

Senate Bill 496

Sponsored by COMMITTEE ON FINANCE AND REVENUE

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**.

Suspends 10 percent diversion from Education Stability Fund to Oregon Growth Account beginning July 1, 2009, and ending July 1, 2011.

Declares emergency, effective July 1, 2009.

A BILL FOR AN ACT

1
2 Relating to the Oregon Growth Account; creating new provisions; amending ORS 348.702 and
3 348.703; and declaring an emergency.

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

5 **SECTION 1.** ORS 348.702 is amended to read:

6 348.702. (1) There is created within the Education Stability Fund the Oregon Growth Account,
7 *to which shall be credited, in the manner provided in subsection (2) of this section, 10 percent of the*
8 *funds transferred under section 4, Article XV of the Oregon Constitution, from the Administrative*
9 *Services Economic Development Fund to the Education Stability Fund]. Separate records shall be*
10 *maintained for moneys in the Oregon Growth Account that are available for the purposes specified*
11 *in subsection [(5)] (2) of this section. The account may be credited with unrestricted appropriations,*
12 *gifts, donations, grants or contract proceeds from any source, with investments or funds from any*
13 *source and with returns on investments made from the account.*

14 [(2) *The Oregon Department of Administrative Services may credit to the Oregon Growth Account*
15 *from the first funds transferred in a fiscal year to the Education Stability Fund under section 4, Article*
16 *XV of the Oregon Constitution, an amount up to the amount the department estimates to be 10 percent*
17 *of the funds required to be transferred to the Education Stability Fund for that fiscal year.]*

18 [(3) *If at the end of the fiscal year the amount credited to the Oregon Growth Account under sub-*
19 *section (2) of this section is less than or greater than 10 percent of the amount required to be trans-*
20 *ferred under section 4, Article XV of the Oregon Constitution, to the Education Stability Fund, the*
21 *amount credited to the Oregon Growth Account shall be adjusted in one of the following ways:]*

22 [(a) *The amount credited to the account in the following fiscal year may be adjusted;]*

23 [(b) *Any excess may be transferred from the Oregon Growth Account to the Education Stability*
24 *Fund; or]*

25 [(c) *Any shortage may be transferred from the Education Stability Fund to the Oregon Growth*
26 *Account from funds available for that purpose.]*

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

29 [(5)] (2) The purpose of the Oregon Growth Account is to earn returns for the Education Sta-
30 bility Fund by making investments in or by providing seed capital for emerging growth businesses.

31 [(6)] (3) The investment of funds in the Oregon Growth Account shall be governed by the Oregon

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 Growth Account Board.

2 **SECTION 2.** ORS 348.702, as amended by section 1 of this 2009 Act, is amended to read:

3 348.702. (1) There is created within the Education Stability Fund the Oregon Growth Account,
4 **to which shall be credited, in the manner provided in subsection (2) of this section, 10 percent**
5 **of the funds transferred under section 4, Article XV of the Oregon Constitution, from the**
6 **Administrative Services Economic Development Fund to the Education Stability Fund.** Sepa-
7 rate records shall be maintained for moneys in the Oregon Growth Account that are available for
8 the purposes specified in subsection [(2)] (5) of this section. The account may be credited with un-
9 restricted appropriations, gifts, donations, grants or contract proceeds from any source, with in-
10 vestments or funds from any source and with returns on investments made from the account.

11 **(2) The Oregon Department of Administrative Services may credit to the Oregon Growth**
12 **Account from the first funds transferred in a fiscal year to the Education Stability Fund**
13 **under section 4, Article XV of the Oregon Constitution, an amount up to the amount the**
14 **department estimates to be 10 percent of the funds required to be transferred to the Edu-**
15 **cation Stability Fund for that fiscal year.**

16 **(3) If at the end of the fiscal year the amount credited to the Oregon Growth Account**
17 **under subsection (2) of this section is less than or greater than 10 percent of the amount**
18 **required to be transferred under section 4, Article XV of the Oregon Constitution, to the**
19 **Education Stability Fund, the amount credited to the Oregon Growth Account shall be ad-**
20 **justed in one of the following ways:**

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

22 **(b) Any excess may be transferred from the Oregon Growth Account to the Education**
23 **Stability Fund; or**

24 **(c) Any shortage may be transferred from the Education Stability Fund to the Oregon**
25 **Growth Account from funds available for that purpose.**

26 **(4) Adjustments required by subsection (3) of this section shall be made without consid-**
27 **eration of any interest or other earnings that have accrued during the fiscal year.**

28 [(2)] (5) The purpose of the Oregon Growth Account is to earn returns for the Education Sta-
29 bility Fund by making investments in or by providing seed capital for emerging growth businesses.

30 [(3)] (6) The investment of funds in the Oregon Growth Account shall be governed by the Oregon
31 Growth Account Board.

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

33 348.703. (1) The Oregon Growth Account Board shall contract with one or more management
34 companies to manage and invest the moneys in the Oregon Growth Account. For purposes of this
35 subsection, a contract with a management company may consist of:

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

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

41 (2) The provisions of ORS 293.726 do not apply to those assets of the Education Stability Fund
42 that are held in the Oregon Growth Account. The limitations of ORS 293.726 (6) shall be calculated
43 based only on the balance of the Education Stability Fund that does not include the Oregon Growth
44 Account.

45 (3) A management company selected to manage the Oregon Growth Account shall manage the

1 moneys in the account, subject to investment policies established by the State Treasurer and the
2 investment directives or strategies of the Oregon Growth Account Board, with the care, skill and
3 diligence that a prudent investor acting in a similar capacity and familiar with such investments
4 would use in managing and investing a similar account. The management company shall invest in
5 Oregon an amount that is at least equal to the amount of the principal transferred from the Oregon
6 Growth Account to the management company for investment.

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

10 (5) Notwithstanding ORS 348.702 [(5)] (2), a management company selected to manage the
11 Oregon Growth Account may maintain a portion of the moneys allocated to the account under ORS
12 348.702 (1) in short-term securities in investments other than those specified in ORS 348.702 [(5)] (2)
13 during such times as a management company is seeking investments that meet the requirements of
14 ORS 348.702 [(5)] (2).

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

19 (7) The State Treasurer shall provide to other state agencies any reports on the investment of
20 moneys in the Oregon Growth Account that are necessary to fulfill audit, financial, investment or
21 other reporting requirements to which the Education Stability Fund is subject by law or standard
22 accounting principles.

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

24 (9) There is continuously appropriated to the board from the Oregon Growth Account those
25 amounts necessary to meet the expenses of the board and the State Treasurer in carrying out the
26 operations of the Oregon Growth Account and the duties of the board and the State Treasurer. The
27 cost to the office of the State Treasurer of providing staff to the board shall be deducted from those
28 amounts paid to the State Treasurer pursuant to ORS 293.718 as reimbursement for expenses in-
29 curred as investment officer for the Education Stability Fund.

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

36 **SECTION 4.** ORS 348.703, as amended by section 3 of this Act, is amended to read:

37 348.703. (1) The Oregon Growth Account Board shall contract with one or more management
38 companies to manage and invest the moneys in the Oregon Growth Account. For purposes of this
39 subsection, a contract with a management company may consist of:

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

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

45 (2) The provisions of ORS 293.726 do not apply to those assets of the Education Stability Fund

1 that are held in the Oregon Growth Account. The limitations of ORS 293.726 (6) shall be calculated
2 based only on the balance of the Education Stability Fund that does not include the Oregon Growth
3 Account.

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

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

14 (5) Notwithstanding ORS 348.702 [(2)] (5), a management company selected to manage the
15 Oregon Growth Account may maintain a portion of the moneys allocated to the account under ORS
16 348.702 (1) in short-term securities in investments other than those specified in ORS 348.702 [(2)] (5)
17 during such times as a management company is seeking investments that meet the requirements of
18 ORS 348.702 [(2)] (5).

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

23 (7) The State Treasurer shall provide to other state agencies any reports on the investment of
24 moneys in the Oregon Growth Account that are necessary to fulfill audit, financial, investment or
25 other reporting requirements to which the Education Stability Fund is subject by law or standard
26 accounting principles.

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

28 (9) There is continuously appropriated to the board from the Oregon Growth Account those
29 amounts necessary to meet the expenses of the board and the State Treasurer in carrying out the
30 operations of the Oregon Growth Account and the duties of the board and the State Treasurer. The
31 cost to the office of the State Treasurer of providing staff to the board shall be deducted from those
32 amounts paid to the State Treasurer pursuant to ORS 293.718 as reimbursement for expenses in-
33 curred as investment officer for the Education Stability Fund.

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

40 **SECTION 5. The amendments to ORS 348.702 and 348.703 by sections 2 and 4 of this 2009**
41 **Act become operative on July 1, 2011.**

42 **SECTION 6. Prior to February 1, 2011, the Oregon Growth Account Board shall submit**
43 **a report to the Seventy-sixth Legislative Assembly. The report shall:**

44 (1) **Summarize the performance of the Oregon Growth Account from its inception to the**
45 **date of the report;**

1 **(2) Recommend whether the diversion of funds made by ORS 348.702, as amended by**
2 **section 1 of this 2009 Act, should be continued or the funds restored, in whole or in part, on**
3 **July 1, 2011; and**

4 **(3) Describe the expected benefits of restoring all or a part of the funds diverted by ORS**
5 **348.702, as amended by section 1 of this 2009 Act.**

6 **SECTION 7.** **This 2009 Act being necessary for the immediate preservation of the public**
7 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
8 **July 1, 2009.**

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