

A-Engrossed
House Bill 2551

Ordered by the House April 9
Including House Amendments dated April 9

Sponsored by Representative MEEK; Representatives BYNUM, LEIF, LIVELY, NERON, NOBLE, NOSSE, OWENS, PHAM, REYNOLDS, SCHOUTEN, SMITH G, WILDE, WITT, ZIKA (Presession filed.)

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 Individual Development Account Fund. Continuously appropriates moneys in fund to Housing and Community Services Department to support fiduciary organizations' development of individual development accounts. Modifies individual development account program and decouples program from sunset tax credit program.]

[Appropriates moneys to the fund.]

Extends and modifies tax credits for donations for individual development accounts. Applies to tax years beginning on or after January 1, 2022, and before January 1, 2028.
Modifies individual development account program.

A BILL FOR AN ACT

1
2 Relating to individual development accounts; amending ORS 315.271, 315.650, 316.699, 458.670,
3 458.675, 458.680, 458.685, 458.690 and 458.700 and section 9, chapter 765, Oregon Laws 2007.

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 90 percent of any donation
10 amount. **A credit may be claimed for a donation made not later than April 15 following De-**
11 **cember 31 of the tax year for which the credit is allowed.** To qualify for a credit under this
12 section, donations to a fiduciary organization must be made prior to *[January 1, 2022]* **April 15,**
13 **2028.**

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

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

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

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 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not
2 be carried forward for any tax year thereafter.

3 (5) The total credits allowed to all taxpayers in any tax year under this section and ORS 458.690
4 may not exceed \$7.5 million. The total credit allowed to a taxpayer in any tax year under this sec-
5 tion and ORS 458.690 may not exceed \$500,000.

6 **SECTION 2.** Section 9, chapter 765, Oregon Laws 2007, as amended by section 7, chapter 701,
7 Oregon Laws 2015, is amended to read:

8 **Sec. 9.** A credit may not be claimed under ORS 315.271 and 458.690 for tax years beginning on
9 or after January 1, [2022] **2028**.

10 **SECTION 3.** ORS 458.670 is amended to read:

11 458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires other-
12 wise:

13 (1) "Account holder" means a resident of this state who:

14 (a) Is 12 years of age or older;

15 (b) Is a member of a lower income household; and

16 (c) Has established an individual development account with a fiduciary organization.

17 (2) "Fiduciary organization" means an organization selected under ORS 458.695 to administer
18 state moneys directed to individual development accounts and that is:

19 (a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3)
20 of the Internal Revenue Code as amended and in effect on December 31, 2018; or

21 (b) A federally recognized Oregon Indian tribe that is located, to a significant degree, within the
22 boundaries of this state.

23 (3) "Financial institution" means:

24 (a) An organization regulated under ORS chapters 706 to 716 or 723; or

25 (b) In the case of individual development accounts established for the purpose described in ORS
26 458.685 (1)(c), a financial institution as defined in ORS 178.300.

27 (4) "Individual development account" means a contract between an account holder and a
28 fiduciary organization, for the deposit of funds into a financial institution by the account holder[,]
29 and the deposit of matching funds into [the financial institution] **a designated account** by the
30 fiduciary organization, to allow the account holder to accumulate assets for use toward achieving
31 a specific purpose approved by the fiduciary organization.

32 (5) "Lower income household" means a household having an income equal to or less than the
33 greater of the following:

34 (a) 80 percent of the median household income for the area as determined by the Housing and
35 Community Services Department. In making the determination, the department shall give consider-
36 ation to any data on area household income published by the United States Department of Housing
37 and Urban Development.

38 (b) 200 percent of the poverty guidelines as determined by the Housing and Community Services
39 Department. In making the determination, the department shall give consideration to poverty
40 guidelines published by the United States Department of Health and Human Services and may con-
41 sider other income data periodically published by other federal or Oregon agencies.

42 **(6)(a) "Net worth" means a calculation based on the net value of assets of a household**
43 **established by rule by the Housing and Community Services Department.**

44 **(b) "Net worth" does not include:**

45 **(A) Equity in one residence and in one vehicle.**

1 **(B) Holdings in pension accounts valued at less than \$120,000.**

2 [(6)] (7) “Resident of this state” has the meaning given that term in ORS 316.027.

3 **SECTION 4.** ORS 458.675 is amended to read:

4 458.675. The Legislative Assembly finds that:

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

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

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

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

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

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

24 **SECTION 5.** ORS 458.680 is amended to read:

25 458.680. (1) A person who qualifies to become an account holder may enter into an agreement
26 with a fiduciary organization for the establishment of an individual development account.

27 (2) To become an account holder a person must, in addition to meeting any other qualifications,
28 be a member of a lower income household that has a net worth of less than \$20,000. [*As used in this*
29 *subsection, “net worth” means the value of all assets owned in whole or part by household members,*
30 *excluding equity in a residence and in one vehicle, and excluding holdings in pension accounts, as*
31 *defined by the Housing and Community Services Department by rule, that are valued at less than*
32 *\$60,000, minus the total debts and obligations of household members, all as measured at the time that*
33 *the person applies to establish the account.]*

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

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

45 **SECTION 6.** ORS 458.685, as amended by section 36, chapter 12, Oregon Laws 2020 (first special

1 session) (Enrolled House Bill 4212), is amended to read:

2 458.685. (1) A person may establish an individual development account only for a purpose ap-
3 proved by a fiduciary organization. Purposes that the fiduciary organization may approve are:

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

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

8 (c) If the account holder has established a savings network account for higher education under
9 ORS 178.300 to 178.360 on behalf of a designated beneficiary, the funding of qualified higher educa-
10 tion expenses as defined in ORS 178.300 by one or more deposits into a savings network account for
11 higher education on behalf of the same designated beneficiary.

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

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

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

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

35 (h) The purchase of equipment, technology or specialized training [*required*], **as specified in the**
36 **account holder's personal development plan, that allows the person** to become competitive in
37 obtaining or maintaining employment, [*or*] to start or maintain a business, [*as specified in the account*
38 *holder's personal development plan for increasing*] **or to increase** the independence of [*the person*]
39 **an account holder.**

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

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

44 (k) The payment of debts [*owed for educational or medical purposes when the account holder is*
45 *saving for another allowable purpose, as specified in*] **to support** the account holder's personal de-

1 velopment plan for increasing the independence of the person.

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

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

7 (n) The establishment of savings for emergency expenses to promote financial stability and to
8 protect existing assets **as specified in the account holder's personal development plan**. As used
9 in this paragraph, "emergency expenses" includes expenses for extraordinary medical costs or other
10 unexpected and substantial personal expenses that would significantly impact the account holder's
11 noncash assets, health, housing or standard of living if not promptly addressed.

12 (2)(a) An account holder may withdraw all or part of the account holder's deposits to an indi-
13 vidual development account for *[emergency expenses as defined in subsection (1)(n) of this section]* **any**
14 **financial hardship as determined by the account holder**, without regard to whether the account
15 was established for emergency savings.

16 (b) *[The account holder must reimburse an account established for a purpose listed under sub-*
17 *section (1)(a) to (m) of this section for the amount withdrawn under this subsection. Until the re-*
18 *imbursement has been made in full, an account holder may not withdraw any matching deposits or*
19 *accrued interest on matching deposits from the account except under this subsection.]* **The fiduciary**
20 **organization shall remove from an account holder's account any moneys deposited as**
21 **matching funds to deposits withdrawn under this section, unless the withdrawn deposits**
22 **were deposited and withdrawn for emergency expenses under subsection (1)(n) of this sec-**
23 **tion.**

24 *[(3) If an account holder withdraws moneys from an individual development account for other than*
25 *an approved purpose, the fiduciary organization may remove the account holder from the program.]*

26 *[(4)(a)]* **(3)(a)** If the account holder of an account established for the purpose set forth in sub-
27 section (1)(c) or (j) of this section has achieved the account's approved purpose in accordance with
28 the personal development plan developed by the account holder under ORS 458.680, the account
29 holder may withdraw, or authorize the withdrawal of, the remaining amount of all deposits, includ-
30 ing matching deposits, and interest in the account as follows:

31 (A) For an account established for the purpose set forth in subsection (1)(c) of this section, by
32 rolling over the entire withdrawal amount, not to exceed the limit established pursuant to ORS
33 178.335, into one or more of the savings network accounts for higher education under ORS 178.300
34 to 178.360, the establishment of which is the purpose of the individual development account; or

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

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

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

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

1 [(5)] (4) If an account holder moves from the area where the program is conducted or is other-
2 wise unable to continue in the program, the fiduciary organization may remove the account holder
3 from the program.

4 [(6)] (5) If an account holder is removed from the program under subsection [(3) or (5)] (4) of this
5 section, all matching deposits in the account and all interest earned on matching deposits shall re-
6 vert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a
7 source of matching deposits for other accounts.

8 **SECTION 7.** ORS 458.690 is amended to read:

9 458.690. (1) [*Notwithstanding ORS 315.271,*] A fiduciary organization selected under ORS 458.695
10 may qualify as the recipient of account contributions that qualify the contributor for a tax credit
11 under ORS 315.271 only if [*the fiduciary organization structures the accounts to have the following*
12 *features:*]

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

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

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

21 [(B) *A savings*] **The matching funds must be deposited into a designated** account that is
22 controlled by the fiduciary organization and is separate from the savings account of the account
23 holder[; *or*].

24 [(C) *In the case of an account established for the purpose described in ORS 458.685 (1)(c), a*
25 *savings network account for higher education under ORS 178.300 to 178.360, in which the fiduciary*
26 *organization is the account owner as defined in ORS 178.300.*]

27 (2) Account holders may not accrue more than [\$3,000] **\$6,000** of matching funds under sub-
28 section (1) of this section from state-directed moneys in any 12-month period. A fiduciary organiza-
29 tion may designate a lower amount as a limit on annual matching funds. A fiduciary organization
30 shall maintain on deposit sufficient funds to cover the matching deposit agreements for all individual
31 development accounts managed by the organization.

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

35 (4) The Housing and Community Services Department shall provide information to the Depart-
36 ment of Revenue about all individual development account contributors that are qualified for a tax
37 credit under ORS 315.271, if required by ORS 315.058.

38 **SECTION 8.** 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 **additional** matching contributions, counseling
43 account holders, providing financial literacy education, and conducting required verification and
44 compliances activities. The fiduciary organization may establish program provisions as the organ-
45 ization believes necessary to ensure account holder compliance with the provisions of ORS 458.680

1 and 458.685. [*Notwithstanding ORS 458.670 (5) and 458.680 (2),*] A fiduciary organization may estab-
2 lish income and net worth limitations for account holders that are lower than the income and net
3 worth limitations 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*] **ORS 458.670**
8 **to 458.700.**

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

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

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

23 [(5) *A fiduciary organization that is the account owner of a savings network account for higher*
24 *education under ORS 178.300 to 178.360:*]

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

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

34 [(6)] **(5)** The department may make all reasonable and necessary rules to ensure fiduciary or-
35 ganization compliance with [*this section and ORS 458.685 and 458.695*] **ORS 458.670 to 458.700.**

36 **SECTION 9.** ORS 315.650 is amended to read:

37 315.650. (1) A credit against taxes otherwise imposed under ORS chapter 316 shall be allowed
38 for amounts contributed by the taxpayer during the tax year to a savings network account for
39 higher education established under ORS 178.300 to 178.360 or an ABLE account established under
40 ORS 178.380. A taxpayer who makes contributions to both types of account may claim the credit for
41 the amounts listed in subsection (2) of this section for each type of account.

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

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

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

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

5 (d) 10 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds
6 \$100,000 but does not exceed \$250,000; or

7 (e) 5 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds
8 \$250,000.

9 (3)(a) The Department of Revenue shall annually adjust the maximum credit amounts allowable
10 under this section according to the cost-of-living adjustment for the calendar year. The department
11 shall first make this adjustment for a joint return by multiplying the maximum credit amount in
12 subsection (2) of this section by the percentage (if any) by which the monthly averaged U.S. City
13 Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar
14 year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive
15 months ending August 31, 2018.

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

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

23 (4) A credit under this section is allowed for a preceding tax year for amounts contributed to
24 a savings network account for higher education or to an ABLE account if the contribution is made
25 before the taxpayer files a return or before the 15th day of the fourth month following the closing
26 of the taxpayer's tax year, whichever is earlier.

27 (5) A credit is not allowed under this section for any amount that has been transferred into a
28 savings network account for higher education from an individual development account, through a
29 rollover, as provided in ORS 458.685 [(4)(a)(A)] **(3)(a)(A)**.

30 (6) If the amount allowable as a credit under this section, when added to the sum of the amounts
31 allowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (estimated tax), other tax
32 prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chap-
33 ters 314 and 316 for the tax year (reduced by any nonrefundable credits allowable for purposes of
34 ORS chapter 316 for the tax year), the amount of the excess shall be refunded to the taxpayer as
35 provided in ORS 316.502.

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

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

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

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

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

45 (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the

1 department terminates the taxpayer's taxable year under ORS 314.440, the credit shall be prorated
2 or computed in a manner consistent with ORS 314.085.

3 **SECTION 10.** ORS 316.699 is amended to read:

4 316.699. (1) There shall be subtracted from federal taxable income the amount contributed to:

5 (a) A savings network account for higher education established under ORS 178.300 to 178.360;
6 or

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

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

12 (a) \$4,000 for the tax year if the taxpayer files a joint return, or \$2,000 for the tax year if the
13 taxpayer files a return other than a joint return; and

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

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

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

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

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

35 (6) A subtraction is not allowed under this section for any amount that has been transferred into
36 a savings network account for higher education from an individual development account, through a
37 rollover, as provided in ORS 458.685 [(4)(a)(A)] **(3)(a)(A)**.

38