

House Bill 3133

Sponsored by Representative LIVELY, Senator GELSER, Representative MCLANE; Representatives ALONSO LEON, HERNANDEZ, MEEK, NOBLE, PILUSO, RESCHKE, SMITH WARNER, STARK, ZIKA, Senators BOQUIST, DEMBROW, KNOPP, TAYLOR

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**.

Increases total amount allowed in tax year to all taxpayers as tax credits for donations to fiduciary organizations for distribution to individual development accounts. Increases maximum percentage of taxpayer donation for which credit may be allowed. Applies to tax years beginning on or after January 1, 2019, and before January 1, 2022.

Updates and makes technical corrections to statutes governing individual development accounts. Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to individual development accounts; creating new provisions; amending ORS 315.271,
3 458.675, 458.680, 458.685, 458.690, 458.695 and 458.700; and prescribing an effective date.

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

5 **SECTION 1.** ORS 315.271 is amended to read:

6 315.271. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be
7 allowed for donations to a fiduciary organization for distribution to individual development accounts
8 established under ORS 458.685. The credit shall equal a percentage of the taxpayer's donation
9 amount, as determined by the fiduciary organization, but not to exceed [70] **100** percent of any do-
10 nation amount. To qualify for a credit under this section, donations to a fiduciary organization must
11 be made prior to January 1, 2022.

12 (2) If a credit allowed under this section is claimed, the amount upon which the credit is based
13 that is allowed or allowable as a deduction from federal taxable income under section 170 of the
14 Internal Revenue Code shall be added to federal taxable income in determining Oregon taxable in-
15 come. As used in this subsection, the amount upon which a credit is based is the allowed credit di-
16 vided by the applicable percentage, as determined by the fiduciary organization.

17 (3) The allowable tax credit that may be used in any one tax year shall not exceed the tax li-
18 ability of the taxpayer.

19 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
20 particular year may be carried forward and offset against the taxpayer's tax liability for the next
21 succeeding tax year. Any tax credit remaining unused in the next succeeding tax year may be car-
22 ried forward and used in the second succeeding tax year. Any tax credit not used in the second
23 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not
24 be carried forward for any tax year thereafter.

25 (5) The total credits allowed to all taxpayers in any tax year under this section and ORS 458.690
26 may not exceed [\$7.5] **\$15** million. The total credit allowed to a taxpayer in any tax year under this
27 section and ORS 458.690 may not exceed \$500,000.

28 **SECTION 2.** ORS 458.675 is amended to read:

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.

1 458.675. The Legislative Assembly finds that:

2 (1) The problem of poverty will not be solved solely by government programs and income sub-
3 sidies.

4 (2) Family economic well-being does not come solely from income, spending or consumption, but
5 instead requires savings, investment and the accumulation of assets.

6 (3) It is appropriate for the state to institute an asset-based antipoverty strategy.

7 (4) The state has an opportunity to take advantage of private and federal resources by making
8 the transition to an asset-based antipoverty strategy. [*Those resources include, but are not limited to,*
9 *the Assets for Independence Act (42 U.S.C. 604) and the Workforce Innovation and Opportunity Act*
10 *(29 U.S.C. 3101 et seq.).*]

11 (5) Investment through an individual development account system will help lower income
12 households obtain the assets they need to succeed. Communities and this state will experience re-
13 sultant economic and social benefits accruing from the promotion of [*job training and higher educa-*
14 *tion, home ownership and small business development*] **the financial stability and resilience of**
15 **lower income households.**

16 (6) It is desirable for this state to enact legislation that enables an authorized fiduciary organ-
17 ization sufficient flexibility to receive private, state and federal moneys for individual development
18 accounts. [*The Legislative Assembly should periodically review the provisions of ORS 458.675 to*
19 *458.700 to ensure that this state maximizes the receipt of available federal moneys for individual de-*
20 *velopment accounts.*]

21 **SECTION 3.** ORS 458.680 is amended to read:

22 458.680. (1) A person who qualifies to become an account holder may enter into an agreement
23 with a fiduciary organization for the establishment of an individual development account.

24 (2) To become an account holder a person must, in addition to meeting any other qualifications,
25 be a member of a lower income household that has a net worth of less than \$20,000. [*As used in this*
26 *subsection, “net worth” means the value of all assets owned in whole or part by household members,*
27 *excluding*] **The Housing and Community Services Department shall by rule establish a formula**
28 **for calculation of net worth. As used in this subsection, “net worth” does not include** equity
29 in a residence and in one vehicle, [*and excluding*] **or** holdings in pension accounts, as defined by the
30 [*Housing and Community Services*] department by rule, that are valued at less than \$60,000[, *minus*
31 *the total debts and obligations of household members, all as measured*] at the time that the person
32 applies to establish the account.

33 (3) Every account holder, with support from the fiduciary organization, shall develop a personal
34 development plan to advance account holder self-reliance. The personal development plan must in-
35 clude appropriate coaching, mentorship, social support, financial adequacy training and asset-
36 specific training designed to increase the independence of the person and the person’s household
37 through achievement of the account’s approved purpose.

38 (4) Notwithstanding subsection (1) of this section, a fiduciary organization may refuse to allow
39 a qualified person to establish an account if establishment of the account would result in the mem-
40 bers of a lower income household having more than one account. Notwithstanding subsection (1) of
41 this section, a fiduciary organization shall refuse to allow a qualified person to establish an account
42 if establishment of the account would result in the members of a lower income household having
43 more than two accounts.

44 **SECTION 4.** ORS 458.685 is amended to read:

45 458.685. (1) A person may establish an individual development account only for a purpose ap-

1 proved by a fiduciary organization. Purposes that the fiduciary organization may approve are:

2 (a) The acquisition of post-secondary education or job training.

3 (b) If the account holder has established the account for the benefit of a household member who
4 is under the age of 18 years, the payment of extracurricular nontuition expenses designed to prepare
5 the member for post-secondary education or job training.

6 (c) If the account holder has established a savings network account for higher education under
7 ORS 178.300 to 178.355 on behalf of a designated beneficiary, the funding of qualified higher educa-
8 tion expenses as defined in ORS 178.300 by one or more deposits into a savings network account for
9 higher education on behalf of the same designated beneficiary.

10 (d) The purchase of a primary residence. In addition to payment on the purchase price of the
11 residence, account moneys may be used to pay any usual or reasonable settlement, financing or
12 other closing costs. The account holder must not have owned or held any interest in a residence
13 during the three years prior to making the purchase. However, this three-year period shall not apply
14 to displaced homemakers, individuals who have lost home ownership as a result of divorce or owners
15 of manufactured homes.

16 (e) The rental of a primary residence when housing stability is essential to achieve state policy
17 goals. Account moneys may be used for security deposits, first and last months' rent, application fees
18 and other expenses necessary to move into the primary residence, as specified in the account
19 holder's personal development plan for increasing the independence of the person.

20 (f) The capitalization of a small business. Account moneys may be used for capital, plant,
21 equipment and inventory expenses and to hire employees upon capitalization of the small business,
22 or for working capital pursuant to a business plan. The business plan must have been developed by
23 a financial institution, nonprofit microenterprise program or other qualified agent demonstrating
24 business expertise and have been approved by the fiduciary organization. The business plan must
25 include a description of the services or goods to be sold, a marketing plan and projected financial
26 statements.

27 (g) Improvements, repairs or modifications necessary to make or keep the account holder's pri-
28 mary dwelling habitable[,] **or** accessible [*or visitable*] for the account holder or a household member.
29 This paragraph does not apply to improvements, repairs or modifications made to a rented primary
30 dwelling to achieve or maintain a habitable condition for which ORS 90.320 (1) places responsibility
31 on the landlord. [*As used in this paragraph, "accessible" and "visitable" have the meanings given those*
32 *terms in ORS 456.508.*]

33 (h) The purchase of equipment, technology or specialized training required to become compet-
34 itive in obtaining or maintaining employment or to start or maintain a business, as specified in the
35 account holder's personal development plan for increasing the independence of the person.

36 (i) The purchase or repair of a vehicle, as specified in the account holder's personal development
37 plan for increasing the independence of the person.

38 (j) The saving of funds for retirement, as specified in the account holder's personal development
39 plan for increasing the independence of the person.

40 (k) The payment of debts owed for educational or medical purposes when the account holder is
41 saving for another allowable purpose, as specified in the account holder's personal development plan
42 for increasing the independence of the person.

43 (L) The creation or improvement of a credit score by obtaining a secured loan or a financial
44 product that is designed to improve credit, as specified in the account holder's personal development
45 plan for increasing the independence of the person.

1 (m) The replacement of a primary residence when replacement offers significant opportunity to
2 improve habitability or energy efficiency.

3 (2)(a) If an emergency occurs, an account holder may withdraw all or part of the account
4 holder's deposits to an individual development account for a purpose not described in subsection (1)
5 of this section. As used in this paragraph, "emergency" includes making payments for necessary
6 medical expenses, to avoid eviction of the account holder from the account holder's residence and
7 for necessary living expenses following a loss of employment.

8 (b) The account holder must reimburse the account for the amount withdrawn under this sub-
9 section within 12 months after the date of the withdrawal. Failure of an account holder to make a
10 timely reimbursement to the account is grounds for removing the account holder from the individual
11 development account program. Until the reimbursement has been made in full, an account holder
12 may not withdraw any matching deposits or accrued interest on matching deposits from the account.

13 (3) If an account holder withdraws moneys from an individual development account for other
14 than an approved purpose, the fiduciary organization may remove the account holder from the pro-
15 gram.

16 (4)(a) If the account holder of an account established for the purpose set forth in subsection
17 (1)(c) or (j) of this section has achieved the account's approved purpose in accordance with the
18 personal development plan developed by the account holder under ORS 458.680, the account holder
19 may withdraw, or authorize the withdrawal of, the remaining amount of all deposits, including
20 matching deposits, and interest in the account as follows:

21 (A) For an account established for the purpose set forth in subsection (1)(c) of this section, by
22 rolling over the entire withdrawal amount, not to exceed the limit established pursuant to ORS
23 178.335, into one or more of the savings network accounts for higher education under ORS 178.300
24 to 178.355, the establishment of which is the purpose of the individual development account; or

25 (B) For an account established for the purpose set forth in subsection (1)(j) of this section, by
26 rolling over the entire withdrawal amount into an individual retirement account, a retirement plan
27 or a similar account or plan established under the Internal Revenue Code.

28 (b) Upon withdrawal of all moneys in the individual development account as provided in para-
29 graph (a) of this subsection, the account relationship shall terminate.

30 (c) The rollover of moneys into a savings network account for higher education under this sub-
31 section may not cause the amount in the savings network account for higher education to exceed
32 the limit on total contributions established pursuant to ORS 178.335.

33 (d) Any amount of the rollover that has been subtracted on the taxpayer's federal return pur-
34 suant to section 219 of the Internal Revenue Code shall be added back in the determination of tax-
35 able income.

36 (5) If an account holder moves from the area where the program is conducted or is otherwise
37 unable to continue in the program, the fiduciary organization may remove the account holder from
38 the program.

39 (6) If an account holder is removed from the program under subsection (2), (3) or (5) of this
40 section, all matching deposits in the account and all interest earned on matching deposits shall re-
41 vert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a
42 source of matching deposits for other accounts.

43 **SECTION 5.** ORS 458.690 is amended to read:

44 458.690. (1) Notwithstanding ORS 315.271, a fiduciary organization selected under ORS 458.695
45 may qualify as the recipient of account contributions that qualify the contributor for a tax credit

1 under ORS 315.271 only if the fiduciary organization [*structures the accounts to have the following*
2 *features:*]

3 [(a) *The fiduciary organization*] matches amounts deposited by the account holder according to
4 a formula established by the fiduciary organization. The fiduciary organization shall maintain on
5 deposit [*in the account*] not less than \$1 nor more than \$5 for each \$1 deposited by the account
6 holder.

7 [(b) *The matching deposits by the fiduciary organization to the individual development account are*
8 *placed in:*]

9 [(A) *A savings account jointly held by the account holder and the fiduciary organization and re-*
10 *quiring the signatures of both for withdrawals;*]

11 [(B) *A savings account that is controlled by the fiduciary organization and is separate from the*
12 *savings account of the account holder; or*]

13 [(C) *In the case of an account established for the purpose described in ORS 458.685 (1)(c), a*
14 *savings network account for higher education under ORS 178.300 to 178.355, in which the fiduciary*
15 *organization is the account owner as defined in ORS 178.300.*]

16 (2) Account holders may not accrue more than \$3,000 of matching funds under subsection (1) of
17 this section from state-directed moneys in any [*12-month*] **six-month** period. A fiduciary organization
18 may designate a lower amount as a limit on annual matching funds. A fiduciary organization shall
19 maintain on deposit sufficient funds to cover the matching deposit agreements for all individual de-
20 velopment accounts managed by the organization.

21 (3) The Housing and Community Services Department shall adopt rules to establish a maximum
22 total amount of state-directed moneys that may be deposited as matching funds into an individual
23 development account.

24 **SECTION 6.** ORS 458.695 is amended to read:

25 458.695. The Housing and Community Services Department may select fiduciary organizations
26 to administer moneys directed by the state to individual development account purposes. In making
27 the selections, the department shall consider factors including, but not limited to:

28 (1) The ability of the fiduciary organization to implement and administer the individual devel-
29 opment account program, including the ability to verify account holder eligibility, certify that
30 matching deposits are used only for approved purposes and exercise general fiscal accountability;

31 (2) The capacity of the fiduciary organization to provide or raise matching funds for the deposits
32 of account holders;

33 (3) The capacity of the fiduciary organization to provide appropriate support services and gen-
34 eral assistance to advance account holder self-reliance; and

35 (4) The links that the fiduciary organization has to other activities and programs designed to
36 increase the independence of this state's lower income households [*through education and training,*
37 *home ownership and small business development*].

38 **SECTION 7.** ORS 458.700 is amended to read:

39 458.700. (1) Subject to Housing and Community Services Department rules, a fiduciary organ-
40 ization has sole authority over, and responsibility for, the administration of individual development
41 accounts. The responsibility of the fiduciary organization extends to all aspects of the account pro-
42 gram, including marketing to participants, soliciting matching contributions, counseling account
43 holders, providing financial literacy education, and conducting required verification and compliances
44 activities. The fiduciary organization may establish program provisions as the organization believes
45 necessary to ensure account holder compliance with the provisions of ORS 458.680 and 458.685.

1 Notwithstanding ORS 458.670 (5) and 458.680 (2), a fiduciary organization may establish income and
 2 net worth limitations for account holders that are lower than the income and net worth limitations
 3 established by ORS 458.670 (5) and 458.680 (2).

4 (2) A fiduciary organization may act in partnership with other entities, including businesses,
 5 government agencies, nonprofit organizations, community development corporations, community
 6 action programs, housing authorities and congregations to assist in the fulfillment of fiduciary or-
 7 ganization responsibilities under this section and ORS 458.685, 458.690 and 458.695.

8 (3) A fiduciary organization may use a reasonable portion of moneys allocated to the individual
 9 development account program for administration, operation and evaluation purposes.

10 (4) A fiduciary organization selected to administer moneys directed by the state to individual
 11 development account purposes or receiving tax deductible contributions shall provide the Housing
 12 and Community Services Department with an annual report of the fiduciary organization's individual
 13 development account program activity. The report shall be filed no later than 90 days after the end
 14 of the fiscal year of the fiduciary organization. The report shall include, but is not limited to:

- 15 (a) The number of individual development accounts administered by the fiduciary organization;
- 16 (b) The amount of deposits and matching deposits for each account;
- 17 (c) The purpose of each account;
- 18 (d) The number of withdrawals made; and
- 19 (e) Any other information the department may require for the purpose of making a return on

20 investment analysis.

21 *[(5) A fiduciary organization that is the account owner of a savings network account for higher
 22 education under ORS 178.300 to 178.355:]*

23 *[(a) May make a qualified withdrawal only at the direction of the designated beneficiary and only
 24 after the savings network account of the account holder that was established for the designated bene-
 25 ficiary has been reduced to a balance of zero exclusively through qualified withdrawals by the desig-
 26 nated beneficiary; and]*

27 *[(b) May make nonqualified withdrawals only if the savings network account of the account holder
 28 that was established for the designated beneficiary has a balance of less than \$100 or if the account
 29 holder or designated beneficiary has granted permission to make the withdrawal. Moneys received by
 30 a fiduciary organization from a nonqualified withdrawal made under this paragraph must be used for
 31 individual development account purposes.]*

32 *[(6)]* (5) The department may make all reasonable and necessary rules to ensure fiduciary or-
 33 ganization compliance with this section and ORS 458.685 and 458.695.

34 **SECTION 8. The amendments to ORS 315.271 by section 1 of this 2019 Act apply to tax
 35 years beginning on or after January 1, 2019, and before January 1, 2022.**

36 **SECTION 9. This 2019 Act takes effect on the 91st day after the date on which the 2019
 37 regular session of the Eightieth Legislative Assembly adjourns sine die.**