

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

1
2 Relating to the Oregon 529 Savings Network; creating new provisions; amending ORS 314.752,
3 316.699 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 2019 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 or an ABLE account established**
10 **under ORS 178.380. The amount of the credit allowed under this section shall be based on the**
11 **taxpayer's adjusted gross income and shall be computed as follows:**

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

14 (b) The lesser of \$_____ or 50 percent of the amount contributed, if the taxpayer's ad-
15 justed gross income exceeds \$30,000 but does not exceed \$70,000; or

16 (c) The lesser of \$_____ or 25 percent of the amount contributed, if the taxpayer's ad-
17 justed gross income exceeds \$70,000 but does not exceed \$100,000.

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

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

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

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

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

28 (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.

1 (b) If a change in the status of the taxpayer from resident to nonresident or from non-
 2 resident to resident occurs, the credit shall be determined in a manner consistent with ORS
 3 316.117.

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

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

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

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

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

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

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

21 316.699. (1) There shall be subtracted from federal taxable income the amount contributed to:

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

23 or

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

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

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

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

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

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

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

1 subtracted from federal taxable income in any of those succeeding tax years in an amount that does
2 not exceed the monetary limitations imposed by subsection (2) of this section.

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

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

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

12 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
13 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
14 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
15 allowable to the shareholders of the S corporation.

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

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

25 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
26 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
27 316.117, then that provision shall apply to the nonresident shareholder.

28 (5) As used in this section, "business tax credit" means the following credits: ORS 315.104
29 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
30 (biomass production for biofuel), ORS 315.156 (crop gleanings), ORS 315.164 and 315.169 (agriculture
31 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS
32 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee
33 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution
34 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy
35 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-
36 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-
37 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),
38 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS
39 315.521 (university venture development funds), ORS 315.523 (employee training programs), ORS
40 315.533 (low income community jobs initiative), ORS 315.675 (Trust for Cultural Development Ac-
41 count contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise
42 zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-
43 search expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter
44 774, Oregon Laws 2013 (alternative fuel vehicle contributions), and section 2, chapter 108, Oregon
45 Laws 2018 (Opportunity Grant Fund contributions), **and section 2 of this 2019 Act (529 account**

1 **contributions).**

2 **SECTION 6.** ORS 318.031, as amended by section 8, chapter 108, Oregon Laws 2018, is amended
3 to read:

4 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
5 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
6 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
7 corporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,
8 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523 and 315.533 and section
9 2, chapter 108, Oregon Laws 2018, **and section 2 of this 2019 Act** (all only to the extent applicable
10 to a corporation) and ORS chapter 317.

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

13 **(2) The amendments to ORS 316.699 by section 4 of this 2019 Act apply to tax years be-**
14 **ginning on or after January 1, 2020.**

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

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