

# Senate Bill 810

Sponsored by Senator KNOPP

## 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 Oregon Health Savings Account program in office of State Treasurer to enable Oregon taxpayers to reduce taxable income by making contributions to program that reimburses taxpayers' qualified medical expenses. Allows subtraction of contributions to Oregon Health Savings Account program from federal taxable income for state personal income tax purposes up to specified limits.

Applies to tax years beginning on or after January 1, 2018.  
Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to health savings accounts; creating new provisions; amending ORS 316.680; and prescribing  
3 an effective date.

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

5 **SECTION 1. (1) As used in this section and section 3 of this 2017 Act, "qualified medical**  
6 **expense" means an expense that may be reimbursed by a medical savings account or health**  
7 **savings account authorized under section 220 or 223 of the Internal Revenue Code.**

8 **(2) The Oregon Health Savings Account program is established in the office of the State**  
9 **Treasurer. The purpose of the program is to offer taxpayers an opportunity to reduce their**  
10 **state personal income tax liability by making contributions to a health savings account that**  
11 **reimburses the qualified medical expenses of the taxpayer or the taxpayer's dependents.**

12 **(3) The State Treasurer shall administer the Oregon Health Savings Account program**  
13 **and may contract with a third party to pay the claims for reimbursement of qualified medical**  
14 **expenses submitted by participants in the program.**

15 **(4) The State Treasurer shall deposit contributions received from participants in the**  
16 **Oregon Health Savings Account program in the Oregon Health Savings Account Fund cre-**  
17 **ated in section 2 of this 2017 Act.**

18 **SECTION 2. (1) The Oregon Health Savings Account Fund is created in the State Treas-**  
19 **ury, separate and distinct from the General Fund, consisting of moneys deposited to the fund**  
20 **from contributions made by participants in the Oregon Health Savings Account program.**

21 **(2) Moneys in the Oregon Health Savings Account Fund are continuously appropriated**  
22 **to the State Treasurer for the purpose of paying claims submitted by participants in the**  
23 **Oregon Health Savings Account program and making distributions to participants in the**  
24 **program.**

25 **(3) Interest earned by the Oregon Health Savings Account Fund shall be credited to the**  
26 **fund and is continuously appropriated to the State Treasurer to pay the expenses of admin-**  
27 **istering the Oregon Health Savings Account program.**

28 **SECTION 3. Individual account information for accounts in the Oregon Health Savings**

**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 Account program, including but not limited to names, addresses, telephone numbers, per-  
2 sonal identification information, amounts contributed and claims submitted for qualified  
3 medical expenses, is confidential and must be maintained as confidential:

4 (1) Except to the extent necessary to administer the Oregon Health Savings Account  
5 program, the tax laws of this state and the Internal Revenue Code; or

6 (2) Unless the Oregon Health Savings Account program participant signs an authori-  
7 zation for the disclosure of specified information.

8 **SECTION 4.** Sections 5 and 6 of this 2017 Act are added to and made a part of ORS  
9 chapter 316.

10 **SECTION 5.** (1) Upon the request of a taxpayer, an employer shall reduce the amount  
11 withheld under ORS 316.167 from the taxpayer's wages to take into account the reduction in  
12 the tax liability of the taxpayer for contributions to the Oregon Health Savings Account  
13 program.

14 (2) The Department of Revenue shall adopt a formula for determining the reduction in  
15 withholding allowable under subsection (1) of this section.

16 (3) A taxpayer may not be subject to a penalty under ORS 314.400 if the reduction in  
17 withholding calculated in accordance with the formula adopted by the department under  
18 subsection (2) of this section results in an underpayment of personal income tax.

19 **SECTION 6.** (1) In addition to other modifications to federal taxable income contained in  
20 this chapter, other than ORS 316.693, there shall be subtracted from federal taxable income  
21 the amount contributed by a taxpayer in the tax year to the Oregon Health Savings Account  
22 program established under section 1 of this 2017 Act.

23 (2) Notwithstanding subsection (1) of this section, a subtraction under this section may  
24 not exceed the lesser of:

25 (a) The taxpayer's federal taxable income; and

26 (b) The total amount of the taxpayer's claims for reimbursement of qualified medical  
27 expenses as defined in section 1 of this 2017 Act under the Oregon Health Savings Account  
28 program during the tax year.

29 (3) Any amounts contributed to the Oregon Health Savings Account program that are  
30 not subtracted from federal taxable income because of the monetary limitations imposed by  
31 subsection (2) of this section may be carried forward to the succeeding tax years and sub-  
32 tracted in any of the succeeding tax years in an amount that does not exceed the monetary  
33 limitations imposed by subsection (2) of this section.

34 **SECTION 7.** ORS 316.680, as amended by sections 8 and 9, chapter 91, Oregon Laws 2016, is  
35 amended to read:

36 316.680. (1) There shall be subtracted from federal taxable income:

37 (a) The interest or dividends on obligations of the United States and its territories and pos-  
38 sessions or of any authority, commission or instrumentality of the United States to the extent  
39 includable in gross income for federal income tax purposes but exempt from state income taxes un-  
40 der the laws of the United States. However, the amount subtracted under this paragraph shall be  
41 reduced by any interest on indebtedness incurred to carry the obligations or securities described in  
42 this paragraph, and by any expenses incurred in the production of interest or dividend income de-  
43 scribed in this paragraph to the extent that such expenses, including amortizable bond premiums,  
44 are deductible in determining federal taxable income.

45 (b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as

1 described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for  
2 which a tax benefit was received.

3 (c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the  
4 extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce  
5 federal taxable income by those amounts.

6 (d) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

7 (e)(A) Federal pension income that is attributable to federal employment occurring before Oc-  
8 tober 1, 1991. Federal pension income that is attributable to federal employment occurring before  
9 October 1, 1991, shall be determined by multiplying the total amount of federal pension income for  
10 the tax year by the ratio of the number of months of federal creditable service occurring before  
11 October 1, 1991, over the total number of months of federal creditable service.

12 (B) The subtraction allowed under this paragraph applies only to federal pension income re-  
13 ceived at a time when:

14 (i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

15 (ii) Public Employees Retirement System benefits received for service prior to October 1, 1991,  
16 are exempt from state income tax.

17 (C) As used in this paragraph:

18 (i) "Federal creditable service" means those periods of time for which a federal employee earned  
19 a federal pension.

20 (ii) "Federal pension" means any form of retirement allowance provided by the federal govern-  
21 ment, its agencies or its instrumentalities to retirees of the federal government or their benefi-  
22 ciaries.

23 (f) Any amount included in federal taxable income for the tax year that is attributable to the  
24 conversion of a regular individual retirement account into a Roth individual retirement account  
25 described in section 408A of the Internal Revenue Code, to the extent that:

26 (A) The amount was subject to the income tax of another state or the District of Columbia in  
27 a prior tax year; and

28 (B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax  
29 year.

30 (g) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS  
31 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in de-  
32 termining the taxpayer's federal taxable income for the tax year.

33 (h) If included in taxable income for federal tax purposes, the amount withdrawn during the tax  
34 year in qualified withdrawals from a savings network account for higher education established under  
35 ORS 178.300 to 178.355.

36 (i) Any federal deduction that the taxpayer would have been allowed for the production, pro-  
37 cessing or sale of marijuana items authorized under ORS 475B.010 to 475B.395 or 475B.400 to  
38 475B.525 but for section 280E of the Internal Revenue Code.

39 (j) If included in taxable income for federal tax purposes, any distributions from an ABLE ac-  
40 count that do not exceed the qualified disability expenses of the designated beneficiary as provided  
41 in ORS 178.375 and 178.380 and rules adopted by the Oregon 529 Savings Board.

42 (2) There shall be added to federal taxable income:

43 (a) Interest or dividends, exempt from federal income tax, on obligations or securities of any  
44 foreign state or of a political subdivision or authority of any foreign state. However, the amount  
45 added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the

1 obligations or securities described in this paragraph and by any expenses incurred in the production  
2 of interest or dividend income described in this paragraph.

3 (b) Interest or dividends on obligations of any authority, commission, instrumentality and terri-  
4 torial possession of the United States that by the laws of the United States are exempt from federal  
5 income tax but not from state income taxes. However, the amount added under this paragraph shall  
6 be reduced by any interest on indebtedness incurred to carry the obligations or securities described  
7 in this paragraph and by any expenses incurred in the production of interest or dividend income  
8 described in this paragraph.

9 (c) The amount of any federal estate taxes allocable to income in respect of a decedent not  
10 taxable by Oregon.

11 (d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the  
12 property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pur-  
13 suant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

14 (e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under  
15 section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

16 (f) The amount taken as a deduction on the taxpayer's federal return for unused qualified busi-  
17 ness credits under section 196 of the Internal Revenue Code.

18 (g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws  
19 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815,  
20 Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal  
21 Revenue Code.

22 (h) The amount of any long term care insurance premiums paid or incurred by the taxpayer  
23 during the tax year if:

24 (A) The amount is taken into account as a deduction on the taxpayer's federal return for the  
25 tax year; and

26 (B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

27 (i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in com-  
28 puting federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right  
29 income repayment adjustment under ORS 315.068.

30 (j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 178.300, from a savings  
31 network account for higher education established under ORS 178.300 to 178.355, the amount of the  
32 withdrawal that is attributable to contributions that were subtracted from federal taxable income  
33 under ORS 316.699.

34 (k) If the taxpayer makes a distribution from an ABLE account that is not a qualified disability  
35 expense of the designated beneficiary as provided in ORS 178.375 and 178.380 and rules adopted by  
36 the Oregon 529 Savings Board, the amount of the distribution that is attributable to contributions  
37 that were subtracted from federal taxable income under ORS 316.699.

38 **(L) A distribution paid to a taxpayer from the Oregon Health Savings Account program**  
39 **other than for reimbursement of qualified medical expenses, as defined in section 1 of this**  
40 **2017 Act.**

41 (3) Discount and gain or loss on retirement or disposition of obligations described under sub-  
42 section (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this  
43 chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the  
44 Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivi-  
45 sion of a foreign state, were not tax exempt under the Internal Revenue Code.

1        **SECTION 8.** Notwithstanding ORS 315.037, sections 5 and 6 of this 2017 Act and the  
2 amendments to ORS 316.680 by section 7 of this 2017 Act apply to all tax years beginning on  
3 or after January 1, 2018.

4        **SECTION 9.** Sections 1 to 3 of this 2017 Act become operative on January 1, 2018.

5        **SECTION 10.** The State Treasurer may take any action before the operative date speci-  
6 fied in section 9 of this 2017 Act that is necessary for the treasurer to implement, on and  
7 after the operative date specified in section 9 of this 2017 Act, the provisions of sections 1  
8 to 3 of this 2017 Act.

9        **SECTION 11.** This 2017 Act takes effect on the 91st day after the date on which the 2017  
10 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.  
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