Senate Bill 161

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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 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. Modifies limits on 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

Relating to the Oregon 529 Savings Network; creating new provisions; amending ORS 314.752, 316.699 and 318.031; and prescribing an effective date.

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

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

SECTION 2. (1) A credit against taxes otherwise imposed under ORS chapter 316 shall be allowed for amounts contributed during the tax year to a savings network account for higher education established under ORS 178.300 to 178.355 or an ABLE account established under ORS 178.380. The amount of the credit allowed under this section shall be based on the taxpayer's adjusted gross income and shall be computed as follows:

(a) The lesser of $30,000 or the amount contributed, if the taxpayer's adjusted gross income does not exceed $30,000;

(b) The lesser of $50,000 or 50 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds $30,000 but does not exceed $70,000; or

(c) The lesser of $25,000 or 25 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds $70,000 but does not exceed $100,000.

(2) If the taxpayer's adjusted gross income exceeds $100,000, the taxpayer may not claim a credit under this section.

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

(4) A taxpayer that claims a credit allowed under this section may not claim a subtraction under ORS 316.699 for the same tax year.

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

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

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

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

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

SECTION 3. (1) As provided in subsection (2) of this section, prior tax relief afforded a taxpayer by virtue of the credit allowed under section 2 of this 2019 Act shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the taxpayer as a result of the tax credit allowed the taxpayer if any of the following are taken:

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

(b) A withdrawal from a savings network account for higher education established under ORS 178.300 to 178.355 to pay expenses in connection with enrollment or attendance at an elementary or secondary school; or

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

(2) The amount of credit forfeited shall equal the amount of the disallowed withdrawal or distribution.

SECTION 4. ORS 316.699 is amended to read:

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

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

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

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

(a) [$4,000] $________ for the tax year if the taxpayer files a joint return, or [$2,000] $________ for the tax year if the taxpayer files a return other than a joint return; and

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

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

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

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

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

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

SECTION 5. ORS 314.752, as amended by section 7, chapter 108, Oregon Laws 2018, is amended to read:

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

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

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

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

(5) As used in this section, “business tax credit” means the following credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS 315.521 (university venture development funds), ORS 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS 315.675 (Trust for Cultural Development Account contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle contributions), and section 2, chapter 108, Oregon Laws 2018 (Opportunity Grant Fund contributions), and section 2 of this 2019 Act (529 account
SECTION 6. ORS 318.031, as amended by section 8, chapter 108, Oregon Laws 2018, is amended to read:

318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter 317 shall be administered as uniformly as possible (allowance being made for the difference in imposition of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are incorporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523 and 315.533 and section 2, chapter 108, Oregon Laws 2018, and section 2 of this 2019 Act (all only to the extent applicable to a corporation) and ORS chapter 317.

SECTION 7. (1) Sections 2 and 3 of this 2019 Act apply to tax years beginning on or after January 1, 2020, and before January 1, 2026.

(2) The amendments to ORS 316.699 by section 4 of this 2019 Act apply to tax years beginning on or after January 1, 2020.

SECTION 8. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.