

Senate Bill 777

Sponsored by Senator GELSER

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**.

Directs State Treasurer to establish by rule qualified state program as described in federal Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014. Allows persons with disabilities to establish savings accounts for disability-related expenses. Excludes distributions from account for qualified disability expenses from federal taxable income. Subtracts contributions made to account from federal taxable income.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to savings accounts for disability-related expenses; creating new provisions; amending ORS
3 316.680 and 316.699; and prescribing an effective date.

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

5 **SECTION 1. As used in this section and section 2 of this 2015 Act:**

6 (1) **"ABLE account"** means an account established by an eligible individual, owned by the
7 eligible individual and maintained under the qualified ABLE program established by the State
8 Treasurer under section 2 of this 2015 Act.

9 (2) **"ABLE Act"** means the Stephen Beck, Jr., Achieving a Better Life Experience Act
10 of 2014 (Division B of P.L. 113-295).

11 (3) **"Designated beneficiary"** has the same meaning as contained in section 529A of the
12 Internal Revenue Code.

13 (4) **"Eligible individual"** has the same meaning as contained in section 529A of the Inter-
14 nal Revenue Code.

15 (5) **"Internal Revenue Code"** means the federal Internal Revenue Code as amended and
16 in effect on the effective date of this 2015 Act.

17 (6) **"Qualified disability expense"** has the same meaning as contained in section 529A of
18 the Internal Revenue Code.

19 **SECTION 2. (1) The State Treasurer shall establish by rule and maintain a qualified**
20 **ABLE program in accordance with the requirements of the ABLE Act.**

21 **(2) The rules must:**

22 **(a) Allow a person to make contributions for a taxable year to an ABLE account estab-**
23 **lished for the purpose of meeting the qualified disability expenses of the designated benefi-**
24 **ciary of the account;**

25 **(b) Limit a designated beneficiary to one ABLE account for purposes of this section;**

26 **(c) Require cash-only contributions to ABLE accounts;**

27 **(d) Provide for a separate accounting for each designated beneficiary of an ABLE ac-**
28 **count;**

29 **(e) Provide that a designated beneficiary of an ABLE account may not, directly or indi-**

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 **rectly, direct the investment of contributions to the account, or earnings on the account,**
 2 **more than two times in any calendar year;**

3 **(f) Prohibit the use of a designated beneficiary's interest in an ABLE account as security**
 4 **for a loan;**

5 **(g) Establish limitations on aggregate contributions to an ABLE account on behalf of a**
 6 **designated beneficiary; and**

7 **(h) Satisfy all other requirements of section 529A of the Internal Revenue Code, the**
 8 **ABLE Act, rules adopted by the United States Secretary of the Treasury under the ABLE**
 9 **Act and other applicable federal law.**

10 **SECTION 3.** ORS 316.680 is amended to read:

11 316.680. (1) There shall be subtracted from federal taxable income:

12 (a) The interest or dividends on obligations of the United States and its territories and pos-
 13 sessions or of any authority, commission or instrumentality of the United States to the extent
 14 includable in gross income for federal income tax purposes but exempt from state income taxes un-
 15 der the laws of the United States. However, the amount subtracted under this paragraph shall be
 16 reduced by any interest on indebtedness incurred to carry the obligations or securities described in
 17 this paragraph, and by any expenses incurred in the production of interest or dividend income de-
 18 scribed in this paragraph to the extent that such expenses, including amortizable bond premiums,
 19 are deductible in determining federal taxable income.

20 (b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as
 21 described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for
 22 which a tax benefit was received.

23 (c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the
 24 extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce
 25 federal taxable income by those amounts.

26 (d) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

27 (e)(A) Federal pension income that is attributable to federal employment occurring before Oc-
 28 tober 1, 1991. Federal pension income that is attributable to federal employment occurring before
 29 October 1, 1991, shall be determined by multiplying the total amount of federal pension income for
 30 the tax year by the ratio of the number of months of federal creditable service occurring before
 31 October 1, 1991, over the total number of months of federal creditable service.

32 (B) The subtraction allowed under this paragraph applies only to federal pension income re-
 33 ceived at a time when:

34 (i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

35 (ii) Public Employees Retirement System benefits received for service prior to October 1, 1991,
 36 are exempt from state income tax.

37 (C) As used in this paragraph:

38 (i) "Federal creditable service" means those periods of time for which a federal employee earned
 39 a federal pension.

40 (ii) "Federal pension" means any form of retirement allowance provided by the federal govern-
 41 ment, its agencies or its instrumentalities to retirees of the federal government or their benefi-
 42 ciaries.

43 (f) Any amount included in federal taxable income for the tax year that is attributable to the
 44 conversion of a regular individual retirement account into a Roth individual retirement account
 45 described in section 408A of the Internal Revenue Code, to the extent that:

1 (A) The amount was subject to the income tax of another state or the District of Columbia in
2 a prior tax year; and

3 (B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax
4 year.

5 (g) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS
6 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in de-
7 termining the taxpayer's federal taxable income for the tax year.

8 (h) If included in taxable income for federal tax purposes, the amount withdrawn during the tax
9 year in qualified withdrawals from a college savings network account established under ORS 348.841
10 to 348.873.

11 **(i) If included in taxable income for federal tax purposes, any distributions from an ABL**
12 **account that do not exceed the qualified disability expenses of the designated beneficiary as**
13 **provided in sections 1 and 2 of this 2015 Act and rules adopted by the State Treasurer.**

14 (2) There shall be added to federal taxable income:

15 (a) Interest or dividends, exempt from federal income tax, on obligations or securities of any
16 foreign state or of a political subdivision or authority of any foreign state. However, the amount
17 added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the
18 obligations or securities described in this paragraph and by any expenses incurred in the production
19 of interest or dividend income described in this paragraph.

20 (b) Interest or dividends on obligations of any authority, commission, instrumentality and terri-
21 torial possession of the United States that by the laws of the United States are exempt from federal
22 income tax but not from state income taxes. However, the amount added under this paragraph shall
23 be reduced by any interest on indebtedness incurred to carry the obligations or securities described
24 in this paragraph and by any expenses incurred in the production of interest or dividend income
25 described in this paragraph.

26 (c) The amount of any federal estate taxes allocable to income in respect of a decedent not
27 taxable by Oregon.

28 (d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the
29 property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pur-
30 suant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

31 (e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under
32 section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

33 (f) The amount taken as a deduction on the taxpayer's federal return for unused qualified busi-
34 ness credits under section 196 of the Internal Revenue Code.

35 (g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws
36 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815,
37 Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal
38 Revenue Code.

39 (h) The amount of any long term care insurance premiums paid or incurred by the taxpayer
40 during the tax year if:

41 (A) The amount is taken into account as a deduction on the taxpayer's federal return for the
42 tax year; and

43 (B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

44 (i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in com-
45 puting federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right

1 income repayment adjustment under ORS 315.068.

2 (j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college
3 savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal
4 that is attributable to contributions that were subtracted from federal taxable income under ORS
5 316.699.

6 **(k) If the taxpayer makes a distribution from an ABLE account that is not a qualified**
7 **disability expense of the designated beneficiary as provided in sections 1 and 2 of this 2015**
8 **Act and rules adopted by the State Treasurer, the amount of the distribution that is attrib-**
9 **utable to contributions that were subtracted from federal taxable income under ORS 316.699.**

10 (3) Discount and gain or loss on retirement or disposition of obligations described under sub-
11 section (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this
12 chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the
13 Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivi-
14 sion of a foreign state, were not tax exempt under the Internal Revenue Code.

15 **SECTION 4.** ORS 316.680, as amended by section 74, chapter 1, Oregon Laws 2015, is amended
16 to read:

17 316.680. (1) There shall be subtracted from federal taxable income:

18 (a) The interest or dividends on obligations of the United States and its territories and pos-
19 sessions or of any authority, commission or instrumentality of the United States to the extent
20 includable in gross income for federal income tax purposes but exempt from state income taxes un-
21 der the laws of the United States. However, the amount subtracted under this paragraph shall be
22 reduced by any interest on indebtedness incurred to carry the obligations or securities described in
23 this paragraph, and by any expenses incurred in the production of interest or dividend income de-
24 scribed in this paragraph to the extent that such expenses, including amortizable bond premiums,
25 are deductible in determining federal taxable income.

26 (b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as
27 described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for
28 which a tax benefit was received.

29 (c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the
30 extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce
31 federal taxable income by those amounts.

32 (d) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

33 (e)(A) Federal pension income that is attributable to federal employment occurring before Oc-
34 tober 1, 1991. Federal pension income that is attributable to federal employment occurring before
35 October 1, 1991, shall be determined by multiplying the total amount of federal pension income for
36 the tax year by the ratio of the number of months of federal creditable service occurring before
37 October 1, 1991, over the total number of months of federal creditable service.

38 (B) The subtraction allowed under this paragraph applies only to federal pension income re-
39 ceived at a time when:

40 (i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

41 (ii) Public Employees Retirement System benefits received for service prior to October 1, 1991,
42 are exempt from state income tax.

43 (C) As used in this paragraph:

44 (i) "Federal creditable service" means those periods of time for which a federal employee earned
45 a federal pension.

1 (ii) "Federal pension" means any form of retirement allowance provided by the federal govern-
2 ment, its agencies or its instrumentalities to retirees of the federal government or their benefici-
3 aries.

4 (f) Any amount included in federal taxable income for the tax year that is attributable to the
5 conversion of a regular individual retirement account into a Roth individual retirement account
6 described in section 408A of the Internal Revenue Code, to the extent that:

7 (A) The amount was subject to the income tax of another state or the District of Columbia in
8 a prior tax year; and

9 (B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax
10 year.

11 (g) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS
12 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in de-
13 termining the taxpayer's federal taxable income for the tax year.

14 (h) If included in taxable income for federal tax purposes, the amount withdrawn during the tax
15 year in qualified withdrawals from a college savings network account established under ORS 348.841
16 to 348.873.

17 (i) For income tax years commencing on or after January 1, 2015, the amount of any deductions
18 or credits that the taxpayer would have been allowed but for the provisions of section 280E of the
19 Internal Revenue Code.

20 **(j) If included in taxable income for federal tax purposes, any distributions from an ABLE**
21 **account that do not exceed the qualified disability expenses of the designated beneficiary as**
22 **provided in sections 1 and 2 of this 2015 Act and rules adopted by the State Treasurer.**

23 (2) There shall be added to federal taxable income:

24 (a) Interest or dividends, exempt from federal income tax, on obligations or securities of any
25 foreign state or of a political subdivision or authority of any foreign state. However, the amount
26 added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the
27 obligations or securities described in this paragraph and by any expenses incurred in the production
28 of interest or dividend income described in this paragraph.

29 (b) Interest or dividends on obligations of any authority, commission, instrumentality and terri-
30 torial possession of the United States that by the laws of the United States are exempt from federal
31 income tax but not from state income taxes. However, the amount added under this paragraph shall
32 be reduced by any interest on indebtedness incurred to carry the obligations or securities described
33 in this paragraph and by any expenses incurred in the production of interest or dividend income
34 described in this paragraph.

35 (c) The amount of any federal estate taxes allocable to income in respect of a decedent not
36 taxable by Oregon.

37 (d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the
38 property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pur-
39 suant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

40 (e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under
41 section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

42 (f) The amount taken as a deduction on the taxpayer's federal return for unused qualified busi-
43 ness credits under section 196 of the Internal Revenue Code.

44 (g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws
45 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815,

1 Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal
2 Revenue Code.

3 (h) The amount of any long term care insurance premiums paid or incurred by the taxpayer
4 during the tax year if:

5 (A) The amount is taken into account as a deduction on the taxpayer's federal return for the
6 tax year; and

7 (B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

8 (i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in com-
9 puting federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right
10 income repayment adjustment under ORS 315.068.

11 (j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college
12 savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal
13 that is attributable to contributions that were subtracted from federal taxable income under ORS
14 316.699.

15 **(k) If the taxpayer makes a distribution from an ABLE account that is not a qualified**
16 **disability expense of the designated beneficiary as provided in sections 1 and 2 of this 2015**
17 **Act and rules adopted by the State Treasurer, the amount of the distribution that is attrib-**
18 **utable to contributions that were subtracted from federal taxable income under ORS 316.699.**

19 (3) Discount and gain or loss on retirement or disposition of obligations described under sub-
20 section (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this
21 chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the
22 Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivi-
23 sion of a foreign state, were not tax exempt under the Internal Revenue Code.

24 **SECTION 5.** ORS 316.699 is amended to read:

25 316.699. (1) There shall be subtracted from federal taxable income the amount contributed to:

26 (a) A college savings network account established under ORS 348.841 to 348.873; **or**

27 **(b) Contributions to an ABLE account established under sections 1 and 2 of this 2015 Act**
28 **and rules adopted by the State Treasurer.**

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

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

33 (b) If an amount is carried forward to a succeeding tax year under subsection (4) of this section,
34 the balance in the college savings network account at the close of the tax year for which the sub-
35 traction is being made.

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

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

45 (4) Any amounts contributed to a college savings network account **or an ABLE account** that

1 are not subtracted from federal taxable income because of the monetary limitations imposed by
2 subsection (2) of this section may be carried forward for four succeeding tax years and subtracted
3 from federal taxable income in any of those succeeding tax years in an amount that does not exceed
4 the monetary limitations imposed by subsection (2) of this section.

5 (5) The amount contributed to a college savings network account **or an ABLÉ account** may
6 be subtracted from a preceding tax year if the contribution is made before the taxpayer files a re-
7 turn or before the 15th day of the fourth month following the closing of the taxpayer's tax year,
8 whichever is earlier.

9 **SECTION 6. Sections 1 and 2 of this 2015 Act and the amendments to ORS 316.680 and**
10 **316.699 by sections 3 to 5 of this 2015 Act apply to distributions from and contributions to**
11 **ABLE accounts for tax years beginning on or after January 1, 2015.**

12 **SECTION 7. This 2015 Act takes effect on the 91st day after the date on which the 2015**
13 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

14