

B-Engrossed
House Bill 2094

Ordered by the Senate June 18
Including House Amendments dated May 10 and Senate Amendments
dated June 18

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Housing and Community Services Department)

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.

Allows persons 12 years of age or older to be individual development account holder. Repeals Individual Children's Development Account Program. Allows exclusion of vehicle from net worth calculation for potential account holder. Expands permissible purposes of individual development account.

Eliminates restriction on individual development account size. Limits annual and total amount for deposits of state-directed moneys to accounts.

Revises fiduciary organization qualifications. Specifies required content for personal development plans.

Repeals tax credit on donations to individual development accounts on January 2, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to development accounts for individuals; creating new provisions; amending ORS 315.271,
3 458.670, 458.680, 458.685, 458.690, 458.695 and 458.700; repealing ORS 315.271, 417.900 and
4 458.690; and declaring an emergency.

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

6 **SECTION 1.** ORS 315.271 is amended to read:

7 315.271. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be
8 allowed for donations to a fiduciary organization for distribution to individual development accounts
9 established under ORS 458.685. The credit shall equal the lesser of \$75,000 or 75 percent of the do-
10 nation amount. **To qualify for a credit under this section, donations to a fiduciary organization**
11 **must be made prior to January 1, 2012.**

12 (2) If a credit allowed under this section is claimed, the amount upon which the credit is based
13 that is allowed or allowable as a deduction from federal taxable income under section 170 of the
14 Internal Revenue Code shall be added to federal taxable income in determining Oregon taxable in-
15 come. As used in this subsection, the amount upon which a credit is based is the allowed credit di-
16 vided by 75 percent.

17 (3) The allowable tax credit that may be used in any one tax year shall not exceed the tax li-
18 ability of the taxpayer.

19 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
20 particular year may be carried forward and offset against the taxpayer's tax liability for the next
21 succeeding tax year. Any tax credit remaining unused in the next succeeding tax year may be car-
22 ried forward and used in the second succeeding tax year. Any tax credit not used in the second

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 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not
2 be carried forward for any tax year thereafter.

3 **SECTION 2.** ORS 458.670 is amended to read:

4 458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires other-
5 wise:

6 (1) "Account holder" means [*a member of a lower income household who is the named depositor*
7 *of an individual development account*] **a resident of this state who:**

8 **(a) Is 12 years of age or older;**

9 **(b) Is a member of a lower income household; and**

10 **(c) Has established an individual development account with a fiduciary organization.**

11 (2) "Fiduciary organization" means **an organization selected under ORS 458.695 to adminis-**
12 **ter state moneys directed to individual development accounts and that is:**

13 (a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3)
14 of the Internal Revenue Code as amended and in effect on [*January 1, 1999*] **December 31, 2006;** or

15 (b) A federally recognized [*Indian tribe or band*] **Oregon Indian tribe that is located, to a**
16 **significant degree, within the boundaries of this state.**

17 (3) "Financial institution" means:

18 (a) An organization regulated under ORS chapters 706 to 716, 722 or 723; or

19 (b) In the case of individual development accounts established for the purpose described in ORS
20 458.685 (1)(c), a financial institution as defined in ORS 348.841.

21 (4) "Individual development account" means a contract between an account holder and a
22 fiduciary organization, for the deposit of funds into a financial institution by the account holder, and
23 the deposit of matching funds into the financial institution by the fiduciary organization, to allow
24 the account holder to accumulate assets for use toward achieving a specific purpose approved by
25 the fiduciary organization.

26 (5) "Lower income household" means a household having an income equal to or less than 80
27 percent of the median household income for the area as determined by the Housing and Community
28 Services Department. In making the determination, the department shall give consideration to any
29 data on area household income published by the United States Department of Housing and Urban
30 Development.

31 **(6) "Resident of this state" has the meaning given that term in ORS 316.027.**

32 **SECTION 3.** ORS 458.680 is amended to read:

33 458.680. (1) A person who qualifies to become an account holder may enter into an agreement
34 with a fiduciary organization for the establishment of an individual development account.

35 (2) [*A person qualifies to become an account holder if the person is*] **To become an account**
36 **holder a person must, in addition to meeting any other qualifications, be** a member of a lower
37 income household that has a net worth of less than \$20,000. As used in this subsection, "net
38 worth" means the value of all assets owned in whole or part by household members, other than eq-
39 uity in a residence **and in one vehicle**, minus the total debts and obligations of household members,
40 all as measured at the time that the person applies to establish the account.

41 (3) [*A person applying to establish an account must enroll in a personal development plan devel-*
42 *oped by the person and the fiduciary organization. The plan must provide the person with appropriate*
43 *financial counseling, career or business planning and other services*] **Every account holder, with**
44 **support from the fiduciary organization, shall develop a personal development plan to ad-**
45 **vance account holder self-reliance. The personal development plan must include appropriate**

1 **coaching, mentorship, social support, financial adequacy training and asset-specific training**
2 designed to increase the independence of the person and the person's household through achieve-
3 ment of the account's approved purpose.

4 (4) Notwithstanding subsection (1) of this section, a fiduciary organization may refuse to allow
5 a qualified person to establish an account if establishment of the account would result in the mem-
6 bers of a lower income household having more than one account. Notwithstanding subsection (1) of
7 this section, a fiduciary organization shall refuse to allow a qualified person to establish an account
8 if establishment of the account would result in the members of a lower income household having
9 more than two accounts.

10 **SECTION 4.** ORS 458.685 is amended to read:

11 458.685. (1) A person may establish an individual development account only for a purpose ap-
12 proved by a fiduciary organization. Purposes that the fiduciary organization may approve are:

13 (a) The acquisition of post-secondary education or job training.

14 (b) If the account holder has established the account for the benefit of a household member who
15 is under the age of 18 years, the payment of extracurricular nontuition expenses designed to prepare
16 the member for post-secondary education or job training.

17 (c) If the account holder has established a college savings network account under ORS 348.841
18 to 348.873 on behalf of a designated beneficiary, the establishment of an additional college savings
19 network account on behalf of the same designated beneficiary.

20 (d) The purchase of a primary residence. In addition to payment on the purchase price of the
21 residence, account moneys may be used to pay any usual or reasonable settlement, financing or
22 other closing costs. The account holder must not have owned or held any interest in a residence
23 during the three years prior to making the purchase. However, this three-year period shall not apply
24 to displaced homemakers or other individuals who have lost home ownership as a result of divorce.

25 (e) The capitalization of a small business. Account moneys may be used for capital, plant,
26 equipment and inventory expenses or for working capital pursuant to a business plan. The business
27 plan must have been developed by a financial institution, nonprofit microenterprise program or other
28 qualified agent demonstrating business expertise and have been approved by the fiduciary organ-
29 ization. The business plan must include a description of the services or goods to be sold, a marketing
30 plan and projected financial statements.

31 **(f) Improvements, repairs or modifications necessary to make or keep the account hold-**
32 **er's primary dwelling habitable, accessible or visitable for the account holder or a household**
33 **member. This paragraph does not apply to improvements, repairs or modifications made to**
34 **a rented primary dwelling to achieve or maintain a habitable condition for which ORS 90.320**
35 **(1) places responsibility on the landlord. As used in this paragraph, "accessible" and**
36 **"visitable" have the meanings given those terms in ORS 456.508.**

37 **(g) The purchase of equipment, technology or specialized training required to become**
38 **competitive in obtaining or maintaining employment or to start or maintain a business, as**
39 **specified in the account holder's personal development plan for increasing the independence**
40 **of the person.**

41 (2)(a) If an emergency occurs, an account holder may withdraw all or part of the account hold-
42 er's deposits to an individual development account for a purpose not described in subsection (1) of
43 this section. As used in this paragraph, an emergency includes making payments for necessary
44 medical expenses, to avoid eviction of the account holder from the account holder's residence and
45 for necessary living expenses following a loss of employment.

1 (b) The account holder must reimburse the account for the amount withdrawn under this sub-
2 section within 12 months after the date of the withdrawal. Failure of an account holder to make a
3 timely reimbursement to the account is grounds for removing the account holder from the individual
4 development account program. Until the reimbursement has been made in full, an account holder
5 may not withdraw any matching deposits or accrued interest on matching deposits from the account.

6 (3) If an account holder withdraws moneys from an individual development account for other
7 than an approved purpose, the fiduciary organization may remove the account holder from the pro-
8 gram.

9 (4) If an account holder moves from the area where the program is conducted or is otherwise
10 unable to continue in the program, the fiduciary organization may remove the account holder from
11 the program.

12 (5) If an account holder is removed from the program under subsection (2), (3) or (4) of this
13 section, all matching deposits in the account and all interest earned on matching deposits shall re-
14 vert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a
15 source of matching deposits for other accounts.

16 **SECTION 5.** ORS 458.690 is amended to read:

17 458.690. (1) Notwithstanding ORS 315.271, a fiduciary organization selected under ORS 458.695
18 may qualify as the recipient of account contributions that qualify the contributor for a tax credit
19 under ORS 315.271 only if the fiduciary organization structures the accounts to have the following
20 features:

21 (a) The fiduciary organization matches amounts deposited by the account holder according to a
22 formula established by the fiduciary organization. The fiduciary organization shall **maintain on de-**
23 **posit in the account** not less than \$1 nor more than \$5 [*into the account*] for each \$1 deposited by
24 the account holder.

25 (b) The matching deposits by the fiduciary organization to the individual development account
26 are placed in:

27 (A) A savings account jointly held by the account holder and the fiduciary organization and
28 requiring the signatures of both for withdrawals;

29 (B) A savings account that is controlled by the fiduciary organization and is separate from the
30 savings account of the account holder; or

31 (C) In the case of an account established for the purpose described in ORS 458.685 (1)(c), a col-
32 lege savings network account under ORS 348.841 to 348.873, in which the fiduciary organization is
33 the account owner as defined in ORS 348.841.

34 [(2) *Deposits by a fiduciary organization to an account may not exceed \$2,000 in any 12-month*
35 *period. A fiduciary organization may designate a lower amount as a limit on annual matching deposits*
36 *to an account.*]

37 **(2) Account holders may not accrue more than \$3,000 of matching funds under subsection**
38 **(1) of this section from state-directed moneys in any 12-month period. A fiduciary organiza-**
39 **tion may designate a lower amount as a limit on annual matching funds. A fiduciary organ-**
40 **ization shall maintain on deposit sufficient funds to cover the matching deposit agreements**
41 **for all individual development accounts managed by the organization.**

42 (3) [*The total amount paid into an individual development account during its existence, including*
43 *amounts from deposits, matching deposits and interest or investment earnings, may not exceed*
44 *\$20,000.*] **The Housing and Community Services Department shall adopt rules to establish a**
45 **maximum total amount of state-directed moneys that may be deposited as matching funds**

1 **into an individual development account.**

2 **SECTION 6.** ORS 458.695 is amended to read:

3 458.695. The Housing and Community Services Department may select fiduciary organizations
4 to administer moneys directed by the state to individual development account purposes. In making
5 the selections, the department shall consider factors including, but not limited to:

6 (1) The ability of the fiduciary organization to implement and administer the individual devel-
7 opment account program, including the ability to verify account holder eligibility, certify that
8 matching deposits are used only for approved purposes and exercise general fiscal accountability;

9 (2) The capacity of the fiduciary organization to provide or raise matching funds for the deposits
10 of account holders;

11 (3) The capacity of the fiduciary organization to provide [*financial counseling and other related*
12 *services to account holders*] **appropriate support services and general assistance to advance ac-**
13 **count holder self-reliance**; and

14 (4) The links that the fiduciary organization has to other activities and programs designed to
15 increase the independence of this state's lower income households through education and training,
16 home ownership and small business development.

17 **SECTION 7.** ORS 417.900 is repealed.

18 **SECTION 8.** The amendments to ORS 458.680 (3) by section 3 of this 2007 Act apply to
19 **holders of accounts established on or after the effective date of this 2007 Act.**

20 **SECTION 9.** ORS 315.271 and 458.690 are repealed on January 2, 2016.

21 **SECTION 10.** ORS 458.700 is amended to read:

22 458.700. (1) Subject to Housing and Community Services Department rules, a fiduciary organ-
23 ization has sole authority over, and responsibility for, the administration of individual development
24 accounts. The responsibility of the fiduciary organization extends to all aspects of the account pro-
25 gram, including marketing to participants, soliciting matching contributions, counseling account
26 holders, providing financial literacy education, and conducting required verification and compliances
27 activities. The fiduciary organization may establish program provisions as the organization believes
28 necessary to ensure account holder compliance with the provisions of ORS 458.680 and 458.685.
29 Notwithstanding ORS 458.670 (5) and 458.680 (2), a fiduciary organization may establish income and
30 net worth limitations for account holders that are lower than the income and net worth limitations
31 established by ORS 458.670 (5) and 458.680 (2).

32 (2) A fiduciary organization may act in partnership with other entities, including businesses,
33 government agencies, nonprofit organizations, community development corporations, community
34 action programs, housing authorities and congregations to assist in the fulfillment of fiduciary or-
35 ganization responsibilities under this section and ORS 458.685[, 458.690] and 458.695.

36 (3) A fiduciary organization may use a reasonable portion of moneys allocated to the individual
37 development account program for administration, operation and evaluation purposes.

38 (4) A fiduciary organization selected to administer moneys directed by the state to individual
39 development account purposes or receiving tax deductible contributions shall provide the Housing
40 and Community Services Department with an annual report of the fiduciary organization's individual
41 development account program activity. The report shall be filed no later than 90 days after the end
42 of the fiscal year of the fiduciary organization. The report shall include, but is not limited to:

43 (a) The number of individual development accounts administered by the fiduciary organization;

44 (b) The amount of deposits and matching deposits for each account;

45 (c) The purpose of each account;

1 (d) The number of withdrawals made; and

2 (e) Any other information the department may require for the purpose of making a return on
3 investment analysis.

4 (5) A fiduciary organization that is the account owner of a college savings network account:

5 (a) May make a qualified withdrawal only at the direction of the designated beneficiary and only
6 after the college savings network account of the account holder that was established for the desig-
7 nated beneficiary has been reduced to a balance of zero exclusively through qualified withdrawals
8 by the designated beneficiary; and

9 (b) May make nonqualified withdrawals only if the college savings network account of the ac-
10 count holder that was established for the designated beneficiary has a balance of less than \$100 or
11 if the account holder or designated beneficiary has granted permission to make the withdrawal.
12 Moneys received by a fiduciary organization from a nonqualified withdrawal made under this para-
13 graph must be used for individual development account purposes.

14 (6) The department may make all reasonable and necessary rules to ensure fiduciary organiza-
15 tion compliance with this section and ORS 458.685[, 458.690] and 458.695.

16 **SECTION 11. The amendments to ORS 458.700 by section 10 of this 2007 Act become op-**
17 **erative on January 2, 2016.**

18 **SECTION 12. This 2007 Act being necessary for the immediate preservation of the public**
19 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
20 **on its passage.**

21