

Senate Bill 758

Sponsored by Senator HASS (at the request of State Treasurer Tobias Read)

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**.

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 to tax years beginning on or after January 1, 2017, and before January 1, 2023.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to contributions to savings network for higher education expenses; creating new provisions;
3 amending ORS 314.752, 316.699 and 318.031; and prescribing an effective date.

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

5 **SECTION 1. Sections 2 and 3 of this 2017 Act are added to and made a part of ORS**
6 **chapter 315.**

7 **SECTION 2. (1) A credit against taxes otherwise imposed under ORS chapter 316 shall**
8 **be allowed for amounts contributed during the tax year to a savings network account for**
9 **higher education established under ORS 178.300 to 178.355. The amount of the credit allowed**
10 **under this section shall equal the amount contributed, but may not exceed \$100.**

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

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

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

22 **(5) The credit shall be claimed on a form prescribed by the Department of Revenue that**
23 **contains the information required by the department.**

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

25 **(a) A nonresident shall be allowed the credit in the proportion provided in ORS 316.117.**

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

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 (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
 2 or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit
 3 shall be prorated or computed in a manner consistent with ORS 314.085.

4 **SECTION 3.** (1) As used in this section, "employee" means a person who is subject to the
 5 provisions of ORS 316.162 to 316.221 and who has completed a withholding exemptions cer-
 6 tificate required by the provisions of ORS 316.162 to 316.221.

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

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

15 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer
 16 in a particular year may be carried forward and offset against the taxpayer's tax liability for
 17 the next succeeding tax year. Any credit remaining unused in such next succeeding tax year
 18 may be carried forward and used in the second succeeding tax year, and likewise, any credit
 19 not used in that second succeeding tax year may be carried forward and used in the third
 20 succeeding tax year, but may not be carried forward for any tax year thereafter.

21 (5) The credit shall be claimed on a form prescribed by the Department of Revenue that
 22 contains the information required by the department.

23 (6) A nonresident shall be allowed the credit under this section in the same manner and
 24 subject to the same limitations as a resident. However, the credit shall be prorated using the
 25 proportion provided in ORS 316.117.

26 (7) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
 27 or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,
 28 the credit allowed by this section shall be prorated or computed in a manner consistent with
 29 ORS 314.085.

30 **SECTION 4.** ORS 316.699 is amended to read:

31 316.699. (1) There shall be subtracted from federal taxable income the amount contributed to:

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

33 or

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

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

39 (a) \$4,000 **per designated beneficiary** for the tax year if the taxpayer files a joint return, or
 40 \$2,000 **per designated beneficiary** for the tax year if the taxpayer files a return other than a joint
 41 return; and

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

45 (3)(a) The Department of Revenue shall annually adjust the maximum subtraction allowable un-

1 der this section according to the cost-of-living adjustment for the calendar year. The department
2 shall make this adjustment by multiplying the amount in subsection (2) of this section by the per-
3 centage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12
4 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S.
5 City Average Consumer Price Index for the 12 consecutive months ending August 31, 2007.

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

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

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

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

21 **SECTION 5.** ORS 314.752 is amended to read:

22 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
23 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
24 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
25 allowable to the shareholders of the S corporation.

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

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

35 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
36 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
37 316.117, then that provision shall apply to the nonresident shareholder.

38 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
39 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
40 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
41 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
42 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
43 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
44 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
45 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture

1 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-
2 ties), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326
3 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS
4 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing
5 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
6 merce) and ORS 315.533 (low income community jobs initiative) **and section 3 of this 2017 Act**
7 **(higher education savings accounts).**

8 **SECTION 6.** ORS 318.031 is amended to read:

9 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
10 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
11 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
12 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,
13 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 3 of this 2017**
14 **Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

15 **SECTION 7.** Sections 2 and 3 of this 2017 Act and the amendments to ORS 314.752, 316.699
16 and 318.031 by sections 4 to 6 of this 2017 Act apply to tax years beginning on or after Jan-
17 uary 1, 2017, and before January 1, 2023.

18 **SECTION 8.** This 2017 Act takes effect on the 91st day after the date on which the 2017
19 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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