

A-Engrossed
House Bill 2387

Ordered by the House May 23
Including House Amendments dated May 23

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (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.

Establishes refundable credit against personal income taxes for contributions to higher education savings network account or ABLE account. Applies to tax years beginning on or after January 1, 2020, and before January 1, 2026. Eliminates subtraction for contribution to ABLE account or higher education savings network account. Applies to tax years beginning on or after January 1, 2020.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the Oregon 529 Savings Network; and prescribing an effective date.

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

4 **SECTION 1. Sections 2 and 3 of this 2019 Act are added to and made a part of ORS**
5 **chapter 315.**

6 **SECTION 2. (1) A credit against taxes otherwise imposed under ORS chapter 316 shall**
7 **be allowed for amounts contributed by the taxpayer during the tax year to a savings network**
8 **account for higher education established under ORS 178.300 to 178.355 or an ABLE account**
9 **established under ORS 178.380. A taxpayer who makes contributions to both types of account**
10 **may claim the credit for the amounts listed in subsection (2) of this section for each type**
11 **of account.**

12 **(2) The amount of the credit allowed under this section shall be limited based on the**
13 **taxpayer's adjusted gross income and shall be the lesser of \$300, if reported on a joint return,**
14 **or \$150, if reported on any other type of return, or the following:**

15 **(a) The amount contributed, if the taxpayer's adjusted gross income does not exceed**
16 **\$30,000;**

17 **(b) 50 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds**
18 **\$30,000 but does not exceed \$70,000;**

19 **(c) 25 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds**
20 **\$70,000 but does not exceed \$100,000;**

21 **(d) 10 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds**
22 **\$100,000 but does not exceed \$250,000; or**

23 **(e) 5 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds**
24 **\$250,000.**

25 **(3)(a) The Department of Revenue shall annually adjust the maximum credit amounts**

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 allowable under this section according to the cost-of-living adjustment for the calendar year.
2 The department shall first make this adjustment for a joint return by multiplying the maxi-
3 mum credit amount in subsection (2) of this section by the percentage (if any) by which the
4 monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months
5 ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average
6 Consumer Price Index for the 12 consecutive months ending August 31, 2018.

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

10 (c) If any adjustment to the maximum credit amount for a joint return, as determined
11 under paragraph (a) of this subsection, is not a multiple of \$20, the adjustment shall be
12 rounded to the next lower multiple of \$20. The department shall then adjust the maximum
13 credit amount for all other types of returns so that it is half the maximum credit amount
14 for a joint return.

15 (4) A credit under this section is allowed for a preceding tax year for amounts contrib-
16 uted to a savings network account for higher education or to an ABLE account if the con-
17 tribution is made before the taxpayer files a return or before the 15th day of the fourth
18 month following the closing of the taxpayer's tax year, whichever is earlier.

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

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

28 (7) The credit shall be claimed on a form prescribed by the Department of Revenue that
29 contains the information required by the department.

30 (8) Spouses in a marriage who file separate returns for a taxable year may each claim a
31 share of the tax credit that would have been allowed on a joint return in proportion to the
32 adjusted gross income of each.

33 (9) In the case of a credit allowed under this section:

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

35 (b) If a change in the status of the taxpayer from resident to nonresident or from non-
36 resident to resident occurs, the credit shall be determined in a manner consistent with ORS
37 316.117.

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

41 **SECTION 3.** (1) As provided in subsection (2) of this section, prior tax relief afforded a
42 taxpayer by virtue of the credit allowed under section 2 of this 2019 Act shall be forfeited if
43 any of the following are taken:

44 (a) A nonqualified withdrawal from an account, as defined in ORS 178.300;

45 (b) A withdrawal from a savings network account for higher education established under

1 ORS 178.300 to 178.355 to pay expenses in connection with enrollment or attendance at an
2 elementary or secondary school; or

3 (c) A distribution from an ABLE account that is not a qualified disability expense of the
4 designated beneficiary as provided in ORS 178.375 and 178.380 and rules adopted by the
5 Oregon 529 Savings Board.

6 (2) A taxpayer shall report the amount of a disallowed withdrawal or distribution in the
7 tax year in which it is taken, and shall remit the taxes due as a result of the forfeited credit.
8 The Department of Revenue shall by rule determine the calculation of forfeited credit
9 amounts.

10 (3) If a taxpayer does not report a disallowed withdrawal or distribution in the tax year
11 that it is taken, and notwithstanding ORS 314.410, the department shall proceed to collect
12 those taxes, including penalties and interest, not paid by the taxpayer as a result of the tax
13 credit allowed the taxpayer.

14 **SECTION 4.** Except as provided in ORS 316.699 (4), a taxpayer:

15 (1) May use a subtraction under ORS 316.699 only for contributions made in tax years
16 beginning before January 1, 2020; and

17 (2) May carry forward and use a subtraction under ORS 316.699 (4) only in tax years be-
18 ginning before January 1, 2025.

19 **SECTION 5.** Sections 2 and 3 of this 2019 Act apply to tax years beginning on or after
20 January 1, 2020, and before January 1, 2026.

21 **SECTION 6.** This 2019 Act takes effect on the 91st day after the date on which the 2019
22 regular session of the Eightieth Legislative Assembly adjourns sine die.
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