible to enter into a new written agreement in the event of substantial
 44 misuse of ESA funds.

45 (b) The State Treasurer shall create procedures to ensure that the process of determin-

1 ing whether a substantial misuse of ESA funds has occurred is fair.

2 (c) The State Treasurer has the authority to refer suspected cases of substantial misuse
3 of ESA funds to the Attorney General or the district attorney of the county in which a
4 parent resides for investigation if the State Treasurer obtains evidence of fraudulent use of
5 ESA funds.

6 (d) A parent may appeal the State Treasurer's decision to deem the parent ineligible for
7 the ESA program as a contested case under ORS chapter 183.

8 (7) The State Treasurer may bar an education service provider from the ESA program
9 if the State Treasurer determines that the education service provider has:

10 (a) Intentionally and substantially misrepresented information or failed to refund any
11 overpayments in a timely manner;

12 (b) Routinely failed to provide participating students with promised educational services;
13 or

14 (c) Regularly failed to comply with the provisions of sections 1 to 7 of this 2023 Act or
15 any rules adopted by the State Treasurer.

16 (8)(a) The State Treasurer shall by rule create procedures to ensure that the process of
17 determining whether an education service provider may be barred from participating in the
18 program is fair.

19 (b) If an education service provider is barred from the program, the State Treasurer shall
20 immediately notify parents who have made payments from a participating student's educa-
21 tion savings account to the barred education service provider of the decision.

22 (c) An education service provider may appeal the State Treasurer's decision to bar the
23 provider from the program as a contested case under ORS chapter 183.

24 (9) The State Treasurer may accept gifts and grants from any source to cover adminis-
25 trative costs, to inform the public about the ESA program or to fund additional education
26 savings accounts.

27 (10) The State Treasurer may adopt rules that are not inconsistent with sections 1 to 7
28 of this 2023 Act and that are necessary for the administration of sections 1 to 7 of this 2023
29 Act, including establishing:

30 (a) An online anonymous fraud reporting service, or contracting for the provision of that
31 service.

32 (b) An anonymous telephone hotline for fraud reporting.

33 (c) Policies that require either a surety bond for education service providers receiving
34 more than \$100,000 in ESA program funds or insurance for account holders.

35 (d) Procedures for refunding payments from a participating education service provider
36 back to an education savings account.

37 (e) Procedures for entering into reciprocal agreements with ESA agencies or entities in
38 other states to recognize and allow education service providers approved in other states to
39 receive payments from education savings accounts under sections 1 to 7 of this 2023 Act.

40 (11) Rules or policies adopted by the State Treasurer shall focus on easing parental in-
41 volvement and encouraging educational service providers to provide parents with a broad
42 array of educational options.

43 (12) The State Treasurer shall maintain an updated list of participating education service
44 providers and shall ensure that the list is available online.

45 (13) The State Treasurer shall administer an annual survey of parents who enter into or

1 renew written agreements pursuant to section 2 of this 2023 Act. The survey must ask each
2 parent to indicate:

3 (a) The number of years the parent has entered into or renewed a written agreement;

4 (b) The relative satisfaction of the parent with the ESA program established pursuant
5 to sections 1 to 7 of this 2023 Act; and

6 (c) The opinions of the parent regarding any topics, items or issues that the State
7 Treasurer determines may aid the State Treasurer in evaluating and improving the effec-
8 tiveness of the ESA program established pursuant to sections 1 to 7 of this 2023 Act.

9 **SECTION 6.** (1) To be eligible to accept payments from an education savings account, an
10 education service provider shall:

11 (a) Submit notice to the State Treasurer of the intent to participate.

12 (b) Provide parents with a receipt for all qualified education expenses.

13 (c) Agree not to refund, rebate or share ESA funds with parents or participating students
14 in any manner, except that ESA funds may be remitted or refunded to an education savings
15 account in accordance with procedures established by the State Treasurer.

16 (d) Certify that the education service provider will not discriminate based on race, color,
17 ethnicity or national origin.

18 (e) Agree to submit any employee who will have contact with participating students to
19 a state or nationwide criminal records check as provided under ORS 181A.195.

20 (f) Provide the State Treasurer with any additional information that may be requested
21 to ensure the services provided to participating students are qualified education expenses.
22 If the education service provider is unable to provide the additional information, the State
23 Treasurer may bar the education service provider from participating in the program.

24 (2) If it is reasonably expected that an education service provider will receive aggregated
25 payments from education savings accounts in an amount that exceeds \$100,000 during any
26 school year, the State Treasurer may require the education service provider to:

27 (a) Post a surety bond in an amount equal to the amount reasonably expected to be paid
28 to the education service provider from education savings accounts during the school year;
29 or

30 (b) Provide evidence satisfactory to the State Treasurer that the education service pro-
31 vider otherwise has sufficient assets to pay the State Treasurer an amount equal to the
32 amount described in paragraph (a) of this subsection.

33 (3) Nothing in sections 1 to 7 of this 2023 Act shall be deemed to limit the independence
34 or autonomy of an education service provider or to make the actions of an education service
35 provider the actions of this state.

36 (4) The State Treasurer or any other state agency may not regulate the educational
37 program of an education service provider that accepts funds from an education savings ac-
38 count.

39 (5) An education service provider shall be given the maximum freedom to provide for the
40 educational needs of participating students without governmental control.

41 (6) Nothing in sections 1 to 7 of this 2023 Act shall be construed to expand the regulatory
42 authority of the state, its officers or any school district to impose any additional regulation
43 of education service providers beyond those necessary to enforce the requirements of
44 sections 1 to 7 of this 2023 Act.

45 **SECTION 7.** (1) At a parent's request, a participating student's local school district shall

1 permit a participating student who is being educated pursuant to the education savings ac-
 2 count program to participate in the statewide assessment system described in ORS 329.485.
 3 The school district may not charge a fee to parents who elect to have their student partic-
 4 ipate in the statewide assessment.

5 (2) Statewide assessment results for participating students shall be reported to the De-
 6 partment of Education separately from the results for nonparticipating students enrolled in
 7 the schools of a school district.

8 (3) A school district that previously enrolled a participating student shall provide an ed-
 9 ucation service provider that has enrolled a participating student with a complete copy of the
 10 participating student’s school records, while complying with 20 U.S.C. 1232g.

11 **SECTION 8.** (1) In any legal proceeding challenging the application of sections 1 to 7 of
 12 this 2023 Act to an education service provider, the respondent bears the burden of estab-
 13 lishing that the law is necessary and does not impose any undue burden on an education
 14 service provider.

15 (2) No liability shall arise on the part of the State Treasurer or this state or of any school
 16 district based on the award or use of an education service account pursuant to sections 1 to
 17 7 of this 2023 Act.

18 (3) If any part of sections 1 to 7 of this 2023 Act is challenged as violating either the
 19 United States Constitution or the Oregon Constitution, parents of participating students may
 20 be permitted to intervene to defend the constitutionality of sections 1 to 7 of this 2023 Act.
 21 For the purposes of judicial administration, a court may limit the number of parents per-
 22 mitted to intervene or require that all parents file a joint brief, as long as parents are not
 23 required to join any brief filed on behalf of any respondent.

24 (4) If any provision of sections 1 to 7 of this 2023 Act, or the application of sections 1 to
 25 7 of this 2023 Act to any person or circumstances, is held invalid, the invalidity does not af-
 26 fect other provisions or applications of sections 1 to 7 of this 2023 Act that can be given ef-
 27 fect without the invalid provision or application, and any provisions of sections 1 to 7 and
 28 12 of this 2023 Act are severable.

29 **SECTION 9.** (1) Sections 1 to 7 and 12 of this 2023 Act become operative on January 1,
 30 2024.

31 (2) The State Board of Education, the Department of Education and the State Treasurer
 32 may take any action before the operative date specified in subsection (1) of this section to
 33 ensure that students are first allowed to participate in the education savings account pro-
 34 gram established by sections 1 to 7 and 12 of this 2023 Act during the 2024-2025 school year.

35 **SECTION 10.** Notwithstanding section 3 (2)(b) of this 2023 Act, the amounts identified in
 36 section 3 (2)(a) of this 2023 Act shall first be adjusted beginning in the 2025-2027 biennium.

37 **SECTION 11.** Section 12 of this 2023 Act is added to and made a part of ORS chapter 327.

38 **SECTION 12.** (1) The Education Savings Program Fund is established within the State
 39 School Fund.

40 (2) The Education Savings Program Fund shall consist of moneys transferred as provided
 41 by ORS 327.008 and any other state or federal moneys available for the purposes of the edu-
 42 cation savings account program established by sections 1 to 7 of this 2023 Act.

43 (3) Moneys in the fund are continuously appropriated to the State Treasurer for the
 44 purpose of making transfers to education savings accounts under section 3 of this 2023 Act.

45 **SECTION 13.** (1) The Department of Education, in consultation with the State Treasurer,

1 shall establish the Education Savings Account Parent Advisory Committee. The purpose of
 2 the advisory committee is to provide advice on and oversight of the implementation of the
 3 education savings account program under sections 1 to 7 of this 2023 Act and any related
 4 rules adopted by the State Treasurer.

5 (2) The advisory committee shall consist of six members who are parents of students
 6 participating in the education savings account program. The members of the advisory com-
 7 mittee shall be appointed as follows:

8 (a) One member who is recommended by the President of the Senate and appointed by
 9 the department.

10 (b) One member who is recommended by the Speaker of the House of Representatives
 11 and appointed by the department.

12 (c) One member who is recommended by the Minority Leader of the Senate and appointed
 13 by the department.

14 (d) One member who is recommended by the Minority Leader of the House of Represen-
 15 tatives and appointed by the department.

16 (e) Two members who are appointed by the Governor.

17 (3) The members of the advisory committee shall annually elect a chairperson from
 18 among its members.

19 (4) The term of office of each member of the advisory committee is four years, but a
 20 member serves at the pleasure of the appointing authority. Vacancies shall be filled by the
 21 appointing authority by appointment for the unexpired term. A member shall hold the
 22 member's office until the appointment of a successor. A member is eligible for reappoint-
 23 ment.

24 (5) The advisory committee shall meet at least four times each calendar year at a time
 25 and place fixed by the chairperson or a majority of the members of the advisory committee.
 26 A majority of the members of the advisory committee constitutes a quorum for the trans-
 27 action of business.

28 (6) The advisory committee shall collaborate with the department, the State Treasurer,
 29 the State Board of Education and the Attorney General, as appropriate, to review the im-
 30 plementation and efficacy of the education savings account program under sections 1 to 7
 31 of this 2023 Act, including the concerns of parents of students participating in the education
 32 savings account program.

33 (7) The department shall provide office space and personnel to assist the advisory com-
 34 mittee as requested by the chairperson, within the limits of available funds.

35 **SECTION 14.** ORS 327.008 is amended to read:

36 327.008. (1)(a) There is established a State School Fund in the General Fund.

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

40 (c) The State School Fund shall consist of moneys appropriated by the Legislative Assembly,
 41 moneys transferred from the Fund for Student Success, moneys transferred from the Education Sta-
 42 bility Fund and the Oregon Marijuana Account and moneys received as provided in paragraph (b)
 43 of this subsection.

44 (d) The State School Fund is continuously appropriated to the Department of Education for the
 45 purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 327.356 to

1 327.359, 336.575, 336.580, 336.635, 343.243, 343.533, 343.941 and 343.961.

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

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

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

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

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

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

20 (8) The total amount of the State School Fund that is distributed as facility grants may not ex-
21 ceed \$3 million in any biennium. If the total amount to be distributed as facility grants exceeds this
22 limitation, the Department of Education shall prorate the amount of funds available for facility
23 grants among those school districts that qualified for a facility grant. If the total amount to be dis-
24 tributed as facility grants does not exceed this limitation, any remaining amounts shall be expended
25 for expenses incurred by the Office of School Facilities as provided in ORS 326.125 (1).

26 (9) Each biennium, the Department of Education may expend from the State School Fund no
27 more than \$10 million for expenses incurred by the Office of School Facilities under ORS 326.125 (2)
28 to (7).

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

32 (11) Each fiscal year, the Department of Education shall transfer the amount of \$55 million from
33 the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

34 (12)(a) Each biennium, the Department of Education shall transfer \$39.5 million from the State
35 School Fund to the Educator Advancement Fund established under ORS 342.953.

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

37 (A) The total amount available for all distributions from the State School Fund shall be reduced
38 by \$6 million;

39 (B) The amount distributed to school districts from the State School Fund under this section and
40 ORS 327.013 shall be reduced by \$16.75 million; and

41 (C) The amount distributed to education service districts from the State School Fund under this
42 section and ORS 327.019 shall be reduced by \$16.75 million.

43 (c) For each biennium, the amounts identified in this subsection shall be adjusted by the same
44 percentage by which the instructions furnished to state agencies by the Governor under ORS 291.204
45 direct the state agencies to adjust their agency budget requests for special payments under ORS

1 291.216 (6)(a)(C).

2 (13) Each biennium, the Department of Education shall transfer \$12.5 million from the State
 3 School Fund to the Statewide English Language Learner Program Account established under ORS
 4 327.344.

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

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

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

15 (17) Each biennium, the Department of Education shall transfer \$2 million from the State School
 16 Fund for deposit to the Healthy School Facilities Fund established under ORS 332.337.
 17 Notwithstanding ORS 332.337, the department may expend moneys received in the Healthy School
 18 Facilities Fund under this subsection only as grants for costs associated with testing for elevated
 19 levels of lead in water used for drinking or food preparation.

20 (18) Each biennium, the Department of Education shall transfer an amount not to exceed
 21 \$5,595,000 for the purpose of making tampons and sanitary pads available as provided by ORS
 22 326.545.

23 (19) Each fiscal year, the Department of Education shall transfer the amount of \$2.5 million from
 24 the State School Fund to the Small School District Supplement Fund established in ORS 327.359.

25 **(20) Each fiscal year, the Department of Education shall transfer to the Education**
 26 **Savings Program Fund established under section 12 of this 2023 Act the amount necessary**
 27 **to make the transfers required by section 3 of this 2023 Act.**

28 **SECTION 15. (1) The amendments to ORS 327.008 by section 14 of this 2023 Act become**
 29 **operative on July 1, 2024.**

30 **(2) The amendments to ORS 327.008 by section 14 of this 2023 Act apply to State School**
 31 **Fund distributions commencing with the 2024-2025 school year distributions.**

32 **SECTION 16. Notwithstanding the term of office specified by section 13 of this 2023 Act,**
 33 **of the members first appointed to the Education Savings Account Parent Advisory Commit-**
 34 **tee:**

35 **(1) Two shall serve for a term ending December 31, 2025.**

36 **(2) Two shall serve for a term ending December 31, 2026.**

37 **(3) One shall serve for a term ending December 31, 2027.**

38 **(4) One shall serve for a term ending December 31, 2028.**

39 **SECTION 17. This 2023 Act being necessary for the immediate preservation of the public**
 40 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
 41 **on its passage.**