

House Bill 2711

Sponsored by Representative ZIKA; Representatives BREESE-IVERSON, LEIF, SMITH DB (Presession 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**.

Directs Department of Education to establish voucher program for students of this state.
Establishes Department of Education Voucher Account. Continuously appropriates moneys to Department of Education for payment of department's expenses under program.
Establishes Treasurer Voucher Account. Continuously appropriates moneys to State Treasurer for payment of treasurer's expenses under program.
Establishes Oregon Voucher Account within State School Fund. Continuously appropriates moneys to Department of Education for purpose of making transfers under program.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to school vouchers; creating new provisions; amending ORS 327.008, 339.030 and 339.505;
3 and declaring an emergency.

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

SECTION 1. As used in sections 1 to 6 of this 2021 Act:

6 (1) **"Enrolled student" means a student who is a resident of this state and who is enrolled**
7 **in the voucher program established by sections 1 to 6 of this 2021 Act.**

8 (2) **"Parent" means a resident of this state who is a parent or legal guardian of a student**
9 **who is seeking to enroll, or is already enrolled, in the voucher program established by**
10 **sections 1 to 6 of this 2021 Act.**

11 (3) **"Qualified expenses" means the following expenses of an enrolled student:**

12 (a) **Tuition, fees, textbooks and other required course materials at a private school that**
13 **provides a course of study usually taught in kindergarten through grade 12 in the public**
14 **schools;**

15 (b) **Tuition for instruction provided by a private teacher, as described in ORS 339.030**
16 **(1)(d), including the costs for any course materials;**

17 (c) **The costs for any course materials incurred by a parent for providing instruction as**
18 **described in ORS 339.030 (1)(e);**

19 (d) **Tutoring services provided by a person licensed by the Teacher Standards and Prac-**
20 **tices Commission or a person licensed or accredited by any state, regional or national ac-**
21 **creditation organization;**

22 (e) **Tuition, fees, textbooks or required course materials for a private online learning**
23 **program; and**

24 (f) **Fees for management of an individual account established under the voucher program**
25 **established by sections 1 to 6 of this 2021 Act.**

26 (4) **"Statewide average distribution" means an amount determined by the Department of**
27 **Education each school year that equals the average per student distribution of the State**
28 **School Fund as general purpose grants for all school districts in 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 **SECTION 2.** (1) The Department of Education shall develop a voucher program for stu-
 2 dents of this state.

3 (2)(a) A parent may enroll or reenroll a student in the program by submitting an appli-
 4 cation to the Department of Education on the form required by the department by April 1.
 5 The student must be a resident of this state who has not completed high school and who
 6 meets the qualifications of paragraph (b) or (c) of this subsection.

7 (b) In the case of a parent seeking enrollment for a student, the student must be in the
 8 attendance boundaries of a school of this state.

9 (c) In the case of a parent seeking reenrollment for a student, the student must have
 10 participated in the program during the previous school year.

11 (d) Enrollment in the program is valid for one school year only and a parent must
 12 reenroll the student in the program for each subsequent school year.

13 (3) The Department of Education shall enroll or reenroll the student in the program
 14 upon:

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

17 (b) Receiving acknowledgment from the parent that the parent accepts the terms of
 18 participation in the program, including:

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

21 (B) The requirement that the student:

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

23 (ii) Comply with the requirements specified in ORS 339.035 (3) to (5).

24 (4) An enrolled student may not be required to attend public full-time schools, as pro-
 25 vided by ORS 339.030, but may receive part-time instruction at a public school and must pay
 26 tuition for that instruction.

27 (5)(a) Upon enrolling or reenrolling a student in the program, the department shall notify
 28 the State Treasurer of the enrollment or reenrollment.

29 (b) The State Treasurer shall ensure that an account is established for each enrolled
 30 student as described in section 3 of this 2021 Act. The State Treasurer shall notify the de-
 31 partment after the State Treasurer:

32 (A) Verifies that an account already was established for the enrolled student if the en-
 33 rolled student has participated in the program in a previous year; or

34 (B) Establishes an account for an enrolled student who does not already have an estab-
 35 lished account.

36 (c) Upon receiving a notice as provided by paragraph (b) of this subsection, the depart-
 37 ment shall, for each student enrolled:

38 (A) Transfer to an account established for the student under section 3 of this 2021 Act
 39 an amount that equals 90 percent of the statewide average distribution.

40 (B) Transfer to the school district in which the student is a resident an amount that
 41 equals five percent of the statewide average distribution.

42 (C) Transfer to the Department of Education Voucher Account established by section 4
 43 of this 2021 Act an amount that equals four percent of the statewide average distribution.

44 (D) Transfer to the Treasurer Voucher Account established by section 5 of this 2021 Act
 45 an amount that equals one percent of the statewide average distribution.

1 (6) A school or any other provider of services purchased pursuant to the program may
 2 not share with or refund or rebate to the parent or enrolled student in any manner any
 3 moneys received through the program.

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

6 **SECTION 3.** (1) For each enrolled student in the voucher program established by sections
 7 1 to 6 of this 2021 Act, the State Treasurer shall ensure that an individual account is estab-
 8 lished. The parent of the enrolled student has the right to withdraw funds from the account
 9 only for the benefit of the enrolled student and only for qualified expenses.

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

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

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

16 (a) May not be assigned, pledged or otherwise used to secure or obtain a loan or other
 17 advancement.

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

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

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

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

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

26 (6) A parent, an enrolled student or a provider of services purchased pursuant to the
 27 program may be disqualified from program participation if the person is found to have com-
 28 mitted an intentional program violation consisting of any misrepresentation or other act that
 29 materially violates a law or rule governing the program. The department may remove any
 30 parent or enrolled student from eligibility for participating in the program and shall notify
 31 the State Treasurer. A parent may appeal the department's decision pursuant to the con-
 32 tested case process described in ORS chapter 183.

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

37 (8) An enrolled student's account shall be closed and any remaining funds shall be de-
 38 posited in the State School Fund after a period of four years after the student no longer
 39 meets the qualifications described in section 2 (2) of this 2021 Act.

40 **SECTION 4.** (1) The Department of Education Voucher Account is established in the
 41 State Treasury, separate and distinct from the General Fund. Interest earned by the account
 42 shall be credited to the account. All moneys credited to the account are continuously ap-
 43 propriated to the Department of Education for the payment of expenses of the department
 44 under sections 1 to 6 of this 2021 Act.

45 (2) The Department of Education Voucher Account consists of:

- 1 (a) Moneys transferred as provided by section 2 (5)(c)(C) of this 2021 Act;
- 2 (b) Moneys appropriated to the account by the Legislative Assembly; and
- 3 (c) Any other moneys from state or federal sources.

4 **SECTION 5.** (1) The Treasurer Voucher Account is established in the State Treasury,
5 separate and distinct from the General Fund. Interest earned by the account shall be cred-
6 ited to the account. All moneys credited to the account are continuously appropriated to the
7 State Treasurer for the payment of expenses of the State Treasurer under sections 1 to 6
8 of this 2021 Act.

9 (2) The Treasurer Voucher Account consists of:

- 10 (a) Moneys transferred as provided by section 2 (5)(c)(D) of this 2021 Act;
- 11 (b) Moneys appropriated to the account by the Legislative Assembly; and
- 12 (c) Any other moneys from state or federal sources.

13 **SECTION 6.** (1) As used in this section, “participating school” means a private school
14 that provides instruction to an enrolled student in a course of study usually taught in
15 kindergarten through grade 12 in the public schools.

16 (2) Nothing in sections 1 to 6 of this 2021 Act:

17 (a) Permits a state or federal government agency to exercise control or supervision over
18 any participating school, private teacher, parent or legal guardian.

19 (b) Makes a participating school, private teacher, parent or legal guardian an agent of
20 the state or federal government.

21 (c)(A) Requires a participating school to change the creed with which the school is affil-
22 iated, or to change its practices, admission policy or curriculum, in order to accept enrolled
23 students who pay tuition or fees as provided by sections 1 to 6 of this 2021 Act.

24 (B) Requires a private teacher to change the teacher’s creed, practices or curriculum in
25 order to accept enrolled students who pay tuition or fees as provided by sections 1 to 6 of
26 this 2021 Act.

27 (C) Requires a parent or legal guardian to change the parent’s or guardian’s creed,
28 practices or curriculum.

29 (3) In any legal proceeding challenging the application of sections 1 to 6 of this 2021 Act
30 to a participating school, private teacher, parent or legal guardian, the state bears the bur-
31 den of establishing that the law or rule is necessary and does not impose any undue burden
32 on a participating school, private teacher, parent or legal guardian.

33 **SECTION 7.** (1) Sections 1 to 6 of this 2021 Act become operative January 1, 2022.

34 (2) The State Board of Education, Department of Education and State Treasurer may
35 take any action before the operative date specified in subsection (1) of this section to ensure
36 that students first be allowed to participate in the voucher program established by sections
37 1 to 6 of this 2021 Act during the 2022-2023 school year.

38 **SECTION 8.** Section 9 of this 2021 Act is added to and made a part of ORS chapter 327.

39 **SECTION 9.** (1) The Oregon Voucher Account is established within the State School
40 Fund.

41 (2) The account shall consist of any moneys transferred as provided by ORS 327.008 and
42 any other state or federal moneys available for the purposes of the voucher program estab-
43 lished by sections 1 to 6 of this 2021 Act.

44 (3) Moneys in the account are continuously appropriated to the Department of Education
45 for the purpose of making transfers under section 2 (5)(c) of this 2021 Act.

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

4 **SECTION 10.** ORS 327.008 is amended to read:

5 327.008. (1)(a) There is established a State School Fund in the General Fund.

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

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

13 (d) The State School Fund is continuously appropriated to the Department of Education for the
14 purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 336.575,
15 336.580, 336.635, 343.243, 343.533, 343.941 and 343.961 **and sections 1 to 6 of this 2021 Act.**

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

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

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

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

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

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

34 (8) The total amount of the State School Fund that is distributed as facility grants may not ex-
35 ceed \$7 million in any biennium. If the total amount to be distributed as facility grants exceeds this
36 limitation, the Department of Education shall prorate the amount of funds available for facility
37 grants among those school districts that qualified for a facility grant. If the total amount to be dis-
38 tributed as facility grants does not exceed this limitation, any remaining amounts shall be expended
39 for expenses incurred by the Office of School Facilities as provided in ORS 326.125 (1).

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

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

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

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

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

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

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

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

12 (c) For each biennium, the amounts identified in this subsection shall be adjusted by the same
13 percentage by which the instructions furnished to state agencies by the Governor under ORS 291.204
14 direct the state agencies to adjust their agency budget requests for special payments under ORS
15 291.216 (6)(a)(C).

16 (13) Each biennium, the Department of Education shall transfer \$12.5 million from the State
17 School Fund to the Statewide English Language Learner Program Account established under ORS
18 327.344.

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

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

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

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

34 (18) **Each fiscal year, the Department of Education shall transfer to the Oregon Voucher**
35 **Account established in section 9 of this 2021 Act the amount necessary to make the transfers**
36 **required by section 2 (5)(c) of this 2021 Act.**

37 **SECTION 11. (1) The amendments to ORS 327.008 by section 10 of this 2021 Act become**
38 **operative July 1, 2022.**

39 **(2) The amendments to ORS 327.008 by section 10 of this 2021 Act apply to State School**
40 **Fund distributions commencing with the 2022-2023 school year distributions.**

41 **SECTION 12.** ORS 339.030 is amended to read:

42 339.030. (1) In the following cases, children may not be required to attend public full-time
43 schools:

44 (a) Children being taught in a private or parochial school in the courses of study usually taught
45 in kindergarten through grade 12 in the public schools and in attendance for a period equivalent to

1 that required of children attending public schools in the 1994-1995 school year.

2 (b) Children proving to the satisfaction of the district school board that they have acquired
 3 equivalent knowledge to that acquired in the courses of study taught in kindergarten through grade
 4 12 in the public schools.

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

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

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

10 **(f) Children who are considered to be taught by a parent or legal guardian because of**
 11 **participation in the voucher program established by sections 1 to 6 of this 2021 Act.**

12 [(f)] (g) Children whose sixth birthday occurred on or before September 1 immediately preceding
 13 the beginning of the current school year if the parent or legal guardian of the child notified in
 14 writing the school district of which the child is a resident that the parent or legal guardian will
 15 delay enrolling the child in a public full-time school for only one school year for the purpose of
 16 better meeting the child's needs for cognitive, social or physical development, as determined by the
 17 parent or legal guardian.

18 [(g)] (h) Children who are present in the United States on a nonimmigrant visa and who are
 19 attending a private, accredited English language learner program in preparation for attending a
 20 private high school or college.

21 [(h)] (i) Children excluded from attendance as provided by law.

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

29 **SECTION 13.** ORS 339.505 is amended to read:

30 339.505. (1) For purposes of the student accounting system required by ORS 339.515, the follow-
 31 ing definitions shall be used:

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

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

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

36 (C) Received one of the following:

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

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

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

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

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

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

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

45 (B) Is not a high school graduate;

1 (C) Has not received a certificate for passing an approved high school equivalency test such as
2 the General Educational Development (GED) test; and

3 (D) Has withdrawn from school.

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

5 (A) A student who has transferred to another educational system or institution that leads to
6 graduation and the school district has received a written request for the transfer of the student's
7 records or transcripts.

8 (B) A student who is deceased.

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

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

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

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

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

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

21 (I) A student who has received a certificate for passing an approved high school equivalency test
22 such as the General Educational Development (GED) test.

23 (2) The State Board of Education shall prescribe by rule when an unexplained absence becomes
24 withdrawal, when a student is considered enrolled in school, acceptable alternative education pro-
25 grams under ORS 336.615 to 336.665 and the standards for excused absences for purposes of ORS
26 339.065 for family emergencies and health and medical problems.

27 **SECTION 14.** (1) **A person commits voucher account fraud if the person knowingly ob-**
28 **tains, by means of a false statement or representation, by impersonation or by other**
29 **fraudulent device, any of the following:**

30 (a) **Assistance or service in violation of sections 1 to 6 of this 2021 Act;**

31 (b) **Assistance or service that is greater than that allowed under sections 1 to 6 of this**
32 **2021 Act; or**

33 (c) **Assistance or service that is not a qualified expense as defined in section 1 of this 2021**
34 **Act.**

35 (2) **Any action that is considered an act of voucher account fraud under this section is**
36 **an act of theft by deception under ORS 164.085 and is punishable as an act of theft by de-**
37 **ception.**

38 **SECTION 15.** **This 2021 Act being necessary for the immediate preservation of the public**
39 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
40 **on its passage.**