

A-Engrossed
Senate Bill 162

Ordered by the Senate February 27
Including Senate Amendments dated February 27

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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.

Provides that personal income taxpayer may **elect to** establish account in Oregon 529 Savings Network through *[election on tax return form]* **means provided by Department of Revenue.** *[Directs Department of Revenue to provide means for election on form.]* Authorizes Oregon 529 Savings Board to work in coordination with department to provide means for establishment of accounts.

Applies to tax returns filed on or after January 1, 2021.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to establishment of 529 accounts by taxpayers; creating new provisions; amending ORS
3 178.315, 305.796 and 314.840; and prescribing an effective date.

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

5 **SECTION 1.** ORS 178.315 is amended to read:

6 178.315. The Oregon 529 Savings Board shall have the following powers, duties, and functions:

7 (1) To establish, develop, implement and maintain the Oregon 529 Savings Network in a manner
8 consistent with ORS 178.300 to 178.355, 178.375 and 178.380 and sections 529 and 529A of the
9 Internal Revenue Code and to obtain the benefits of sections 529 and 529A of the Internal Revenue
10 Code for the network and its participants.

11 (2) To adopt rules for the general administration of the network, to administer ORS 178.300 to
12 178.355, 178.375 and 178.380 and to ensure the network's compliance with sections 529 and 529A of
13 the Internal Revenue Code.

14 (3) To maintain, invest and reinvest the funds contributed into the network consistent with the
15 investment restrictions established by the board. The investment restrictions shall be consistent
16 with the objectives of the network, and the board shall exercise the judgment and care then pre-
17 vailing that persons of prudence, discretion and intelligence exercise in the management of their
18 own affairs with due regard to the probable income and level of risk from certain types of invest-
19 ments of money, in accordance with the policies established by the board.

20 (4) To make and enter into any and all contracts, agreements or arrangements, and to retain,
21 employ and contract for the services of private and public financial institutions, depositories, con-
22 sultants, investment advisors or managers and third-party plan administrators and for research,
23 technical and other services necessary or desirable for carrying out the purposes of ORS 178.300 to
24 178.355, 178.375 and 178.380.

25 (5) To accept donations or receive funds for the purpose of providing scholarships, grants and

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 other incentives to account owners, potential account owners and their designated beneficiaries or
2 furthering any of the purposes of ORS 178.300 to 178.355, 178.375 and 178.380.

3 (6) To encourage increased participation in the network by awarding scholarships or grants,
4 providing or making available other incentives to account owners or potential account owners and
5 their designated beneficiaries, or entering into promotional arrangements with third parties as the
6 board deems desirable.

7 **(7) To work in coordination with the Department of Revenue to provide a means by which**
8 **personal income taxpayers may elect to establish an account under ORS 178.335 within the**
9 **network.**

10 [(7)] (8) To adopt rules to establish a qualified ABLE program under ORS 178.380 and to ad-
11 minister and maintain the program in a manner consistent with ORS 178.375 and 178.380 and the
12 ABLE Act.

13 [(8)] (9) To enter into agreements with other states to provide services to the other states re-
14 lated to the other states' ABLE programs.

15 **SECTION 2.** ORS 305.796 is amended to read:

16 305.796. (1) **The Department of Revenue shall provide a means by which personal income**
17 **taxpayers may elect to establish an account under ORS 178.335 within the Oregon 529 Savings**
18 **Network in the name of a designated beneficiary.**

19 [(1)] (2) A taxpayer may elect to contribute all or a portion of a refund of personal income tax
20 to an account that has been established under ORS 178.335 by direct deposit to the financial insti-
21 tution managing the account. The amount elected to be contributed by the taxpayer must be at least
22 \$25 and may be applied as a contribution only for the tax year in which the refund is issued.

23 [(2)] (3) The election **to contribute all or a portion of a refund** shall be made on a form pre-
24 scribed by the department [*of Revenue*] and filed with the taxpayer's tax return for the tax year or
25 at such other time and in such other manner as the department may prescribe by rule. The depart-
26 ment shall prescribe by rule the maximum number of accounts to which a taxpayer may elect to
27 contribute a portion of the refund.

28 [(3)] (4) The election to contribute all or a portion of a refund may not be changed or revoked.

29 [(4)] (5) The election to contribute all or a portion of a refund shall be void, and no portion of
30 the refund may be contributed to an account that has been established under ORS 178.335, if:

31 (a) The taxpayer's refund is offset to pay amounts owed by the taxpayer; or

32 (b) The taxpayer's refund is less than the total of the following:

33 (A) The contribution elected in subsection [(1)] (2) of this section;

34 (B) Payments of tax as provided in ORS 316.583 that accompany the return;

35 (C) All contributions to charitable and governmental entities designated by means of a checkoff
36 as provided in ORS 305.745; and

37 (D) All contributions to political parties designated by means of a checkoff as provided in ORS
38 305.754.

39 **SECTION 3.** ORS 314.840 is amended to read:

40 314.840. (1) The Department of Revenue may:

41 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230
42 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-
43 tative or designee, with a copy of the taxpayer's income tax return filed with the department for
44 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with
45 any other information the department considers necessary.

1 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

2 (c) Publish statistics so classified as to prevent the identification of income or any particulars
3 contained in any report or return.

4 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social
5 Security number, employer identification number or other taxpayer identification number to the ex-
6 tent necessary in connection with collection activities or the processing and mailing of correspond-
7 ence or of forms for any report or return required in the administration of any local tax under ORS
8 305.620 or any law imposing a tax upon or measured by net income.

9 (2) The department also may disclose and give access to information described in ORS 314.835
10 to:

11 (a) The Governor of the State of Oregon or the authorized representative of the Governor with
12 respect to an individual who is designated as being under consideration for appointment or reap-
13 pointment to an office or for employment in the office of the Governor. The information disclosed
14 shall be confined to whether the individual:

15 (A) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not
16 more than the three immediately preceding years for which the individual was required to file an
17 Oregon individual income tax return.

18 (B) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or
19 otherwise respond to a deficiency notice within 30 days of its mailing.

20 (C) Has been assessed any penalty under the Oregon personal income tax laws and the nature
21 of the penalty.

22 (D) Has been or is under investigation for possible criminal offenses under the Oregon personal
23 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose
24 of making the appointment, reappointment or decision to employ or not to employ the individual in
25 the office of the Governor.

26 (b) An officer or employee of the Oregon Department of Administrative Services duly authorized
27 or employed to prepare revenue estimates, or a person contracting with the Oregon Department of
28 Administrative Services to prepare revenue estimates, in the preparation of revenue estimates re-
29 quired for the Governor's budget under ORS 291.201 to 291.224, or required for submission to the
30 Emergency Board or the Joint Interim Committee on Ways and Means, or if the Legislative As-
31 sembly is in session, to the Joint Committee on Ways and Means, and to the Legislative Revenue
32 Officer or Legislative Fiscal Officer under ORS 291.342, 291.348 and 291.445. The Department of
33 Revenue shall disclose and give access to the information described in ORS 314.835 for the purposes
34 of this paragraph only if:

35 (A) The request for information is made in writing, specifies the purposes for which the request
36 is made and is signed by an authorized representative of the Oregon Department of Administrative
37 Services. The form for request for information shall be prescribed by the Oregon Department of
38 Administrative Services and approved by the Director of the Department of Revenue.

39 (B) The officer, employee or person receiving the information does not remove from the premises
40 of the Department of Revenue any materials that would reveal the identity of a personal or corpo-
41 rate taxpayer.

42 (c) The Commissioner of Internal Revenue or authorized representative, for tax administration
43 and compliance purposes only.

44 (d) For tax administration and compliance purposes, the proper officer or authorized represen-
45 tative of any of the following entities that has or is governed by a provision of law that meets the

1 requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

2 (A) A state;

3 (B) A city, county or other political subdivision of a state;

4 (C) The District of Columbia; or

5 (D) An association established exclusively to provide services to federal, state or local taxing
6 authorities.

7 (e) The Multistate Tax Commission or its authorized representatives, for tax administration and
8 compliance purposes only. The Multistate Tax Commission may make the information available to
9 the Commissioner of Internal Revenue or the proper officer or authorized representative of any
10 governmental entity described in and meeting the qualifications of paragraph (d) of this subsection.

11 (f) The Attorney General, assistants and employees in the Department of Justice, or other legal
12 representative of the State of Oregon, to the extent the department deems disclosure or access
13 necessary for the performance of the duties of advising or representing the department pursuant to
14 ORS 180.010 to 180.240 and the tax laws of the state.

15 (g) Employees of the State of Oregon, other than of the Department of Revenue or Department
16 of Justice, to the extent the department deems disclosure or access necessary for such employees
17 to perform their duties under contracts or agreements between the department and any other de-
18 partment, agency or subdivision of the State of Oregon, in the department's administration of the
19 tax laws.

20 (h) Other persons, partnerships, corporations and other legal entities, and their employees, to
21 the extent the department deems disclosure or access necessary for the performance of such others'
22 duties under contracts or agreements between the department and such legal entities, in the
23 department's administration of the tax laws.

24 (i) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
25 173.850. Such officer or representative shall not remove from the premises of the department any
26 materials that would reveal the identity of any taxpayer or any other person.

27 (j) The Department of Consumer and Business Services, to the extent the department requires
28 such information to determine whether it is appropriate to adjust those workers' compensation
29 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or
30 earned income received by an individual.

31 (k) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
32 or person to whom disclosure or access is given by state law and not otherwise referred to in this
33 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
34 Article VI, section 2, of the Oregon Constitution; the Department of Human Services pursuant to
35 ORS 412.094; the Division of Child Support of the Department of Justice and district attorney re-
36 garding cases for which they are providing support enforcement services under ORS 25.080; the
37 State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of Accountancy,
38 pursuant to ORS 673.415.

39 (L) The Director of the Department of Consumer and Business Services to determine that a
40 person complies with ORS chapter 656 and the Director of the Employment Department to determine
41 that a person complies with ORS chapter 657, the following employer information:

42 (A) Identification numbers.

43 (B) Names and addresses.

44 (C) Inception date as employer.

45 (D) Nature of business.

1 (E) Entity changes.

2 (F) Date of last payroll.

3 (m) The Director of the Oregon Health Authority to determine that a person has the ability to
4 pay for care that includes services provided by the Oregon State Hospital, or the Oregon Health
5 Authority to collect any unpaid cost of care as provided by ORS chapter 179.

6 (n) Employees of the Employment Department to the extent the Department of Revenue deems
7 disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary
8 to performance of their duties in administering the tax imposed by ORS chapter 657.

9 (o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and
10 powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and
11 standard industrial classification, if available.

12 (p) Employees of the Department of State Lands for the purposes of identifying, locating and
13 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter
14 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the
15 refund amount.

16 (q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement
17 agencies to assist in the investigation or prosecution of the following criminal activities:

18 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
19 to the stolen document, the name, address and taxpayer identification number of the payee, the
20 amount of the check and the date printed on the check.

21 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
22 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
23 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
24 dress and taxpayer identification number of the payee, the amount of the check, the date printed
25 on the check and the altered name and address.

26 (r) The United States Postal Inspection Service or a federal law enforcement agency, including
27 but not limited to the United States Department of Justice, to assist in the investigation of the fol-
28 lowing criminal activities:

29 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
30 to the stolen document, the name, address and taxpayer identification number of the payee, the
31 amount of the check and the date printed on the check.

32 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
33 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
34 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
35 dress and taxpayer identification number of the payee, the amount of the check, the date printed
36 on the check and the altered name and address.

37 (s) The United States Financial Management Service, for purposes of facilitating the offsets de-
38 scribed in ORS 305.612.

39 (t) A municipal corporation of this state for purposes of assisting the municipal corporation in
40 the administration of a tax of the municipal corporation that is imposed on or measured by income,
41 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only
42 pursuant to a written agreement between the Department of Revenue and the municipal corporation
43 that ensures the confidentiality of the information disclosed.

44 (u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS
45 314.843.

1 (v) The Public Employees Retirement Board, to the extent necessary to carry out the purposes
2 of ORS 238.372 to 238.384, and to any public employer, to the extent necessary to carry out the
3 purposes of ORS 237.635 (3) and 237.637 (2).

4 (w) The Secretary of State for the purpose of initiating or supporting a recommendation under
5 ORS 60.032 (3) or 63.032 (3) to administratively dissolve a corporation or limited liability company
6 that the Director of the Department of Revenue determines has failed to comply with applicable tax
7 laws of the state.

8 **(x) The Oregon 529 Savings Board, for the purpose of facilitating the establishment of**
9 **accounts by personal income taxpayers under ORS 178.335 within the Oregon 529 Savings**
10 **Network through the use of income tax return forms.**

11 (3)(a) Each officer or employee of the department and each person described or referred to in
12 subsection (2)(a), (b), (f) to (L), (n) to (q) or (w) of this section to whom disclosure or access to the
13 tax information is given under subsection (2) of this section or any other provision of state law,
14 prior to beginning employment or the performance of duties involving such disclosure or access,
15 shall be advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the
16 violation of ORS 314.835, and shall as a condition of employment or performance of duties execute
17 a certificate for the department, in a form prescribed by the department, stating in substance that
18 the person has read these provisions of law, that the person has had them explained and that the
19 person is aware of the penalties for the violation of ORS 314.835.

20 (b) The disclosure authorized in subsection (2)(r) of this section shall be made only after a
21 written agreement has been entered into between the Department of Revenue and the person de-
22 scribed in subsection (2)(r) of this section to whom disclosure or access to the tax information is
23 given, providing that:

24 (A) Any information described in ORS 314.835 that is received by the person pursuant to sub-
25 section (2)(r) of this section is confidential information that may not be disclosed, except to the ex-
26 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(r) of
27 this section;

28 (B) The information shall be protected as confidential under applicable federal and state laws;
29 and

30 (C) The United States Postal Inspection Service or the federal law enforcement agency shall
31 give notice to the Department of Revenue of any request received under the federal Freedom of In-
32 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

33 (4) The Department of Revenue may recover the costs of furnishing the information described
34 in subsection (2)(L), (m) and (o) to (q) of this section from the respective agencies.

35 **SECTION 4. The amendments to ORS 178.315, 305.796 and 314.840 by sections 1 to 3 of this**
36 **2019 Act apply to tax returns filed on or after January 1, 2021.**

37 **SECTION 5. This 2019 Act takes effect on the 91st day after the date on which the 2019**
38 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

39