

# Senate Bill 642

Sponsored by Senator DECKERT

## 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 Post-Secondary Education Promise program to be administered by Oregon 529 College Savings Board.

Establishes Post-Secondary Education Promise Fund and Post-Secondary Education Finance Account.

Directs that \$1,000 will be allocated from Post-Secondary Education Finance Account within Administrative Services Economic Development Fund to Post-Secondary Education Promise Fund to be placed in individual account for each person born in Oregon on or after January 1, 2006. Allows account moneys and earnings to be used for higher education expenses if child maintains residency in Oregon.

Continuously appropriates moneys from Post-Secondary Education Promise Fund to Oregon 529 College Savings Board.

Directs Oregon State Lottery to establish line games. Allocates net proceeds from line games to program.

Declares emergency, effective July 1, 2005.

## A BILL FOR AN ACT

1  
2 Relating to higher education; creating new provisions; amending ORS 348.853 and 348.860; appro-  
3 priating money; and declaring an emergency.

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

5 **SECTION 1. Sections 2 and 3 of this 2005 Act are added to and made a part of ORS**  
6 **chapter 461.**

7 **SECTION 2. (1) The Oregon State Lottery Commission shall establish electronic slots**  
8 **known as line games, the net proceeds from which shall be transferred to the Administrative**  
9 **Services Economic Development Fund for allocation as provided by section 3 of this 2005 Act.**

10 **(2) The Oregon State Lottery Commission shall separately record and account for the**  
11 **costs and net proceeds of line games operated under this section. At such time as the com-**  
12 **mission makes the quarterly transfer of net proceeds provided for by ORS 461.540, the com-**  
13 **mission shall certify to the Oregon Department of Administrative Services the amount of the**  
14 **transfer that represents the net proceeds of line games provided for in subsection (1) of this**  
15 **section.**

16 **SECTION 3. (1) There is created the Post-Secondary Education Finance Account within**  
17 **the Administrative Services Economic Development Fund. An amount equal to the net pro-**  
18 **ceeds of line games provided for in section 1 of this 2005 Act shall be allocated from the fund**  
19 **to the account.**

20 **(2) Each biennium there is allocated to the Post-Secondary Education Promise Fund from**  
21 **the Post-Secondary Education Finance Account an amount equal to \$1,000 per child who was**  
22 **born in Oregon during that biennium.**

23 **(3) Any amount that is remaining in the Post-Secondary Education Finance Account at**  
24 **the end of the biennium that was not allocated under subsection (2) of this section shall re-**

**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 **main in the account to be allocated in future biennia.**

2 **SECTION 4.** ORS 348.853 is amended to read:

3 348.853. The Oregon 529 College Savings Board shall have the following powers, duties, and  
4 functions:

5 (1) To establish, develop, implement and maintain the Oregon 529 College Savings Network in  
6 a manner consistent with ORS 348.841 to 348.873 and section 529 of the Internal Revenue Code and  
7 to obtain the benefits of section 529 of the Internal Revenue Code for the network and its partic-  
8 ipants.

9 **(2) To establish, develop, implement and maintain the Post-Secondary Education Promise  
10 program under ORS 348.841 to 348.873.**

11 [(2)] **(3)** To adopt rules for the general administration of the network[,] **and the program,** to  
12 administer ORS 348.841 to 348.873 and to ensure the network's compliance with section 529 of the  
13 Internal Revenue Code.

14 [(3)] **(4)** To maintain, invest and reinvest the funds contributed into the network **and allocated  
15 to the Post-Secondary Education Promise Fund** consistent with the investment restrictions es-  
16 tablished by the board. The investment restrictions shall be consistent with the objectives of the  
17 network **and the fund,** and the board shall exercise the judgment and care then prevailing that  
18 persons of prudence, discretion and intelligence exercise in the management of their own affairs  
19 with due regard to the probable income and level of risk from certain types of investments of money,  
20 in accordance with the policies established by the board.

21 [(4)] **(5)** To make and enter into [*any and all*] contracts, agreements or arrangements, and to  
22 retain, employ and contract for the services of private and public financial institutions, depositories,  
23 consultants, investment advisors or managers and third-party plan administrators and for research,  
24 technical and other services necessary or desirable for carrying out the purposes of ORS 348.841 to  
25 348.873.

26 **SECTION 5.** Sections 6 to 10 of this 2005 Act are added to and made a part of ORS 348.841  
27 to 348.873.

28 **SECTION 6.** (1) **The Post-Secondary Education Promise Fund is established in the State  
29 Treasury, separate and distinct from the General Fund. Interest earned by the Post-  
30 Secondary Education Promise Fund shall be credited to the fund. Moneys in the Post-  
31 Secondary Education Promise Fund are continuously appropriated to the Oregon 529 College  
32 Savings Board.**

33 **(2) The purpose of the Post-Secondary Education Promise Fund is to serve as an oper-  
34 ating account for the State Treasury for the administration of the Post-Secondary Education  
35 Promise program under ORS 348.841 to 348.873.**

36 **SECTION 7.** (1) **There is established the Post-Secondary Education Promise program.  
37 Through the program each child born in Oregon who maintains the child's residency status  
38 shall have a portion of the child's post-secondary education expenses paid for by the state.**

39 **(2) For each child born in Oregon there shall be established an individual account within  
40 the Post-Secondary Education Promise Fund and \$1,000 shall be credited to the child's ac-  
41 count. Interest earned by the individual account shall be credited to the account.**

42 **(3) When a person who has an individual account is accepted for admission into a higher  
43 education institution, the Oregon 529 College Savings Board shall make direct payment of  
44 qualified higher education expenses from the individual account to the higher education in-  
45 stitution if the person meets the qualifications specified in subsection (4) of this section. The**

1 amount to be paid each academic year shall be based on the amount in the person's individ-  
2 ual account and the rules adopted by the board.

3 (4) For a person to qualify under subsection (3) of this section, the person must:

4 (a) Have been born in Oregon;

5 (b) Be an Oregon resident, as defined by rule of the board, at the time of admission to  
6 the higher education institution;

7 (c) Be able to show proof of residency in Oregon for at least 10 years, as prescribed by  
8 rule of the board; and

9 (d) Be \_\_\_\_\_ years of age or younger.

10 (5) If the board determines that a person who has had an individual account opened in  
11 the person's name under subsection (2) of this section no longer qualifies for payment of  
12 higher education expenses, the moneys in the person's individual account shall be retained  
13 in the Post-Secondary Education Promise Fund and may be used to open individual accounts  
14 for other children born in Oregon.

15 **SECTION 8.** Section 7 of this 2005 Act applies to any child born in Oregon on or after  
16 January 1, 2006.

17 **SECTION 9.** (1) No person other than the Oregon 529 College Savings Board or a financial  
18 institution in which Post-Secondary Education Promise Fund moneys have been invested  
19 shall have the right to direct the investment of any contributions to or earnings from the  
20 fund.

21 (2) The Post-Secondary Education Promise program, the board, each board member and  
22 the State of Oregon may not insure any account or guarantee any rate of return or any in-  
23 terest rate on any individual account within the fund.

24 (3) The board, in the exercise of its sole discretion and without liability, may remove the  
25 program's funds from any financial institution and reinvest the funds in a similar or differ-  
26 ent investment alternative at another financial institution pursuant to a contract, agreement  
27 or arrangement entered into under ORS 348.853.

28 **SECTION 10.** (1) An individual account within the Post-Secondary Education Promise  
29 Fund and any interest earned by an individual account may not be assignable or pledged or  
30 otherwise used to secure or obtain a loan or other advancement.

31 (2) The right of a designated beneficiary to the payment of qualified higher education  
32 expenses or of an individual account owner to a withdrawal, or any payment or withdrawal  
33 made in exercise of those rights, and moneys or property held within an individual account  
34 shall be exempt from garnishment and may not be subject to execution, attachment or any  
35 other process or to the operation of any bankruptcy or insolvency law.

36 (3) A refund of a qualified educational expense payment made on behalf of an individual  
37 account owner may not be paid by a higher education institution directly to the individual  
38 account owner. Any refund of qualified tuition expenses owed by a higher education institu-  
39 tion because of an overpayment of educational expenses must be refunded to the Post-  
40 Secondary Education Promise program for credit to the account of the individual account  
41 owner on whose behalf the expenses were originally paid.

42 **SECTION 11.** ORS 348.860 is amended to read:

43 348.860. (1) Except as permitted in section 529 of the Internal Revenue Code, no person other  
44 than the Oregon 529 College Savings Board or a financial institution in which Oregon 529 College  
45 Savings Network funds have been invested shall have the right to direct the investment of any

1 contributions to or earnings from the network.

2 (2) The network, the board, each board member and the State of Oregon may not insure any  
3 account or guarantee any rate of return or any interest rate on any contribution. The network, the  
4 board, each board member and the State of Oregon may not be liable for any loss incurred by any  
5 person as a result of participating in the network.

6 (3) The board, in the exercise of its sole discretion and without liability, may remove the net-  
7 work's funds from any financial institution and reinvest the funds in a similar or different invest-  
8 ment alternative at another financial institution pursuant to a contract, agreement or arrangement  
9 entered into under ORS 348.853 [(4)] (5).

10 **SECTION 12. This 2005 Act being necessary for the immediate preservation of the public**  
11 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**  
12 **July 1, 2005.**

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