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# MEMORANDUM

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**To:** *General Government Services Subcommittee*

**From:** *John Borden, Legislative Fiscal Office*  
*(503) 986-1842*

**Date:** May 11, 2015

**Subject:** *SB 777B - Work Session Recommendations*

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Senate Bill 777B relates to savings accounts for disability related expenses. The measure is effective on the 91st day after adjournment and operative for the 2016 tax year. The ABLE is to be established no later than January 1, 2017.

The measure had a public hearing in this Subcommittee on June 2, 2015.

The work session packet, including a ***draft*** budget report and two amendments, is available on the Oregon Legislative Information System (OLIS) along with a (revised) revenue impact statement.

## **Amendment(s)**

- –B3 amendment makes explicit that the balance in the ABLE account will not be used for means testing for state disability programs and would allow the Oregon ABLE plan to accept deposits from out of state residents.

### **Motion #1: Move adoption of the –B3 amendment to SB 777.**

- The –B4 amendment is the fiscal amendment that creates subaccounts for the College and Able programs, appropriates General Fund for the ABLE program, and stipules the repayment of the General Fund by ABLE once “practicable.”

### **Motion #2: Move adoption of the –B4 amendment to SB 777.**

## **Measure as Modified**

The measure, as amended by the –B3 and the –B4, is recommended to be moved to the full Committee on Joint Ways and Means.

### **Motion #3: Move SB 777 to the full committee with a “do pass” recommendation, as modified by the –B3 and the –B4 amendments.**

## **Carriers:**

**Full Committee Carrier:** \_\_\_\_\_

**Second Chamber Carrier:** \_\_\_\_\_

**78<sup>th</sup> OREGON LEGISLATIVE ASSEMBLY – 2015 Session  
BUDGET REPORT AND BILL SUMMARY**

**BILL: SB 777-B**

**JOINT COMMITTEE ON WAYS AND MEANS**

**Carrier – House: Rep.**

**Carrier – Senate: Sen.**

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**Action:**

**Vote:**

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

**Prepared By:** Lyndon Troseth, Department of Administrative Services

**Reviewed By:** John Borden, Legislative Fiscal Office

**Meeting Date:**

Agency

Treasurer of State

Biennium

2015-17

Draft for Subcommittee

**Budget Summary** *Budget Summary table to be inserted here by Process Coordinator. Analyst to complete the Budget Summary in the Budget Report Spreadsheet Template (xlsx) along with the Budget Report Detail Spreadsheet.*

### **Revenue Summary**

The measure would create the Achieving a Better Life Experience Act (ABLE) program. Contributions and distributions would be tax deductible under state law; however, the plan limits the tax exempt contributions to those made before the beneficiary of the account attains 21 years of age. Pre-tax contributions by individuals would be deposited directly into individual accounts held in trust by private third party investment administrator(s). The ABLE plan may accept deposits from out-of-state residents. There would be a federal tax benefit on the earnings and withdrawals from the account, if used for qualified expenses. The measure provides for the taxation of distributions that are not for qualified disability expenses.

The measure's General Fund revenue impact (loss) is estimated to be \$180,000 for the 2015-17 biennium and \$510,000 for the 2017-19 biennium. The measure is operative for the 2016 tax year.

The measure renames the existing Oregon 529 College Savings Network Fund to the Oregon 529 Savings Network Fund. The fund would have two interest-bearing subaccounts: Oregon 529 College Savings Plan Subaccount and the Oregon 529 ABLE Subaccount. All existing monies in the original Oregon 529 College Savings Network Fund are to be transferred to the Oregon 529 College Savings Plan Subaccount by January 1, 2016.

Application, account, or administrative fees, and other sources of funding, if available, to fund the administrative operation of the ABLE program would come from a portion of private third party investment administrator charges on individual accounts and would be transferred to the Oregon 529 ABLE Subaccount. Fee revenue is anticipated to begin during the 2017-19 biennium and after the 529 Savings Board establishes fee amounts.

The funds to initially support the implementation of the ABLÉ Program are from a General Fund appropriation. The measure stipulates that the General Fund appropriation is to be repaid with future administrative fees from the Oregon 529 ABLÉ Subaccount.

### **Summary of General Government Subcommittee Action**

The Subcommittee approved a \$664,743 General Fund appropriation to the Oregon State Treasury (OST) and the establishment of one permanent, full-time Operations and Policy Analyst 4 (0.50 FTE) and one permanent full-time Program Analyst 1 (0.25 FTE) for the ABLÉ program. The measure is effective on the 91st day after adjournment.

The ABLÉ Act became federal law in December 2014. The Act permits the creation of tax-free, state-based savings accounts to pay for disability-related expenses. The federal Act is meant to supplement, but not supplant, benefits provided through private insurances, the Medicaid program, the supplemental security income program, the beneficiary's employment, and other sources.

OST, by administrative rule, is to establish a qualified state ABLÉ program. The measure also forms a single state 529 program by merging the existing Oregon 529 College Savings Network program with the ABLÉ program. The program is to be established no later than January 1, 2017.

The measure changes the name of the Oregon 529 College Savings Board to the Oregon 529 Savings Board. The measure adds a representative of persons with disabilities to the Board to be appointed by the Treasurer and removes the requirement that a representative of the State Board of Higher Education serve on the Board. The measure also removes the requirement that the Oregon University System provide administrative staff to the Board.

Expenses qualify as disability-related if they are for the benefit of an individual with a disability and are related to the disability (including education, housing, transportation, employment support, health, prevention, and wellness costs, assistive technology and personal support services, and other expenses). An ABLÉ account holder's balance is not to be used for means testing for state disability programs.

OST would expend \$171,798 for personal services, \$42,945 for associated services and supplies, \$350,000 for professional services for the program's development and outreach activities, and \$100,000 for Attorney General expenses. The one-time costs of the program are estimated to be \$250,000 Professional Services expenses and \$50,000 Attorney General costs.

The estimated administrative cost of operating the program in the 2017-19 biennium is \$662,524 (2.00 FTE). This is assumed to be a continued General Fund obligation, either partially or fully, unless sufficient fee revenue is received to pay all expenses.

The Department of Revenue is expected to have a minimal fiscal impact to administer the tax exempt provisions of the measure.

**PROPOSED AMENDMENTS TO  
B-ENGROSSED SENATE BILL 777**

1 On page 1 of the printed B-engrossed bill, after line 11, insert:

2 “(3) ‘Contracting state’ means a state without a qualified ABLE program  
3 that has entered into a contract with this state to provide residents of the  
4 contracting state access to the qualified ABLE program of this state.”.

5 In line 12, delete “(3)” and insert “(4)”.

6 In line 14, delete “(4)” and insert “(5)”.

7 In line 16, delete “(5)” and insert “(6)”.

8 In line 18, delete “(6)” and insert “(7)”.

9 On page 2, after line 11, insert:

10 “(g) Allow for the establishment of an ABLE account only for a desig-  
11 nated beneficiary who is a resident of this state or a resident of a contract-  
12 ing state;”.

13 In line 12, delete “(g)” and insert “(h)”.

14 In line 14, delete “(h)” and insert “(i)”.

15 After line 16, insert:

16 “(3) Notwithstanding any other provision of law that requires consider-  
17 ation of one or more financial circumstances of an individual for the purpose  
18 of determining the eligibility to receive, or the amount of, any assistance or  
19 benefit authorized by law to be provided to or for the benefit of the indi-  
20 vidual, any amount in an ABLE account of the individual, including earnings  
21 on the account, any contributions to the ABLE account of the individual and  
22 any distribution for qualified disability expenses shall be disregarded for

1 such purpose with respect to any period during which the individual main-  
2 tains, makes contributions to or receives distributions from the ABLE ac-  
3 count.”.

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**PROPOSED AMENDMENTS TO  
B-ENGROSSED SENATE BILL 777**

1 On page 10 of the printed B-engrossed bill, delete lines 4 through 22 and  
2 insert:

3 **“SECTION 11.** ORS 348.856 is amended to read:

4 **“348.856.** (1) The Oregon 529 [*College*] Savings Network Fund is estab-  
5 lished in the State Treasury, separate and distinct from the General Fund.  
6 [*Interest earned by the Oregon 529 College Savings Network Fund shall be*  
7 *credited to the fund. All moneys credited to the Oregon 529 College Savings*  
8 *Network Fund are continuously appropriated to the Oregon 529 College*  
9 *Savings Board for the purposes of ORS 348.841 to 348.873.*] **The fund shall**  
10 **consist of the Oregon 529 College Savings Plan Subaccount and the**  
11 **Oregon 529 ABLE Subaccount. Interest earned by each subaccount**  
12 **shall be credited to the subaccount.**

13 **“(2)(a) All moneys credited to the Oregon 529 College Savings Plan**  
14 **Subaccount are continuously appropriated to the Oregon 529 Savings**  
15 **Board for the purposes of administering accounts established for**  
16 **qualified higher education expenses under ORS 348.841 to 348.873.**

17 **“(b) All moneys credited to the Oregon 529 ABLE Subaccount are**  
18 **continuously appropriated to the board for the purposes of adminis-**  
19 **tering a qualified ABLE program pursuant to section 2 of this 2015 Act.**

20 **“[(2)] (3) Each subaccount in the Oregon 529 [*College*] Savings Network**  
21 **Fund shall consist of:**

22 **“(a) Moneys appropriated to the [*fund*] subaccount by the Legislative**

1 Assembly;

2 “(b) Moneys transferred to the *[fund]* **subaccount** from the federal gov-  
3 ernment, other state agencies or local governments;

4 “(c) Moneys from the payment of fees and the payment of other moneys  
5 due the board;

6 “(d) Any gifts or donations made to the State of Oregon for deposit in the  
7 *[fund]* **subaccount**; and

8 “(e) Earnings on moneys in the *[fund]* **subaccount**.

9 “[~~(3)~~] **(4)(a)** The board may use the moneys in the *[fund]* **Oregon 529**  
10 **College Savings Plan Subaccount** to pay the administrative costs and ex-  
11 penses of the board and the Oregon 529 *[College]* Savings Network **related**  
12 **to the administration of accounts established for qualified higher ed-**  
13 **ucation expenses under ORS 348.841 to 348.873**, to provide or make avail-  
14 able scholarships, grants and other incentives to account owners, potential  
15 account owners and their designated beneficiaries or to further any other  
16 purpose of ORS 348.841 to 348.873.

17 “**(b) The board may use the moneys in the Oregon 529 ABLE Sub-**  
18 **account to pay the administrative costs and expenses of the board and**  
19 **the Oregon 529 Savings Network related to the administration of the**  
20 **qualified ABLE program established under section 2 of this 2015 Act,**  
21 **to provide or make available incentives to owners of ABLE accounts**  
22 **or potential account owners and their designated beneficiaries or to**  
23 **further any other purpose of the qualified ABLE program established**  
24 **under section 2 of this 2015 Act.**

25 “**SECTION 11a. Not later than January 1, 2016, the Oregon 529**  
26 **Savings Board shall transfer an amount equal to the amount con-**  
27 **tained in the Oregon 529 Savings Network Fund on the effective date**  
28 **of this 2015 Act to the Oregon 529 College Savings Plan Subaccount**  
29 **established by ORS 348.856, as amended by section 11 of this 2015**  
30 **Act.”**

1 On page 17, delete lines 39 through 44 and insert:

2 **“SECTION 24. In addition to and not in lieu of any other appropri-**  
3 **ation, there is appropriated to the State Treasurer, for the biennium**  
4 **beginning July 1, 2015, out of the General Fund, the amount of**  
5 **\$664,743, which may be expended for the establishment of an Oregon**  
6 **529 ABLÉ program under the Stephen Beck, Jr., Achieving a Better**  
7 **Life Experience Act of 2014 (Division B of P.L. 113-295) and this 2015**  
8 **Act.**

9 **“SECTION 24a. Notwithstanding ORS 348.856, as soon as is practi-**  
10 **cable, the State Treasurer shall transfer an amount equal to the total**  
11 **amount of the appropriation made under section 24 of this 2015 Act**  
12 **from the Oregon 529 ABLÉ Subaccount of the Oregon 529 Savings**  
13 **Network Fund to the General Fund.”.**

14 On page 18, line 21, delete “2015” and insert “2016”.

15 After line 21, insert:

16 **“SECTION 29. The State Treasurer and the Oregon 529 Savings**  
17 **Board shall establish and maintain a qualified ABLÉ program in ac-**  
18 **cordance with the requirements of section 2 of this 2015 Act and ORS**  
19 **348.841 to 348.873, as amended by sections 6 to 18 of this 2015 Act, not**  
20 **later than January 1, 2017.”.**

21 In line 22, delete “29” and insert “30”.

22