

House Bill 2929

Sponsored by Representatives RAYFIELD, POWER, HERNANDEZ, ALONSO LEON, FAHEY; Representatives HOLVEY, NOSSE, WILLIAMSON

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**.

Directs State Treasurer to establish student loan refinancing guarantee pilot program. Permits State Treasurer to enter into contracts with financial institutions under which State Treasurer creates loss reserve account for financial institution to reimburse financial institution for losses incurred in connection with refinancing loan. Specifies contributions to loss reserve account from financial institution, borrower and State Treasurer. Specifies procedures under which financial institution may claim reimbursement. Establishes Student Loan Refinancing Guarantee Program Fund from which State Treasurer pays moneys into loss reserve account. Sunsets pilot program on December 31, 2019.

Directs Higher Education Coordinating Commission to establish supplemental education loan counseling program for residents of this state. Specifies elements of program.

Provides credit to employers that provide education loan repayment assistance to employees. Specifies amounts of and eligibility for credit.

Establishes subtraction from personal income taxes for amounts that taxpayers pay in student loan interest. Specifies amount of and eligibility for subtraction.

Establishes refundable credit against personal income taxes for contributions to higher education savings network account. Establishes tax credit for amounts contributed to higher education savings network accounts owned by employees of taxpayer. Increases limitation on subtraction for contribution to ABLE account or higher education savings network account to amount per designated beneficiary.

Applies credits and subtractions to tax years beginning on or after January 1, 2017, and before January 1, 2023.

Specifies that amount in account established for higher education expenses is disregarded for purposes of determining account owner's financial eligibility to receive assistance or benefit authorized by law, to extent permitted under federal law.

Applies to eligibility determinations made on or after January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to student loan debt; creating new provisions; amending ORS 314.752, 316.699 and 318.031;
3 and prescribing an effective date.

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

5 **SECTION 1. Sections 2 to 9 of this 2017 Act are added to and made a part of ORS chapter**
6 **348.**

7 **SECTION 2. As used in sections 2 to 8 of this 2017 Act:**

8 (1) **"Eligible loan" means a loan from a private, nongovernmental lender that a student**
9 **or a parent of a student used exclusively to pay for tuition, fees, room, board, books, sup-**
10 **plies, equipment and other necessary and related expenses while the student attended an el-**
11 **igible post-secondary educational institution.**

12 (2) **"Eligible post-secondary educational institution" means a college, university, voca-**
13 **tional school or other post-secondary educational institution that is eligible to participate in**
14 **a student financial aid program that the United States Department of Education administers.**

15 (3) **"Financial institution" has the meaning given that term in ORS 706.008.**

16 (4) **"Loss reserve account" means an account that the State Treasurer establishes and**

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 maintains in the State Treasury or with a financial institution to benefit a financial institu-
 2 tion that participates in the student loan refinancing guarantee pilot program.

3 (5) “Refinancing loan” means a loan that pays off an existing eligible loan and substitutes
 4 a new loan to the original borrower with new loan terms that a borrower negotiates with a
 5 financial institution and that is otherwise in accordance with rules the State Treasurer
 6 adopts.

7 (6) “Student loan refinancing guarantee pilot program” means a pilot program that the
 8 State Treasurer establishes under sections 2 to 8 of this 2017 Act to provide reimbursements
 9 for losses that a financial institution incurs in providing refinancing loans to borrowers with
 10 eligible loans.

11 **SECTION 3.** (1) The State Treasurer shall establish a student loan refinancing guarantee
 12 pilot program in accordance with sections 2 to 8 of this 2017 Act.

13 (2) The State Treasurer may contract with a financial institution to allow the financial
 14 institution to participate in the student loan refinancing guarantee pilot program.

15 (3) A contract between the State Treasurer and a financial institution under this section
 16 must require at a minimum that:

17 (a) The State Treasurer create a loss reserve account for the benefit of the financial in-
 18 stitution.

19 (b) The State Treasurer, the financial institution and a borrower who receives a refi-
 20 nancing loan deposit moneys to the credit of the financial institution’s loss reserve account.

21 (c) The State Treasurer pays to the financial institution from the loss reserve account
 22 an amount that does not exceed the total amount credited to the loss reserve account as a
 23 reimbursement to the financial institution for a financial loss the financial institution incurs
 24 as a result of making a refinancing loan to a borrower with an eligible loan while partic-
 25 ipating in the student loan refinancing guarantee pilot program.

26 (d) The liability of the State of Oregon and the State Treasurer to the financial institu-
 27 tion under the contract is limited to the amount of money credited to the loss reserve ac-
 28 count established for the financial institution.

29 (e) The financial institution provides information that the State Treasurer requires, in-
 30 cluding financial information that is identifiable with, or identifiable from, the financial re-
 31 cords of a borrower with an eligible loan who receives a refinancing loan.

32 (4) A financial institution is not subject to ORS 192.586 (1) if the financial institution
 33 provides information to the State Treasurer under subsection (3)(e) of this section.

34 **SECTION 4.** (1) The State Treasurer shall establish a loss reserve account for each fi-
 35 nancial institution with which the State Treasurer enters into a contract under section 3 of
 36 this 2017 Act.

37 (2) A loss reserve account for a financial institution consists of moneys that a borrower
 38 pays as a fee in connection with a refinancing loan that a financial institution makes while
 39 participating in the student loan refinancing guarantee pilot program, that the financial in-
 40 stitution pays as a fee to participate in the student loan refinancing guarantee pilot program
 41 and that the State Treasurer transfers to the loss reserve account from the Student Loan
 42 Refinancing Guarantee Program Fund.

43 (3) Notwithstanding ORS chapter 293 or 295, the State Treasurer may establish and
 44 maintain loss reserve accounts with any financial institution under policies that the State
 45 Treasurer adopts. The State Treasurer may adopt rules to encourage financial institutions

1 to participate in the student loan refinancing guarantee pilot program.

2 (4) Moneys in a loss reserve account established in connection with the student loan re-
3 financing guarantee pilot program are the property of the State of Oregon.

4 **SECTION 5.** (1) A financial institution may seek reimbursement from a loss reserve ac-
5 count that the State Treasurer maintains for the financial institution only if the financial
6 institution participates in the student loan refinancing guarantee pilot program and only if
7 the loss for which the financial institution seeks reimbursement occurred as a result of
8 making a refinancing loan to a borrower with an eligible loan. The financial institution may
9 require a borrower to show that a loan that the borrower seeks to refinance is an eligible
10 loan.

11 (2) If a financial institution participates in the student loan refinancing guarantee pilot
12 program and the financial institution intends to seek protection against financial loss from
13 a refinancing loan by applying for a payment from the financial institution's loss reserve
14 account, the financial institution shall notify the State Treasurer of the refinancing loan
15 within 30 days after making the refinancing loan. The financial institution shall notify the
16 State Treasurer in writing on a form, in a format and with contents that the State Treasurer
17 specifies by rule.

18 (3) If a financial institution makes a refinancing loan under the student loan refinancing
19 guarantee pilot program to a borrower with an eligible loan, the financial institution shall
20 require the borrower to pay a fee of not less than one and one-half percent of the principal
21 amount of the refinancing loan and not more than three and one-half percent of the principal
22 amount of the refinancing loan. The financial institution shall also pay a fee in an amount
23 equal to the fee that the borrower pays. The financial institution shall deliver the fees re-
24 quired under this subsection to the State Treasurer for deposit in the loss reserve account
25 for the financial institution.

26 (4) In depositing fees the State Treasurer receives under subsection (3) of this section
27 to the credit of the loss reserve account for a financial institution, the State Treasurer shall
28 also transfer from the Student Loan Refinancing Guarantee Program Fund to the loss re-
29 serve account an amount that is not less than the total amount of the fees that the borrower
30 and the financial institution paid.

31 **SECTION 6.** (1) The State Treasurer shall establish procedures under which a financial
32 institution that participates in the student loan refinancing guarantee pilot program may
33 submit a claim for reimbursement for a loss the financial institution incurred as a result of
34 a default on a refinancing loan to a borrower with an eligible loan.

35 (2) A financial institution may seek reimbursement from the loss reserve account the
36 State Treasurer maintains for the financial institution for the principal of the refinancing
37 loan, accrued interest on the principal, actual and necessary costs of seeking recovery of the
38 principal, interest on the costs of seeking the recovery and any other related costs.

39 (3) A financial institution shall seek reimbursement from the loss reserve account for
40 losses from a refinancing loan before liquidating collateral for a defaulted refinancing loan.
41 The financial institution shall repay the financial institution's loss reserve account for any
42 moneys the financial institution receives as reimbursement under this section if the financial
43 institution recovers moneys from the borrower or from liquidating collateral for the de-
44 faulted refinancing loan.

45 **SECTION 7.** (1) There is established in the State Treasury, separate and distinct from the

1 **General Fund, the Student Loan Refinancing Guarantee Program Fund. All moneys in the**
 2 **fund are continuously appropriated to the State Treasurer for the purpose of making pay-**
 3 **ments to loss reserve accounts established under sections 2 to 8 of this 2017 Act.**

4 **(2) Moneys in the Student Loan Refinancing Guarantee Program Fund may be invested**
 5 **as provided by ORS 293.701 to 293.857, and the earnings from any investments must be**
 6 **credited to the Student Loan Refinancing Guarantee Program Fund.**

7 **(3) The Student Loan Refinancing Guarantee Program Fund consists of:**

8 **(a) Moneys appropriated to the fund by the Legislative Assembly.**

9 **(b) Interest earned on moneys in the fund.**

10 **(c) Moneys returned to the fund from loss reserve accounts or other sources.**

11 **(4) If the State Treasurer determines that retrieving interest earned on loss reserve ac-**
 12 **counts is appropriate, the State Treasurer may transfer into the Student Loan Refinancing**
 13 **Guarantee Program Fund up to 50 percent of the interest earned on moneys in loss reserve**
 14 **accounts.**

15 **(5) The State Treasurer may charge administrative costs to the Student Loan Refinanc-**
 16 **ing Guarantee Program Fund to pay for actual and necessary administrative expenses that**
 17 **the State Treasurer incurs in administering the fund and establishing and maintaining loss**
 18 **reserve accounts under sections 2 to 8 of this 2017 Act.**

19 **SECTION 8. (1) The State Treasurer shall adopt rules necessary to implement the stu-**
 20 **dent loan refinancing guarantee pilot program. The rules, at a minimum, must:**

21 **(a) Establish eligibility criteria for a financial institution to participate in the program;**
 22 **and**

23 **(b) Specify criteria for identifying an eligible post-secondary educational institution, for**
 24 **determining appropriate educational expenses at an eligible post-secondary educational in-**
 25 **stitution and for otherwise determining that a borrower has an eligible loan.**

26 **(2) The State Treasurer may by rule condition a financial institution's qualification to**
 27 **participate in the student loan refinancing guarantee pilot program on an agreement from**
 28 **the financial institution to discount the rate of interest that the financial institution charges**
 29 **a borrower on a refinancing loan. The State Treasurer may by rule or by order specify the**
 30 **required amount of the discount from an otherwise applicable rate of interest.**

31 **(3) The State Treasurer shall submit by December 31 of each year a report to an interim**
 32 **committee of the Legislative Assembly that summarizes the activities of the student loan**
 33 **refinancing guarantee pilot program. In the report, the State Treasurer shall:**

34 **(a) Identify the financial institutions that have participated in the pilot program;**

35 **(b) List any reimbursements that the State Treasurer has paid to financial institutions**
 36 **from the Student Loan Refinancing Guarantee Program Fund;**

37 **(c) List the successes the pilot program has had and any difficulties or challenges the**
 38 **pilot program has encountered;**

39 **(d) Recommend whether the pilot program should continue or expand; and**

40 **(e) Recommend any legislation or changes the pilot program might require.**

41 **SECTION 9. (1) The Higher Education Coordinating Commission shall develop and make**
 42 **available to every resident of this state who graduated from a post-secondary educational**
 43 **institution, the educational expenses for which the resident paid from borrowed funds, a**
 44 **supplemental program of loan counseling that the resident may volunteer to attend, that is**
 45 **in addition to any loan counseling that is mandatory under federal law and that occurs before**

1 the resident must begin repaying the borrowed funds and periodically thereafter, if neces-
 2 sary. The counseling program must, at a minimum:

3 (a) Provide an overview of the topics the program will cover and navigational assistance
 4 that enables the resident to anticipate at each stage of the program what the program will
 5 cover next, that describes anticipated learning outcomes, that estimates the time that the
 6 resident will need to complete the counseling, and that makes use of video materials that the
 7 United States Department of Education provides or that the counselor produces;

8 (b) Be tailored as closely as possible to the resident's actual financial circumstances;

9 (c) Occur at a time that is not earlier than three months before the resident must begin
 10 repaying the borrowed funds and not later than 30 days before the resident must begin re-
 11 paying the borrowed funds;

12 (d) Focus on practical material with actionable outcomes;

13 (e) Avoid long sections of unbroken text and legalistic, overly formal or overly technical
 14 language if the counselor presents the counseling in writing or online;

15 (f) Explain carefully and in an easy to understand manner how to use any calculators or
 16 other tools made available to the resident;

17 (g) Allow the resident to read any materials presented at the resident's own pace, per-
 18 mitting the resident to stop the counseling, save the resident's place and restart the coun-
 19 seling, if the counselor presents the counseling in writing or online;

20 (h) Fill in whenever and wherever possible any forms or tools with information available
 21 to the counselor rather than depending on the resident to fill in the forms or tools with
 22 correct information;

23 (i) Provide median income and debt data and a number of hypothetical profiles and
 24 models of borrowers and financial circumstances with which the resident may compare the
 25 resident's own financial circumstances;

26 (j) Provide the resident with a chart of repayment options, a recommended repayment
 27 plan, an amortization chart and other information that is tailored as closely as possible to
 28 the resident's actual financial circumstances;

29 (k) Provide the resident with a printable card or similar device that lists appropriate
 30 contact information for the resident's loan servicer; and

31 (L) Provide other information or tools that the commission deems helpful, useful or
 32 otherwise appropriate after carefully studying the results of previous loan counseling ses-
 33 sions.

34 (2) The commission may provide the loan counseling by means of written materials,
 35 personal contact or electronic means or a mixture of any of these or other means, as ap-
 36 propriate. The commission may identify particular residents who have specialized needs for
 37 counseling and provide a loan counseling program that meets the needs the commission
 38 identifies.

39 (3) The commission shall advertise and market the loan counseling program established
 40 under this section in a manner that is both cost-effective and calculated to reach the maxi-
 41 mum number of residents of this state who could benefit from the loan counseling program.

42 (4) The commission may accept from institutions that provide mandatory loan counseling
 43 referrals and recommendations of individual borrowers that the institutions believe would
 44 benefit from supplementary loan counseling.

45 (5) The commission may enter into a contract with a public or private entity to provide

1 counseling under this section, but the commission is responsible for monitoring the efficacy
2 of the counseling and administering the contract to ensure an optimal outcome for residents
3 who attend the counseling.

4 (6) The commission shall pay for a loan counseling program under this section from
5 funds deposited in the Oregon Student Assistance Fund and appropriated to the commission
6 for the purposes set forth in this section.

7 (7) The commission shall report to the Legislative Assembly before each legislative ses-
8 sion that begins in an odd-numbered year concerning the efficacy of the loan counseling
9 program in reducing loan defaults and other loan repayment difficulties among residents of
10 this state. In the report, the commission shall also recommend any needed improvements to
11 the loan counseling program or in legislation that governs the loan counseling program.

12 (8) The commission may adopt rules that are necessary to implement the provisions of
13 this section.

14 **SECTION 10.** Sections 11, 12 and 13 of this 2017 Act are added to and made a part of ORS
15 chapter 315.

16 **SECTION 11.** (1) A credit against the taxes otherwise due under ORS chapter 316, or
17 under ORS chapter 317 or 318 if the taxpayer is a corporation, is allowed to a resident em-
18 ployer or to a corporation that is an employer for amounts the employer pays or incurs
19 during the taxable year for education loan repayment assistance the employer actually pro-
20 vided to an employee if the employer provides the assistance in accordance with a certifica-
21 tion program that the Higher Education Coordinating Commission establishes under
22 subsection (12) of this section.

23 (2)(a) Each employer that elects to receive a credit allowed under subsection (1) of this
24 section must submit an application to the commission for each year the employer wishes to
25 receive the credit. The commission shall prescribe by rule the form of the application and
26 the information required on the application.

27 (b) The commission shall issue a certificate to each employer that submits an application
28 under this subsection and that meets the requirements of the certification program the
29 commission establishes under subsection (12) of this section.

30 (3) The amount of the credit allowed under subsection (1) of this section is 50 percent
31 of the amount the employer paid or incurred during the taxable year, but the amount may
32 not exceed \$2,500 of education loan repayment assistance the employer actually provided to
33 the employee.

34 (4) An employer may not qualify for a credit under subsection (1) of this section for any
35 amount the employer paid or incurred during an employee's taxable year to provide educa-
36 tion loan repayment assistance to an employee's spouse, child or other dependent.

37 (5) An employer may not qualify for a credit under subsection (1) of this section for any
38 amount the employer paid or incurred to provide education loan repayment assistance if the
39 employer paid or incurred the amount under a salary reduction plan or for services the em-
40 ployee did not perform within this state.

41 (6) If an employer claims the credit allowed under subsection (1) of this section, the
42 amount of any deduction allowed or allowable under ORS chapter 316, 317 or 318 for the
43 amount that qualifies for the credit, or upon which the credit is based, must be reduced by
44 the dollar amount of the credit allowed. The employer must elect to claim a credit allowed
45 under this section at the time the employer files the tax return in accordance with any rules

1 adopted by the Department of Revenue.

2 (7) The amount upon which the credit allowed under subsection (1) of this section is
 3 based may not be included in the gross income of the employee to whom the employer pro-
 4 vided the education loan repayment assistance, but the amount excluded from the income
 5 of an employee under this section may not exceed \$5,000. For purposes of ORS 316.162, with
 6 respect to an employee to whom an employer provides education loan repayment assistance,
 7 “wages” does not include any amount excluded under this subsection.

8 (8) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
 9 or if the department terminates the taxpayer’s taxable year under ORS 314.440, the credit
 10 allowed by this section must be prorated or computed in a manner consistent with ORS
 11 314.085.

12 (9) A nonresident is allowed the credit allowed under subsection (1) of this section. A
 13 credit allowed to a nonresident must be computed in the same manner and be subject to the
 14 same limitations as the credit granted to a resident.

15 (10) If a change in the status of a taxpayer from resident to nonresident or from non-
 16 resident to resident occurs, the credit allowed by this section must be determined in a
 17 manner consistent with ORS 316.117.

18 (11) Any tax credit otherwise allowable under this section that a taxpayer does not use
 19 in a particular year may be carried forward and offset against the taxpayer’s tax liability for
 20 as many as five succeeding tax years, but may not be carried forward for any tax year
 21 thereafter.

22 (12) The commission by rule and in consultation with the department shall establish a
 23 program to certify an employer that provides education loan repayment assistance that
 24 qualifies for a credit under subsection (1) of this section. Rules the commission adopts must,
 25 at a minimum:

26 (a) Identify the types of education loans that qualify for education loan repayment as-
 27 sistance;

28 (b) Prohibit discrimination in favor of highly compensated employees, within the meaning
 29 of section 414(q) of the Internal Revenue Code, in the employer’s assistance program;

30 (c) Require the employer to provide assistance to employees based on a classification
 31 system the employer sets up and that the commission finds does not discriminate in favor
 32 of employees described in paragraph (b) of this subsection;

33 (d) Prohibit the employer from providing education loan repayment assistance to indi-
 34 viduals who are shareholders or owners, or spouses or dependents of shareholders or owners,
 35 who own more than five percent of the stock, capital or profits interest in the employer, in
 36 an amount that exceeds 25 percent of the total amount the employer provides in education
 37 loan repayment assistance during the year;

38 (e) Require the employer to provide reasonable notice of the availability and terms of the
 39 education loan repayment assistance;

40 (f) Require the employer to provide a written statement to the department on or before
 41 January 31 of each year that shows the amounts the employer paid or expenses the employer
 42 incurred in providing education loan repayment assistance to each employee during the pre-
 43 vious calendar year; and

44 (g) Prohibit the employer from providing education loan repayment assistance that is
 45 eligible for a credit described in subsection (1) of this section to an employee that:

1 (A) Is not 21 years of age or older;

2 (B) Has not completed one year of service with the employer; or

3 (C) Is covered under a collective bargaining agreement between the employer and em-
 4 ployee representatives in which education loan repayment assistance was the subject of good
 5 faith bargaining between the employer and the employee representatives and is included in
 6 the collective bargaining agreement.

7 (13) For purposes of the credit allowed under subsection (1) of this section, “employer”
 8 means an employer carrying on a business, trade, occupation or profession in this state.

9 **SECTION 12.** (1) A credit against taxes otherwise imposed under ORS chapter 316 is al-
 10 lowed for amounts contributed during the tax year to a savings network account for higher
 11 education established under ORS 178.300 to 178.355. The amount of the credit allowed under
 12 this section must equal the amount contributed, but may not exceed \$100.

13 (2) A taxpayer is allowed a credit under this section only if the taxpayer has an adjusted
 14 gross income that does not exceed \$50,000 on a joint return, or \$25,000 on any other type of
 15 return.

16 (3) A taxpayer may not claim both the credit allowed under this section and the sub-
 17 traction allowed in ORS 316.699 (1)(a) for the tax year.

18 (4) If the amount allowable as a credit under this section, when added to the sum of the
 19 amounts allowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (esti-
 20 mated tax), other tax prepayment amounts and other refundable credit amounts, exceeds the
 21 taxes imposed by ORS chapters 314 and 316 for the tax year (reduced by any nonrefundable
 22 credits allowable for purposes of ORS chapter 316 for the tax year), the amount of the excess
 23 must be refunded to the taxpayer as provided in ORS 316.502.

24 (5) The credit must be claimed on a form prescribed by the Department of Revenue that
 25 contains the information required by the department.

26 (6) In the case of a credit allowed under this section:

27 (a) A nonresident is allowed the credit in the proportion provided in ORS 316.117.

28 (b) If a change in the status of the taxpayer from resident to nonresident or from non-
 29 resident to resident occurs, the credit must be determined in a manner consistent with ORS
 30 316.117.

31 (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
 32 or if the department terminates the taxpayer’s taxable year under ORS 314.440, the credit
 33 must be prorated or computed in a manner consistent with ORS 314.085.

34 **SECTION 13.** (1) As used in this section, “employee” means a person who is subject to
 35 the provisions of ORS 316.162 to 316.221 and who has completed a withholding exemptions
 36 certificate required by the provisions of ORS 316.162 to 316.221.

37 (2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
 38 payer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for amounts
 39 contributed during the tax year to savings network accounts for higher education established
 40 under ORS 178.300 to 178.355 for which employees of the taxpayer are the account owners.
 41 The amount of the credit allowed under this section must equal the total amount contrib-
 42 uted, but may not exceed \$100 per account owner to whose account contributions are made.

43 (3) The credit allowed under this section may not exceed the tax liability of the taxpayer
 44 for the tax year.

45 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer

1 in a particular year may be carried forward and offset against the taxpayer's tax liability for
2 the next succeeding tax year. Any credit remaining unused in such next succeeding tax year
3 may be carried forward and used in the second succeeding tax year, and likewise, any credit
4 not used in that second succeeding tax year may be carried forward and used in the third
5 succeeding tax year, but may not be carried forward for any tax year thereafter.

6 (5) The credit must be claimed on a form prescribed by the Department of Revenue that
7 contains the information required by the department.

8 (6) A nonresident is allowed the credit under this section in the same manner and subject
9 to the same limitations as a resident. However, the credit must be prorated using the pro-
10 portion provided in ORS 316.117.

11 (7) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
12 or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,
13 the credit allowed by this section must be prorated or computed in a manner consistent with
14 ORS 314.085.

15 **SECTION 14.** Section 15 of this 2017 Act is added to and made a part of ORS chapter 316.

16 **SECTION 15.** (1) As used in this section:

17 (a) "Modified adjusted gross income" means federal adjusted gross income as modified
18 by this chapter and other laws of the state that apply to personal income taxation.

19 (b) "Qualified education loan" has the meaning given that term in 26 U.S.C. 221.

20 (2) In addition to the other modifications to federal taxable income contained in this
21 chapter, there is subtracted from federal taxable income the amount a taxpayer paid during
22 the taxable year as interest on a qualified education loan. The amount of the subtraction
23 under this section must equal the amount of interest the taxpayer paid on the qualified ed-
24 ucation loan, but may not exceed \$2,500. The subtraction allowed under this subsection is not
25 available to a taxpayer with a modified adjusted gross income that exceeds \$80,000, or
26 \$160,000 for a taxpayer who is married and files jointly.

27 (3) If a taxpayer's modified adjusted gross income exceeds \$65,000, or \$130,000 for a tax-
28 payer who is married and files jointly, the amount that is allowable as a subtraction under
29 this section must be reduced, but not below zero. To calculate the reduced amount of the
30 subtraction:

31 (a) Subtract \$65,000, or \$130,000 if the taxpayer is married and files jointly, from the
32 taxpayer's adjusted gross income;

33 (b) Divide the result of the calculation in paragraph (a) of this subsection by \$15,000, or
34 \$30,000 if the taxpayer is married and files jointly;

35 (c) Multiply the fraction that results from the calculation in paragraph (b) of this sub-
36 section by the lesser of the amount of interest the taxpayer paid on a qualified education
37 loan during the taxable year, or \$2,500; and

38 (d) Subtract the result of the calculation in paragraph (c) of this subsection from the
39 lesser of the amount of interest the taxpayer paid on a qualified education loan during the
40 taxable year, or \$2,500.

41 (4) A subtraction under this section is not available in a taxable year to a taxpayer who
42 is a dependent of a taxpayer who claims a subtraction under this section in the same taxable
43 year.

44 (5) A subtraction under this section is not available to a taxpayer who has claimed a
45 credit under another provision of this chapter for interest the taxpayer paid on a qualified

1 **education loan.**

2 **(6) A taxpayer must claim a subtraction under this section on a form prescribed by the**
 3 **Department of Revenue that contains the information the department requires.**

4 **(7) A nonresident is allowed a subtraction under this section in the same manner and**
 5 **subject to the same limitations as a resident, except that the subtraction must be prorated**
 6 **using the proportion provided in ORS 316.117.**

7 **SECTION 16. Section 17 of this 2017 Act is added to and made a part of ORS 178.300 to**
 8 **178.355.**

9 **SECTION 17. Notwithstanding any provision of state law that requires consideration of**
 10 **one or more financial circumstances of an individual for the purpose of determining the el-**
 11 **igibility to receive, or the amount of, any assistance or benefit authorized by law to be pro-**
 12 **vided to or for the benefit of the individual, and to the extent permitted under federal law,**
 13 **any amount in an account established for higher education expenses of which the individual**
 14 **is an owner, including earnings on the account, any contributions to the account and any**
 15 **distribution for qualified higher education expenses, must be disregarded for such purpose**
 16 **with respect to any period during which the individual maintains, makes contributions to or**
 17 **receives distributions from the account.**

18 **SECTION 18. ORS 316.699 is amended to read:**

19 316.699. (1) There shall be subtracted from federal taxable income the amount contributed to:

20 (a) A savings network account for higher education established under ORS 178.300 to 178.355;

21 or

22 (b) An ABLE account established under ORS 178.380 and rules adopted by the Oregon 529
 23 Savings Board, when the contribution is made before the designated beneficiary of the account at-
 24 tains 21 years of age.

25 (2) Notwithstanding subsection (1) of this section, a subtraction under this section may not ex-
 26 ceed the lesser of:

27 (a) \$4,000 **per designated beneficiary** for the tax year if the taxpayer files a joint return, or
 28 \$2,000 **per designated beneficiary** for the tax year if the taxpayer files a return other than a joint
 29 return; and

30 (b) If an amount is carried forward to a succeeding tax year under subsection (4) of this section,
 31 the balance in the savings network account for higher education or ABLE account at the close of
 32 the tax year for which the subtraction is being made.

33 (3)(a) The Department of Revenue shall annually adjust the maximum subtraction allowable un-
 34 der this section according to the cost-of-living adjustment for the calendar year. The department
 35 shall make this adjustment by multiplying the amount in subsection (2) of this section by the per-
 36 centage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12
 37 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S.
 38 City Average Consumer Price Index for the 12 consecutive months ending August 31, 2007.

39 (b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City
 40 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
 41 Labor Statistics of the United States Department of Labor.

42 (4) Any amounts contributed to a savings network account for higher education or an ABLE
 43 account that are not subtracted from federal taxable income because of the monetary limitations
 44 imposed by subsection (2) of this section may be carried forward for four succeeding tax years and
 45 subtracted from federal taxable income in any of those succeeding tax years in an amount that does

1 not exceed the monetary limitations imposed by subsection (2) of this section.

2 (5) The amount contributed to a savings network account for higher education or an ABLE ac-
3 count may be subtracted from a preceding tax year if the contribution is made before the taxpayer
4 files a return or before the 15th day of the fourth month following the closing of the taxpayer's tax
5 year, whichever is earlier.

6 (6) A subtraction is not allowed under this section for any amount that has been transferred into
7 a savings network account for higher education from an individual development account, through a
8 rollover, as provided in ORS 458.685 (4)(a)(A).

9 **SECTION 19.** ORS 314.752 is amended to read:

10 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
11 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
12 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
13 allowable to the shareholders of the S corporation.

14 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
15 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
16 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
17 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
18 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
19 manner prescribed under section 1377(a) of the Internal Revenue Code.

20 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
21 of this section shall be determined as if such item were realized directly from the source from which
22 realized by the corporation, or incurred in the same manner as incurred by the corporation.

23 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
24 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
25 316.117, then that provision shall apply to the nonresident shareholder.

26 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
27 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
28 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
29 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
30 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
31 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
32 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
33 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
34 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-
35 ties), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326
36 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS
37 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing
38 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
39 merce) and ORS 315.533 (low income community jobs initiative) **and section 12 of this 2017 Act**
40 **(higher education savings accounts).**

41 **SECTION 20.** ORS 318.031 is amended to read:

42 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
43 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
44 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
45 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,

1 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 and section 12 of this 2017
2 Act (all only to the extent applicable to a corporation) and ORS chapter 317.

3 **SECTION 21.** Sections 11, 12, 13 and 15 of this 2017 Act and the amendments to ORS
4 314.752, 316.699 and 318.031 by sections 18 to 20 of this 2017 Act apply to tax years beginning
5 on or after January 1, 2017, and before January 1, 2023.

6 **SECTION 22.** Section 17 of this 2017 Act applies to eligibility determinations made on or
7 after January 1, 2018.

8 **SECTION 23.** (1) Sections 2 to 9 of this 2017 Act become operative January 1, 2018.

9 (2) The State Treasurer may adopt rules and take any other action before the operative
10 date specified in subsection (1) of this section that is necessary to enable the State Treas-
11 urer, on and after the operative date specified in subsection (1) of this section, to exercise
12 all of the duties, functions and powers conferred on the State Treasurer by sections 2 to 8
13 of this 2017 Act.

14 (3) The Higher Education Coordinating Commission may adopt rules and take any other
15 action before the operative date specified in subsection (1) of this section that is necessary
16 to enable the commission, on and after the operative date specified in subsection (1) of this
17 section, to exercise all of the duties, functions and powers conferred on the commission by
18 section 9 of this 2017 Act.

19 **SECTION 24.** Sections 2 to 8 of this 2017 Act are repealed on December 31, 2019.

20 **SECTION 25.** This 2017 Act takes effect on the 91st day after the date on which the 2017
21 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

22