

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 4040

By JOINT COMMITTEE ON WAYS AND MEANS

February 29

1 On page 1 of the printed A-engrossed bill, line 3, delete “and” and insert a comma and after
2 “293.796” delete the rest of the line and insert “and 348.702; repealing ORS 348.701,”.

3 In line 4, delete “and section 7, chapter 805, Oregon Laws 2009”.

4 On page 2, line 18, after the second “the” insert “Oregon Growth Account established under
5 ORS 348.702 and the”.

6 On page 3, delete lines 37 through 45 and delete page 4.

7 On page 5, delete lines 1 through 17 and insert:

8 **“SECTION 5. The Oregon Growth Board has the following duties, functions and powers:**

9 **“(1) To maintain, invest and reinvest moneys in the Oregon Growth Fund established**
10 **under section 7 of this 2012 Act consistent with the policies and procedures established by**
11 **the board and the investment standard stated in ORS 293.726, including but not limited to**
12 **the creation and maintenance of one or more investment funds within the Oregon Growth**
13 **Fund. In exercising its authority under this subsection, the board may include economic**
14 **factors, including but not limited to job retention and creation, as considerations in making**
15 **investment decisions.**

16 **“(2) To maintain, invest and reinvest moneys in the Oregon Growth Account established**
17 **under ORS 348.702 consistent with the policies and procedures established by the board and**
18 **the investment standard stated in ORS 293.726 and for the purpose of earning returns for the**
19 **Education Stability Fund. Policies established by the board under this subsection shall in-**
20 **clude, but are not limited to, the determination of when and how earnings are calculated and**
21 **declared available from the account on behalf of the Education Stability Fund.**

22 **“(3) To make and enter into contracts, agreements or arrangements for the investment**
23 **and management of moneys in the Oregon Growth Account and the Oregon Growth Fund**
24 **as provided in section 6 of this 2012 Act and for other services the board deems reasonable**
25 **and necessary to fulfill the duties of the board under this section.**

26 **“(4)(a) With respect to the Oregon Growth Account, to make, purchase, guarantee or**
27 **hold loans, including but not limited to participation interests in loans, made to or from the**
28 **Oregon Growth Account for the purpose of earning returns for the Education Stability Fund.**

29 **“(b) With respect to the Oregon Growth Fund, to make, purchase, guarantee or hold**
30 **grants and loans, including but not limited to competitive grants and participation interests**
31 **in loans, made to or from the Oregon Growth Fund for the benefit of qualified businesses for**
32 **the purpose of furthering economic development.**

33 **“(5) To qualify or certify businesses that invest in the Oregon Growth Account or the**
34 **Oregon Growth Fund for any investment incentive approved by the board.**

35 **“(6) To collaborate, cooperate and enter into agreements with local governments, state**

1 agencies, financial institutions and other entities as appropriate to:

2 “(a) Provide financial services and support to businesses for the purpose of furthering
3 economic development;

4 “(b) Coordinate actions, responsibilities and resources that further economic develop-
5 ment; and

6 “(c) Delegate between the board and a local government or state agency any duties,
7 functions or powers that the board, local government or state agency is authorized to per-
8 form if consistent with and necessary to the administration of sections 1 to 7 of this 2012
9 Act. Delegation of duties, functions or powers under this paragraph must be done pursuant
10 to written agreement.

11 “(7) To seek, solicit, obtain and accept local, state, federal and private resources and
12 donations for deposit into the Oregon Growth Account and the Oregon Growth Fund to aid
13 in the administration of sections 1 to 7 of this 2012 Act.

14 “(8) To adopt rules that specify:

15 “(a) The board’s permissible investments, and activities and services that the board may
16 provide or engage in;

17 “(b) Guidelines regarding the amount and type of leverage to maximize investments and
18 any other resources available to, and subject to the authority of, the board; and

19 “(c) Other requirements that the board considers necessary for the exercise of the
20 board’s duties, functions and powers under sections 1 to 7 of this 2012 Act.

21 “(9) To make recommendations to the Legislative Assembly regarding:

22 “(a) Appropriations of General Fund moneys to the Oregon Growth Fund;

23 “(b) The terms of income and corporate excise tax subtractions or other tax expen-
24 ditures, as defined in ORS 291.201, that will promote and create private investment in the
25 Oregon Growth Fund;

26 “(c) Incentives for private sector investment that further investment, capital availability,
27 job creation and economic development;

28 “(d) The use of moneys in the Oregon Growth Account to earn returns for the Education
29 Stability Fund; and

30 “(e) Legislation needed to further economic development.

31 “SECTION 6. (1) The Oregon Growth Board shall contract with one or more management
32 companies to manage and invest the moneys in the Oregon Growth Account established un-
33 der ORS 348.702 and the Oregon Growth Fund established under section 7 of this 2012 Act.
34 For purposes of this subsection, a contract with a management company may consist of:

35 “(a) A partnership agreement under which the Oregon Growth Board is the limited
36 partner and the management company is the general partner; or

37 “(b) Another form of payment or profit-sharing arrangement under which the Oregon
38 Growth Board may receive payment or another form of return in exchange for its invest-
39 ment.

40 “(2) A management company selected to manage the Oregon Growth Fund or the Oregon
41 Growth Account shall manage the moneys in the fund or account, subject to the policies and
42 procedures and investment directives and strategies of the Oregon Growth Board, with the
43 care, skill and diligence that a prudent investor acting in a similar capacity and familiar with
44 such investments would use in managing and investing a similar fund.

45 “(3) The management company shall invest in Oregon an amount that is at least equal

1 to the amount of the principal transferred from the Oregon Growth Account or the Oregon
2 Growth Fund to the management company for investment.

3 “(4) The contract between the board and a management company to manage the Oregon
4 Growth Account or the Oregon Growth Fund, and the functions performed under the con-
5 tract, are not subject to the State Personnel Relations Law or ORS 279.835 to 279.855 or ORS
6 chapter 279A or 279B.

7 “(5) The Oregon Growth Board shall provide to local governments and state agencies any
8 reports on the investment of moneys in the Oregon Growth Account that are necessary to
9 fulfill audit, financial, investment or other reporting requirements to which the Education
10 Stability Fund is subject by law or standard accounting principles.”.

11 After line 35, insert:

12 “**SECTION 7a.** ORS 348.702, as amended by section 2, chapter 805, Oregon Laws 2009, is
13 amended to read:

14 “348.702. (1) There is created within the Education Stability Fund the Oregon Growth Account,
15 to which shall be credited, in the manner provided in subsection (2) of this section, 10 percent of the
16 funds transferred under section 4, Article XV of the Oregon Constitution, from the Administrative
17 Services Economic Development Fund to the Education Stability Fund. Separate records shall be
18 maintained for moneys in the Oregon Growth Account that are available for the purposes specified
19 in subsection (5) of this section. The account may be credited with unrestricted appropriations, gifts,
20 donations, grants or contract proceeds from any source, with investments or funds from any source
21 and with returns on investments made from the account.

22 “(2) The Oregon Department of Administrative Services may credit to the Oregon Growth Ac-
23 count from the first funds transferred in a fiscal year to the Education Stability Fund under section
24 4, Article XV of the Oregon Constitution, an amount up to the amount the department estimates to
25 be 10 percent of the funds required to be transferred to the Education Stability Fund for that fiscal
26 year.

27 “(3) If at the end of the fiscal year the amount credited to the Oregon Growth Account under
28 subsection (2) of this section is less than or greater than 10 percent of the amount required to be
29 transferred under section 4, Article XV of the Oregon Constitution, to the Education Stability Fund,
30 the amount credited to the Oregon Growth Account shall be adjusted in one of the following ways:

31 “(a) The amount credited to the account in the following fiscal year may be adjusted;

32 “(b) Any excess may be transferred from the Oregon Growth Account to the Education Stability
33 Fund; or

34 “(c) Any shortage may be transferred from the Education Stability Fund to the Oregon Growth
35 Account from funds available for that purpose.

36 “(4) Adjustments required by subsection (3) of this section shall be made without consideration
37 of any interest or other earnings that have accrued during the fiscal year.

38 “(5) The purpose of the Oregon Growth Account is to earn returns for the Education Stability
39 Fund [*by making investments in or by providing seed capital for emerging growth businesses*].

40 “(6) The investment of funds in the Oregon Growth Account shall be governed by the Oregon
41 Growth [Account] Board.

42 “(7) The Oregon Growth Board may use moneys in the Oregon Growth Account to pay
43 the administrative costs associated with the account and with administering those portions
44 of sections 1 to 7 of this 2012 Act that pertain to the account.”.

45 Delete line 42 and insert “Growth Account and the Oregon Growth Fund;”.

1 Delete line 45.
2 On page 6, delete line 1 and insert:
3 “(4) Recommendations for legislation relating to the Oregon Growth Board, the Oregon Growth
4 Account and the Oregon Growth Fund that will increase earnings for the Education Stability Fund
5 from the Oregon Growth Account and that will further economic development.”.
6 On page 11, delete lines 42 through 45.
7 On page 12, delete lines 1 through 23 and insert:
8 “**SECTION 10. ORS 348.701, 348.703, 348.704, 348.706, 348.707 and 348.710 are repealed.**
9 “**NOTE:** Section 11 was deleted by amendment. Subsequent sections were not renumbered.”.
10 On page 20, line 41, delete “in Oregon and that conducts business in Oregon”.
11 On page 22, delete lines 24 through 32 and insert:
12 “**SECTION 22.** ORS 293.731 is amended to read:
13 “293.731. Subject to the objective set forth in ORS 293.721 and the standards set forth in ORS
14 293.726, the Oregon Investment Council shall formulate policies for the investment and reinvestment
15 of moneys in the investment funds and the acquisition, retention, management and disposition of
16 investments of the investment funds. The council, from time to time, shall review those policies and
17 make changes therein as it considers necessary or desirable. The council may formulate separate
18 policies for any fund included in the investment funds. This section does not apply to the Oregon
19 Growth Account, **the Oregon Growth Fund**, the Oregon Growth [Account] Board, the Oregon
20 Commercialized Research Fund, the Oregon Innovation Fund or the Oregon Innovation Council.”.
21 In line 44, delete “in Oregon and that conducts business in”.
22 In line 45, delete “Oregon”.
23 On page 23, delete lines 6 through 9 and insert:
24 “(2) The investment officer shall separately identify investments held in the Oregon Growth
25 Account established in ORS 348.702 as part of the information provided under this section on the
26 Education Stability Fund.”.
27 In line 27, delete “in Oregon and that conducts business in”.
28 In line 28, delete “Oregon”.
29 Delete lines 35 through 39 and insert:
30 “**SECTION 26. Sections 5, 6, 7 and 12 to 18 of this 2012 Act, the amendments to ORS**
31 **192.502, 284.701, 284.706, 293.731, 293.733, 293.761, 293.796 and 348.702 by sections 7a and 19 to**
32 **25 of this 2012 Act and the repeal of ORS 348.701, 348.703, 348.704, 348.706, 348.707 and 348.710**
33 **by section 10 of this 2012 Act become operative on January 2, 2014.”.**
34 On page 24, delete lines 1 through 6 and insert:
35 “**SECTION 27. Sections 5, 6, 7 and 10 (repealing ORS 348.701, 348.703, 348.704, 348.706,**
36 **348.707 and 348.710), 12 to 18 and 26 of this 2012 Act are repealed on the operative date**
37 **specified in section 28 of this 2012 Act.**
38 “**SECTION 28. The repeal of sections 5, 6, 7 and 10 (repealing ORS 348.701, 348.703, 348.704,**
39 **348.706, 348.707 and 348.710), 12 to 18 and 26 of this 2012 Act by section 27 of this 2012 Act and**
40 **the amendments to ORS 192.502, 244.050, 284.706, 284.731, 293.761 and 348.702 by sections 29**
41 **to 33a of this 2012 Act become operative on June 30, 2013.**

42
43 “CONFORMING AMENDMENTS RELATING TO
44 REPEAL OF PROVISIONS RELATING TO THE
45 OREGON GROWTH BOARD AND TRANSFER OF AUTHORITY”.

1 On page 28, line 40, after the bracketed material insert “, the Oregon Growth Account Board”.

2 On page 29, line 17, after the bracketed material insert “, the Oregon Growth Account Board”.

3 In line 21, after the bracketed material insert “, the Oregon Growth Account Board”.

4 In line 36, after the bracketed material insert “the Oregon Growth Account Board,”.

5 On page 33, line 27, restore the bracketed material and after “Growth” insert “Account” and

6 before the period insert “, who has experience in the field of venture capital”.

7 In lines 28 through 33, delete the boldfaced material and restore the bracketed material.

8 On page 34, delete lines 32 through 45.

9 On page 35, delete lines 1 and 2 and insert:

10 “**SECTION 32.** ORS 293.731, as amended by section 22 of this 2012 Act, is amended to read:

11 “293.731. Subject to the objective set forth in ORS 293.721 and the standards set forth in ORS

12 293.726, the Oregon Investment Council shall formulate policies for the investment and reinvestment

13 of moneys in the investment funds and the acquisition, retention, management and disposition of

14 investments of the investment funds. The council, from time to time, shall review those policies and

15 make changes therein as it considers necessary or desirable. The council may formulate separate

16 policies for any fund included in the investment funds. This section does not apply to the Oregon

17 Growth Account, [*the Oregon Growth Fund,*] the Oregon Growth **Account** Board, the Oregon

18 Commercialized Research Fund, the Oregon Innovation Fund or the Oregon Innovation Council.

19 “**SECTION 33.** ORS 293.761, as amended by section 24 of this 2012 Act, is amended to read:

20 “293.761. (1) The investment officer shall follow generally accepted accounting practices and

21 provide to the officer or body having control and administration of any investment funds any infor-

22 mation necessary for financial reporting required by law.

23 “(2) The investment officer shall separately identify investments held in the Oregon Growth

24 Account established in ORS 348.702 **and the Oregon Resource and Technology Development**

25 **Subaccount established in ORS 348.706** as part of the information provided under this section on

26 the Education Stability Fund.

27 “**SECTION 33a.** ORS 348.702, as amended by section 2, chapter 805, Oregon Laws 2009, and

28 section 7a of this 2012 Act, is amended to read:

29 “348.702. (1) There is created within the Education Stability Fund the Oregon Growth Account,

30 to which shall be credited, in the manner provided in subsection (2) of this section, 10 percent of the

31 funds transferred under section 4, Article XV of the Oregon Constitution, from the Administrative

32 Services Economic Development Fund to the Education Stability Fund. Separate records shall be

33 maintained for moneys in the Oregon Growth Account that are available for the purposes specified

34 in subsection (5) of this section. The account may be credited with unrestricted appropriations, gifts,

35 donations, grants or contract proceeds from any source, with investments or funds from any source

36 and with returns on investments made from the account.

37 “(2) The Oregon Department of Administrative Services may credit to the Oregon Growth Ac-

38 count from the first funds transferred in a fiscal year to the Education Stability Fund under section

39 4, Article XV of the Oregon Constitution, an amount up to the amount the department estimates to

40 be 10 percent of the funds required to be transferred to the Education Stability Fund for that fiscal

41 year.

42 “(3) If at the end of the fiscal year the amount credited to the Oregon Growth Account under

43 subsection (2) of this section is less than or greater than 10 percent of the amount required to be

44 transferred under section 4, Article XV of the Oregon Constitution, to the Education Stability Fund,

45 the amount credited to the Oregon Growth Account shall be adjusted in one of the following ways:

1 “(a) The amount credited to the account in the following fiscal year may be adjusted;
2 “(b) Any excess may be transferred from the Oregon Growth Account to the Education Stability
3 Fund; or
4 “(c) Any shortage may be transferred from the Education Stability Fund to the Oregon Growth
5 Account from funds available for that purpose.
6 “(4) Adjustments required by subsection (3) of this section shall be made without consideration
7 of any interest or other earnings that have accrued during the fiscal year.
8 “(5) The purpose of the Oregon Growth Account is to earn returns for the Education Stability
9 Fund **by making investments in or by providing seed capital for emerging growth**
10 **businesses.**
11 “(6) The investment of funds in the Oregon Growth Account shall be governed by the Oregon
12 Growth **Account** Board.
13 “[(7) *The Oregon Growth Board may use moneys in the Oregon Growth Account to pay the ad-*
14 *ministrative costs associated with the account and with administering those portions of sections 1 to 7*
15 *of this 2012 Act that pertain to the account.].”*
16 Delete lines 9 through 11 and insert:
17 “**SECTION 35. The repeal of sections 1, 2 and 3 of this 2012 Act by section 34 of this 2012**
18 **Act becomes operative on June 30, 2014.”**
19 _____