

House Bill 2938

Sponsored by Representative SHIELDS (at the request of Oregon Center for Public Policy)

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**.

Removes Oregon Growth Account from Education Stability Fund. Transfers 1.8 percent of lottery revenues directly to Oregon Growth Account. Directs earnings of Oregon Growth Account to Education Stability Fund instead of Oregon Commercialized Research Fund.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to Oregon State Lottery proceeds; amending ORS 284.725, 293.761, 348.696, 348.702, 348.703,
3 348.716 and 461.540; and declaring an emergency.

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

5 **SECTION 1.** ORS 348.696 is amended to read:

6 348.696. Pursuant to section 4 (4)(d), Article XV of the Oregon Constitution, the Education Sta-
7 bility Fund is established separate and distinct from the General Fund. Except for earnings on
8 moneys in the school capital matching subaccount, moneys in the fund shall be invested as provided
9 in ORS 293.701 to 293.790. All declared earnings on moneys in the fund shall be transferred and are
10 appropriated continuously as follows:

11 *[(1) All declared earnings from the Oregon Growth Account to the Oregon Commercialized Re-*
12 *search Fund created in ORS 284.725;]*

13 *[(2)] (1)* 75 percent *[of all declared earnings not described in subsection (1) of this section]* to the
14 Oregon Education Fund established by ORS 348.716; and

15 *[(3)] (2)* 25 percent *[of all declared earnings not described in subsection (1) of this section]* to the
16 Oregon Student Assistance Commission for the Oregon Opportunity Grant program under ORS
17 348.260.

18 **SECTION 2.** ORS 348.702 is amended to read:

19 348.702. (1) There is created within the *[Education Stability]* **Administrative Services Eco-**
20 **nomic Development** Fund the Oregon Growth Account, to which shall be credited, in the manner
21 provided in subsection (2) of this section, *[10]* **1.8** percent of *[the funds transferred under section 4,*
22 *Article XV of the Oregon Constitution, from the Administrative Services Economic Development Fund*
23 *to the Education Stability Fund]* **the net proceeds of the Oregon State Lottery**. Separate records
24 shall be maintained for moneys in the Oregon Growth Account that are available for the purposes
25 specified in subsection (5) of this section. The account may be credited with unrestricted appropri-
26 ations, gifts, donations, grants or contract proceeds from any source, with investments or funds from
27 any source and with returns on investments made from the account.

28 (2) The Oregon Department of Administrative Services may credit to the Oregon Growth Ac-
29 count, from the first funds transferred in a fiscal year *[to the Education Stability Fund under section*
30 *4, Article XV of the Oregon Constitution]* **to the Administrative Services Economic Development**

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 **Fund from the State Lottery Fund**, an amount up to the amount the department estimates to be
 2 [10] **1.8** percent of the [*funds required to be transferred to the Education Stability Fund*] **net proceeds**
 3 **from the Oregon State Lottery** for that fiscal year.

4 (3) If at the end of the fiscal year the amount credited to the Oregon Growth Account under
 5 subsection (2) of this section is less than or greater than [10] **1.8** percent of the [*amount required to*
 6 *be transferred under section 4, Article XV of the Oregon Constitution, to the Education Stability*
 7 *Fund*] **net proceeds from the Oregon State Lottery**, the amount credited to the Oregon Growth
 8 Account shall be adjusted in one of the following ways:

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

10 (b) Any excess may be transferred from the Oregon Growth Account to the [*Education Stability*
 11 *Fund*] **Administrative Services Economic Development Fund**; or

12 (c) Any shortage may be transferred from the [*Education Stability Fund*] **Administrative Ser-**
 13 **vices Economic Development Fund** to the Oregon Growth Account from funds available for that
 14 purpose.

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

17 (5) The purpose of the Oregon Growth Account is to earn returns for the Education Stability
 18 Fund by making investments in or by providing seed capital for emerging growth businesses.

19 **(6) All declared earnings in the Oregon Growth Account are continuously appropriated**
 20 **to the Education Stability Fund.**

21 [~~6~~] (7) The investment of funds in the Oregon Growth Account shall be governed by the Oregon
 22 Growth Account Board.

23 **SECTION 3.** ORS 348.703 is amended to read:

24 348.703. (1) The Oregon Growth Account Board shall contract with one or more management
 25 companies to manage and invest the moneys in the Oregon Growth Account. For purposes of this
 26 subsection, a contract with a management company may consist of:

27 (a) A partnership agreement under which the Oregon Growth Account Board is the limited
 28 partner and the management company is the general partner; or

29 (b) Another form of payment or profit-sharing arrangement under which the Oregon Growth
 30 Account Board may receive payment or another form of return in exchange for its investment in
 31 an emerging growth business.

32 (2) The provisions of ORS 293.726 do not apply to [~~those~~] **the** assets of [*the Education Stability*
 33 *Fund that are held in*] the Oregon Growth Account. [*The limitations of ORS 293.726 (6) shall be*
 34 *calculated based only on the balance of the Education Stability Fund that does not include the Oregon*
 35 *Growth Account.*]

36 (3) A management company selected to manage the Oregon Growth Account shall manage the
 37 moneys in the account, subject to investment policies established by the State Treasurer and the
 38 investment directives or strategies of the Oregon Growth Account Board, with the care, skill and
 39 diligence that a prudent investor acting in a similar capacity and familiar with such investments
 40 would use in managing and investing a similar account. The management company shall invest in
 41 Oregon an amount that is at least equal to the amount of the principal transferred from the Oregon
 42 Growth Account to the management company for investment.

43 (4) The contract between the board and a management company to manage the Oregon Growth
 44 Account and the functions performed under the contract are not subject to the State Personnel Re-
 45 lations Law or ORS 279.835 to 279.855 or ORS chapter 279A or 279B.

1 (5) Notwithstanding ORS 348.702 (5), a management company selected to manage the Oregon
 2 Growth Account may maintain a portion of the moneys allocated to the account under ORS 348.702
 3 (1) in short-term securities in investments other than those specified in ORS 348.702 (5) during such
 4 times as a management company is seeking investments that meet the requirements of ORS 348.702
 5 (5).

6 (6) The State Treasurer shall annually submit a report to the Governor and to the Legislative
 7 Assembly on the investment of moneys in the Oregon Growth Account. The report required by this
 8 subsection shall include a summary of the amount of money invested by industrial sector or business
 9 classification, by region of this state, by size of investment and by type of investment.

10 (7) The State Treasurer shall provide to other state agencies any reports on the investment of
 11 moneys in the Oregon Growth Account that are necessary to fulfill audit, financial, investment or
 12 other reporting requirements to which the [Education Stability] **Administrative Services Economic**
 13 **Development** Fund is subject by law or standard accounting principles.

14 (8) The office of the State Treasurer shall provide staff to the board.

15 (9) There is continuously appropriated to the board from the Oregon Growth Account those
 16 amounts necessary to meet the expenses of the board and the State Treasurer in carrying out the
 17 operations of the Oregon Growth Account and the duties of the board and the State Treasurer. The
 18 cost to the office of the State Treasurer of providing staff to the board shall be deducted from those
 19 amounts paid to the State Treasurer pursuant to ORS 293.718 as reimbursement for expenses in-
 20 curred as investment officer for the [Education Stability] **Administrative Services Economic De-**
 21 **velopment** Fund.

22 (10) The board may enter into contracts for the provision of investment advice or other services
 23 that the board deems reasonable and necessary to fulfill the duties of the board. The State Treasurer
 24 may enter into contracts for the provision of investment advice or other services that the State
 25 Treasurer deems reasonable and necessary to fulfill the duties of the State Treasurer with respect
 26 to the Oregon Growth Account. Such contracts are not subject to the State Personnel Relations Law
 27 or ORS 279.835 to 279.855 or ORS chapter 279A or 279B.

28 **SECTION 4.** ORS 284.725 is amended to read:

29 284.725. [(1)] There is created within the State Treasury, separate and distinct from the General
 30 Fund, the Oregon Commercialized Research Fund. Interest earned by the Oregon Commercialized
 31 Research Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to
 32 the Oregon Innovation Council for the purpose of making grants and loans under ORS 284.735. **The**
 33 **council may accept moneys from any source for deposit in the fund.**

34 [(2) *Any moneys received from the Education Stability Fund for deposit in the Oregon*
 35 *Commercialized Research Fund pursuant to ORS 348.696 shall be placed in a separate account within*
 36 *the Oregon Commercialized Research Fund and may be used by the council only for public*
 37 *education.*]

38 **SECTION 5.** ORS 293.761 is amended to read:

39 293.761. The investment officer shall report quarterly to the officer or body having control and
 40 administration of each fund included in the investment funds the changes in investments made dur-
 41 ing the preceding month for the fund. If requested by the officer or body, the investment officer shall
 42 furnish to the officer or body the details on the investment transactions for any fund. The invest-
 43 ment officer shall separately identify investments held in the Oregon Growth Account established
 44 in ORS 348.702[,] **and** the Oregon Resource and Technology Development Subaccount established in
 45 ORS 348.706 [*and the Oregon Commercialized Research Fund created in ORS 284.725 as part of the*

1 *report on the Education Stability Fund required by this section].*

2 **SECTION 6.** ORS 461.540 is amended to read:

3 461.540. (1) There hereby is established in the General Fund of the State Treasury the Admin-
4 istrative Services Economic Development Fund. All moneys transferred from the State Lottery Fund,
5 interest earnings credited to this fund and other moneys authorized to be transferred to this fund
6 from whatever source are appropriated continuously for any of the following public purposes:

- 7 (a) Creating jobs;
- 8 (b) Furthering economic development in Oregon; or
- 9 (c) Financing public education.

10 (2) Moneys shall be transferred from the Administrative Services Economic Development Fund
11 to the Education Stability Fund established under ORS 348.696 as described in section 4, Article XV
12 of the Oregon Constitution.

13 **(3) Moneys shall be transferred from the Administrative Services Economic Development**
14 **Fund to the Oregon Growth Account under ORS 348.702.**

15 [(3)] (4) As used in this section [*and section 4, Article XV of the Oregon Constitution*]:

- 16 (a) "Creating jobs" includes, but is not limited to:
- 17 (A) Supporting the creation of new jobs in Oregon;
- 18 (B) Helping prevent the loss of existing jobs in Oregon;
- 19 (C) Assisting with work transition to new jobs in Oregon; [*or*] **and**
- 20 (D) Training or retraining workers.

21 (b) "Education" includes, but is not limited to, the Education Stability Fund established under
22 ORS 348.696 and specific programs that support the following:

- 23 (A) Prekindergartens;
- 24 (B) Elementary and secondary schools;
- 25 (C) Community colleges;
- 26 (D) Higher education;
- 27 (E) Continuing education;
- 28 (F) Workforce training and education programs; [*or*] **and**
- 29 (G) Financial assistance to Oregon students.

30 (c) "Furthering economic development" includes, but is not limited to, providing:

- 31 (A) Services or financial assistance to for-profit and nonprofit businesses located or to be lo-
32 cated in Oregon;
- 33 (B) Services or financial assistance to business or industry associations to promote, expand or
34 prevent the decline of their businesses; [*or*] **and**
- 35 (C) Services or financial assistance for facilities, physical environments or development projects,
36 as defined in ORS 285B.410, that benefit Oregon's economy.

37 **SECTION 7.** ORS 348.716 is amended to read:

38 348.716. The Oregon Education Fund is established in the State Treasury, separate and distinct
39 from the General Fund. Moneys in the Oregon Education Fund are continuously appropriated to
40 the Oregon Department of Administrative Services for public education and education lottery bond
41 debt service. Seventy-five percent of the declared earnings of the Education Stability Fund as de-
42 scribed in ORS 348.696 [(2)] (1) shall be transferred monthly to the Oregon Education Fund as di-
43 rected by the Director of the Oregon Department of Administrative Services. Investment earnings
44 on amounts in the Oregon Education Fund shall be credited to the Oregon Education Fund. The
45 Legislative Assembly may, but shall be under no legal obligation to, allocate and appropriate

1 amounts in the Oregon Education Fund to pay education lottery bonds. The Director of the Oregon
2 Department of Administrative Services may specify when during any fiscal year amounts shall be
3 transferred from the Oregon Education Fund to be used for public education or education lottery
4 bonds.

5 **SECTION 8. This 2009 Act being necessary for the immediate preservation of the public**
6 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
7 **on its passage.**

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