

# House Bill 2452

Sponsored by Representative CONGER (Pre-session filed.)

## 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**.

Requires Oregon Growth Account Board to invest \$2 million to \$4 million of Oregon Growth Account funds in approved Oregon Seed Fund entities that provide support to emerging growth businesses in Oregon. Redefines "seed capital" to include financing for initial and follow-up phases of emerging growth business development. Requires that at least 80 percent of emerging growth businesses receiving funds from Oregon Growth Account through approved Oregon Seed Fund entities be located outside acknowledged Portland Metropolitan Area Regional Urban Growth Boundary. Requires Oregon Seed Fund entities to provide matching funds.

## A BILL FOR AN ACT

1  
2 Relating to Oregon Seed Fund entities; amending ORS 348.701, 348.702 and 348.703.

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

4 **SECTION 1.** ORS 348.701 is amended to read:

5 348.701. As used in ORS 348.701 to 348.710:

6 (1) "Board" means the Oregon Growth Account Board established in ORS 348.707.

7 (2) "Emerging growth business" means an individual or group of individuals or a new or small  
8 company, including but not limited to any new or small partnership, limited liability company, cor-  
9 poration, firm, association or other entity, that has the capacity, upon obtaining appropriate capital,  
10 to generate significant high skill, high wage employment.

11 (3) "Management company" includes an individual or group of individuals, firm, association,  
12 limited partnership, partnership, corporation or other investment company.

13 (4) "Oregon Seed Fund entity" means a **for-profit or nonprofit business entity or organ-**  
14 **ization doing business in Oregon whose purpose is to provide critical support for emerging**  
15 **growth businesses, including but not limited to:**

16 (a) **Coaching and mentoring;**

17 (b) **Loans or other means of investments of seed capital;**

18 (c) **Assistance with seeking sources of private and public financing and resources both**  
19 **within and outside Oregon;**

20 (d) **Connectivity with businesses and resources located in other regions of the Pacific**  
21 **Northwest and the west coast of the United States;**

22 (e) **Development and achievement of performance measures and other objective meas-**  
23 **urements of business growth and success; and**

24 (f) **Other support and assistance to emerging growth businesses as may be required by**  
25 **the board by directive, policy or rule.**

26 [(4)] (5) "Seed capital" means:

27 (a) Financing that is provided for the initial phases, including the first phase, of development,  
28 refinement and commercialization of a technology, product, process or innovation, including but not

**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 limited to facilitating technology transfers related to academic research, discoveries or develop-  
 2 ments for the purpose of commercialization of a technology, product, process or innovation; **or**

3 **(b) Financing that is provided for the initial and follow-up phases of development of an**  
 4 **emerging growth business.**

5 **SECTION 2.** 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, five percent of  
 8 the funds transferred under [section 4,] Article XV, **section 4**, of the Oregon Constitution, from the  
 9 Administrative Services Economic Development Fund to the Education Stability Fund. Separate re-  
 10 cords shall be maintained for moneys in the [*Oregon Growth*] account that are available for the  
 11 purposes specified in subsection (5) of this section. The account may be credited with unrestricted  
 12 appropriations, gifts, donations, grants or contract proceeds from any source, with investments or  
 13 funds from any source and with returns on investments made from the account.

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

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

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

25 (b) Any excess may be transferred from the [*Oregon Growth*] account to the Education Stability  
 26 Fund; or

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

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

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

33 (6)(a) The investment of funds in the Oregon Growth Account shall be governed by the Oregon  
 34 Growth Account Board[.], **subject to paragraph (b) of this subsection.**

35 **(b) The board shall invest a portion of the funds in the account, not less than \$2 million**  
 36 **but not more than \$4 million, to provide seed capital to emerging growth businesses that are**  
 37 **qualified participants in an Oregon Seed Fund entity approved by the board. The board by**  
 38 **rule shall adopt standards and criteria for approving an Oregon Seed Fund entity that is el-**  
 39 **igible to receive funds from the account under this paragraph. The standards and criteria**  
 40 **must include, but are not limited to:**

41 **(A) At least 80 percent of emerging growth businesses that receive funds from an Oregon**  
 42 **Seed Fund entity under this paragraph must have as their principal place of business a lo-**  
 43 **cation in Oregon that is outside the acknowledged Portland Metropolitan Area Regional Ur-**  
 44 **ban Growth Boundary;**

45 **(B) The Oregon Seed Fund entity must comply with directives, policies and rules the**

1 **board may establish for determining the qualifications of an emerging growth business that**  
 2 **will receive funds from an approved Oregon Seed Fund entity under this paragraph; and**

3 **(C) The Oregon Seed Fund entity must provide matching funds in amounts to be deter-**  
 4 **mined by the board.**

5 **SECTION 3.** ORS 348.702, as amended by section 2, chapter 805, Oregon Laws 2009, and  
 6 sections 7a and 33a, chapter 90, Oregon Laws 2012, is amended to read:

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

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

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

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

26 (b) Any excess may be transferred from the [*Oregon Growth*] account to the Education Stability  
 27 Fund; or

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

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

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

34 (6)(a) The investment of funds in the Oregon Growth Account shall be governed by the Oregon  
 35 Growth Account Board[,], **subject to paragraph (b) of this subsection.**

36 **(b) The board shall invest a portion of the funds in the account, not less than \$2 million**  
 37 **but not more than \$4 million, to provide seed capital to emerging growth businesses that are**  
 38 **qualified participants in an Oregon Seed Fund entity approved by the board. The board by**  
 39 **rule shall adopt standards and criteria for approving an Oregon Seed Fund entity that is el-**  
 40 **igible to receive funds from the account under this paragraph. The standards and criteria**  
 41 **must include, but are not limited to:**

42 **(A) At least 80 percent of emerging growth businesses that receive funds from an Oregon**  
 43 **Seed Fund entity under this paragraph must have as their principal place of business a lo-**  
 44 **cation in Oregon that is outside the acknowledged Portland Metropolitan Area Regional Ur-**  
 45 **ban Growth Boundary;**

1       **(B) The Oregon Seed Fund entity must comply with directives, policies and rules the**  
2 **board may establish for determining the qualifications of an emerging growth business that**  
3 **will receive funds from an approved Oregon Seed Fund entity under this paragraph; and**

4       **(C) The Oregon Seed Fund entity must provide matching funds in amounts to be deter-**  
5 **mined by the board.**

6       **SECTION 4.** ORS 348.703 is amended to read:

7       348.703. (1) The Oregon Growth Account Board shall contract with one or more management  
8 companies to manage and invest the moneys in the Oregon Growth Account. For purposes of this  
9 subsection, a contract with a management company may consist of:

10       (a) A partnership agreement under which the [*Oregon Growth Account*] board is the limited  
11 partner and the management company is the general partner; or

12       (b) Another form of payment or profit-sharing arrangement under which the [*Oregon Growth*  
13 *Account*] board may receive payment or another form of return in exchange for its investment in an  
14 emerging growth business.

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

19       (3) A management company selected to manage the Oregon Growth Account shall manage the  
20 moneys in the account, subject to **ORS 348.702 (6)**, the investment policies established by the State  
21 Treasurer and the investment directives or strategies of the Oregon Growth Account Board, with  
22 the care, skill and diligence that a prudent investor acting in a similar capacity and familiar with  
23 such investments would use in managing and investing a similar account. The management company  
24 shall invest in Oregon an amount that is at least equal to the amount of the principal transferred  
25 from the [*Oregon Growth*] account to the management company for investment.

26       (4) The contract between the **Oregon Growth Account** Board and a management company to  
27 manage the Oregon Growth Account and the functions performed under the contract are not subject  
28 to the State Personnel Relations Law or ORS 279.835 to 279.855 or ORS chapter 279A or 279B.

29       (5) Notwithstanding ORS 348.702 (5), a management company selected to manage the Oregon  
30 Growth Account may maintain a portion of the moneys allocated to the account under ORS 348.702  
31 (1) in short-term securities in investments other than those specified in ORS 348.702 (5) during such  
32 times as a management company is seeking investments that meet the requirements of ORS 348.702  
33 (5).

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

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

42       (8) The office of the State Treasurer shall provide staff to the **Oregon Growth Account** Board.

43       (9) There is continuously appropriated to the **Oregon Growth Account** Board from the Oregon  
44 Growth Account those amounts necessary to meet the expenses of the board and the State Treasurer  
45 in carrying out the operations of the [*Oregon Growth*] account and the duties of the board and the

1 State Treasurer. The cost to the office of the State Treasurer of providing staff to the board shall  
2 be deducted from those amounts paid to the State Treasurer pursuant to ORS 293.718 as re-  
3 imbursement for expenses incurred as investment officer for the Education Stability Fund.

4 (10) The **Oregon Growth Account** Board may enter into contracts for the provision of invest-  
5 ment advice or other services that the board deems reasonable and necessary to fulfill the duties  
6 of the board. The State Treasurer may enter into contracts for the provision of investment advice  
7 or other services that the State Treasurer deems reasonable and necessary to fulfill the duties of  
8 the State Treasurer with respect to the Oregon Growth Account. Such contracts are not subject  
9 to the State Personnel Relations Law or ORS 279.835 to 279.855 or ORS chapter 279A or 279B.

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