

**A-Engrossed**  
**House Bill 2078**

Ordered by the House June 17  
Including House Amendments dated June 17

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Revenue)

**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.

*[Increases personal income tax rate on taxpayers with taxable income above certain level. Applies to tax years beginning on or after January 1, 2009.]*

*[Takes effect on 91st day following adjournment sine die.]*

**Updates connection date to Internal Revenue Code and other provisions of federal tax law. Maintains disconnection from federal law for provisions related to bonus depreciation, expensing and cancellation of debt income.**

**Provides that unemployment compensation received in tax years beginning on or after January 1, 2009, and before January 1, 2010, is taxable under state law.**

**Limits tax credits for gasoline-electric hybrid vehicles that are not designed for electric plug-in charging to vehicles purchased before January 1, 2010.**

**Modifies provisions for claiming biomass tax credit. Limits eligibility to biofuels that have been converted into fuels ready for use as energy in Oregon. Revises biomass credit transfer provisions. Allows credit where biofuel producer is also agricultural producer or biomass collector. Authorizes State Department of Energy to adopt rules relating to tax credits for production of biomass.**

**A BILL FOR AN ACT**

1  
2 Relating to taxation; creating new provisions; and amending ORS 238A.005, 238A.125, 238A.150,  
3 238A.170, 238A.230, 238A.370, 238A.400, 238A.410, 238A.415, 238A.430, 305.230, 305.494, 305.690,  
4 307.130, 307.147, 308A.450, 310.140, 310.630, 310.800, 311.689, 314.011, 315.004, 315.141, 315.144,  
5 315.262, 315.354, 316.012, 316.013, 316.116, 316.752, 317.010, 317.018, 317.097, 317.115, 458.670 and  
6 657.010 and section 9, chapter \_\_, Oregon Laws 2009 (Enrolled House Bill 2649); repealing  
7 section 5, chapter \_\_, Oregon Laws 2009 (Enrolled House Bill 2649).

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

9 **SECTION 1.** ORS 238A.005, as amended by section 1, chapter 5, Oregon Laws 2009 (Enrolled  
10 House Bill 2157), is amended to read:

11 238A.005. For the purposes of this chapter:

12 (1) "Active member" means a member of the pension program or the individual account program  
13 of the Oregon Public Service Retirement Plan who is actively employed in a qualifying position.

14 (2) "Actuarial equivalent" means a payment or series of payments having the same value as the  
15 payment or series of payments replaced, computed on the basis of interest rate and mortality as-  
16 sumptions adopted by the board.

17 (3) "Board" means the Public Employees Retirement Board.

18 (4) "Eligible employee" means a person who performs services for a participating public em-  
19 ployer, including elected officials other than judges. "Eligible employee" does not include:

20 (a) Persons engaged as independent contractors;

**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) Aliens working under a training or educational visa;
- 2 (c) Persons, other than workers in the Industries for the Blind Program under ORS 346.190,  
3 provided sheltered employment or make-work by a public employer;
- 4 (d) Persons categorized by a participating public employer as student employees;
- 5 (e) Any person who is an inmate of a state institution;
- 6 (f) Employees of foreign trade offices of the Economic and Community Development Department  
7 who live and perform services in foreign countries under the provisions of ORS 285A.075 (1)(g);
- 8 (g) An employee actively participating in an alternative retirement program established under  
9 ORS 353.250 or an optional retirement plan established under ORS 341.551;
- 10 (h) Employees of the Oregon University System who are actively participating in an optional  
11 retirement plan offered under ORS 243.800;
- 12 (i) Any employee who belongs to a class of employees that was not eligible on August 28, 2003,  
13 for membership in the system under the provisions of ORS chapter 238 or other law;
- 14 (j) Any person who belongs to a class of employees who are not eligible to become members of  
15 the Oregon Public Service Retirement Plan under the provisions of ORS 238A.070 (2);
- 16 (k) Any person who is retired under ORS 238A.100 to 238A.245 or ORS chapter 238 and who  
17 continues to receive retirement benefits while employed; and
- 18 (L) Judges.
- 19 (5) "Firefighter" means:
- 20 (a) A person employed by a local government, as defined in ORS 174.116, whose primary job  
21 duties include the fighting of fires;
- 22 (b) The State Fire Marshal, the chief deputy state fire marshal and deputy state fire marshals;  
23 and
- 24 (c) An employee of the State Forestry Department who is certified by the State Forester as a  
25 professional wildland firefighter and whose primary duties include the abatement of uncontrolled  
26 fires as described in ORS 477.064.
- 27 (6) "Fund" means the Public Employees Retirement Fund.
- 28 (7)(a) "Hour of service" means:
- 29 (A) An hour for which an eligible employee is directly or indirectly paid or entitled to payment  
30 by a participating public employer for performance of duties in a qualifying position; and
- 31 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave  
32 during which an employee does not perform duties but for which the employee is directly or indi-  
33 rectly paid or entitled to payment by a participating public employer for services in a qualifying  
34 position, as long as the hour is within the number of hours regularly scheduled for the performance  
35 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-  
36 thorized leave.
- 37 (b) "Hour of service" does not include any hour for which payment is made or due under a plan  
38 maintained solely for the purpose of complying with applicable workers' compensation laws or un-  
39 employment compensation laws.
- 40 (8) "Inactive member" means a member of the pension program or the individual account pro-  
41 gram of the Oregon Public Service Retirement Plan whose membership has not been terminated, who  
42 is not a retired member and who is not employed in a qualifying position.
- 43 (9) "Individual account program" means the defined contribution individual account program of  
44 the Oregon Public Service Retirement Plan established under ORS 238A.025.
- 45 (10) "Member" means an eligible employee who has established membership in the pension pro-

1 gram or the individual account program of the Oregon Public Service Retirement Plan and whose  
2 membership has not been terminated under ORS 238A.110 or 238A.310.

3 (11) "Participating public employer" means a public employer as defined in ORS 238.005 that  
4 provides retirement benefits for employees of the public employer under the system.

5 (12) "Pension program" means the defined benefit pension program of the Oregon Public Service  
6 Retirement Plan established under ORS 238A.025.

7 (13) "Police officer" means a police officer as described in ORS 238.005.

8 (14) "Qualifying position" means one or more jobs with one or more participating public em-  
9 ployers in which an eligible employee performs 600 or more hours of service in a calendar year,  
10 excluding any service in a job for which benefits are not provided under the Oregon Public Service  
11 Retirement Plan pursuant to ORS 238A.070 (2).

12 (15) "Retired member" means a pension program member who is receiving a pension as provided  
13 in ORS 238A.180 to 238A.195.

14 (16)(a) "Salary" means the remuneration paid to an active member in return for services to the  
15 participating public employer, including remuneration in the form of living quarters, board or other  
16 items of value, to the extent the remuneration is includable in the employee's taxable income under  
17 Oregon law. Salary includes the additional amounts specified in paragraph (b) of this subsection,  
18 but does not include the amounts specified in paragraph (c) of this subsection, regardless of whether  
19 those amounts are includable in taxable income.

20 (b) "Salary" includes the following amounts:

21 (A) Payments of employee and employer money into a deferred compensation plan that are made  
22 at the election of the employee.

23 (B) Contributions to a tax-sheltered or deferred annuity that are made at the election of the  
24 employee.

25 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit  
26 plan by the employer at the election of the employee and that is not includable in the taxable in-  
27 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on [December 31, 2008]  
28 **May 1, 2009.**

29 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the  
30 election of the employee and that is not included in the taxable income of the employee by reason  
31 of 26 U.S.C. 402(e)(3), as in effect on [December 31, 2008] **May 1, 2009.**

32 (E) Retroactive payments made to an employee to correct a clerical error, pursuant to an award  
33 by a court or by order of or pursuant to a conciliation agreement with an administration agency  
34 charged with enforcing federal or state law protecting the employee's rights to employment or  
35 wages, which shall be allocated to and deemed paid in the periods in which the work was done or  
36 in which the work would have been done.

37 (F) The amount of an employee contribution to the individual account program that is paid by  
38 the employer and deducted from the compensation of the employee, as provided under ORS 238A.335  
39 (1) and (2)(a).

40 (G) The amount of an employee contribution to the individual account program that is not paid  
41 by the employer under ORS 238A.335.

42 (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS  
43 652.190.

44 (c) "Salary" does not include the following amounts:

45 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the

1 employer.

2 (B) Payments made on account of an employee's death.

3 (C) Any lump sum payment for accumulated unused sick leave, vacation leave or other paid  
4 leave.

5 (D) Any severance payment, accelerated payment of an employment contract for a future period  
6 or advance against future wages.

7 (E) Any retirement incentive, retirement bonus or retirement gratuitous payment.

8 (F) Payment for a leave of absence after the date the employer and employee have agreed that  
9 no future services in a qualifying position will be performed.

10 (G) Payments for instructional services rendered to institutions of the Department of Higher  
11 Education or the Oregon Health and Science University when those services are in excess of full-  
12 time employment subject to this chapter. A person employed under a contract for less than 12  
13 months is subject to this subparagraph only for the months covered by the contract.

14 (H) The amount of an employee contribution to the individual account program that is paid by  
15 the employer and is not deducted from the compensation of the employee, as provided under ORS  
16 238A.335 (1) and (2)(b).

17 (I) Any amount in excess of \$200,000 for a calendar year. If any period over which salary is  
18 determined is less than 12 months, the \$200,000 limitation for that period shall be multiplied by a  
19 fraction, the numerator of which is the number of months in the determination period and the de-  
20 nominator of which is 12. The board shall adopt rules adjusting this dollar limit to incorporate  
21 cost-of-living adjustments authorized by the Internal Revenue Service.

22 (17) "System" means the Public Employees Retirement System.

23 **SECTION 2.** ORS 238A.125, as amended by section 2, chapter 5, Oregon Laws 2009 (Enrolled  
24 House Bill 2157), is amended to read:

25 238A.125. (1) Upon retiring at normal retirement age, a vested pension program member shall  
26 be paid an annual pension for the life of the member as follows:

27 (a) For service as a police officer or firefighter, 1.8 percent of final average salary multiplied  
28 by the number of years of retirement credit attributable to service as a police officer or firefighter.

29 (b) For service as other than a police officer or firefighter, 1.5 percent of final average salary  
30 multiplied by the number of years of retirement credit attributable to service as other than a police  
31 officer or firefighter.

32 (2) Notwithstanding any provision of ORS 238A.100 to 238A.245, the annual benefit payable to  
33 a member under the pension program and under any other tax-qualified defined benefit plan main-  
34 tained by the participating public employer may not exceed the applicable limitations set forth in  
35 26 U.S.C. 415(b), as in effect on [December 31, 2008] **May 1, 2009**. The Public Employees Retirement  
36 Board shall adopt rules for the administration of this limitation, including adjustments in the annual  
37 dollar limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

38 (3) The board shall make no actuarial adjustment in a member's pension calculated under this  
39 section by reason of the member's retirement after normal retirement age.

40 **SECTION 3.** ORS 238A.150, as amended by section 3, chapter 5, Oregon Laws 2009 (Enrolled  
41 House Bill 2157), is amended to read:

42 238A.150. (1) Notwithstanding any other provision of ORS 238A.100 to 238A.245, an eligible em-  
43 ployee who leaves a qualifying position for the purpose of performing service in the uniformed ser-  
44 vices, and who subsequently returns to employment with a participating public employer with  
45 reemployment rights under federal law, is entitled to accrue retirement credit, credit toward the

1 probationary period required by ORS 238A.100 and credit toward the vesting requirements of ORS  
2 238A.115 under rules adopted by the Public Employees Retirement Board pursuant to subsection (2)  
3 of this section.

4 (2) The board shall adopt rules establishing benefits and service credit for any period of service  
5 in the uniformed services by an employee described in subsection (1) of this section. For the purpose  
6 of adopting rules under this subsection, the board shall consider and take into account all federal  
7 law relating to benefits and service credit for any period of service in the uniformed services, in-  
8 cluding 26 U.S.C. 414(u), as in effect on [December 31, 2008] **May 1, 2009**. Benefits and service credit  
9 under rules adopted by the board pursuant to this subsection may not exceed benefits and service  
10 credit required under federal law for periods of service in the uniformed services.

11 **SECTION 4.** ORS 238A.170, as amended by section 4, chapter 5, Oregon Laws 2009 (Enrolled  
12 House Bill 2157), is amended to read:

13 238A.170. (1) An active member of the pension program who is 70-1/2 years of age or older must  
14 retire not later than April 1 of the calendar year following the calendar year in which the member  
15 terminates employment with all participating public employers. An inactive member of the pension  
16 program must retire not later than April 1 of the calendar year following the calendar year in which  
17 the member attains 70-1/2 years of age.

18 (2) Notwithstanding any other provision of ORS 238A.100 to 238A.245, the entire interest of a  
19 member of the pension program must be distributed over a time period commencing no later than  
20 the required beginning date set forth in subsection (1) of this section, and must be distributed in a  
21 manner that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regu-  
22 lations implementing that section, as in effect on [December 31, 2008] **May 1, 2009**. The Public Em-  
23 ployees Retirement Board shall adopt rules implementing those minimum distribution requirements.

24 **SECTION 5.** ORS 238A.230, as amended by section 5, chapter 5, Oregon Laws 2009 (Enrolled  
25 House Bill 2157), is amended to read:

26 238A.230. (1) If a member of the pension program who is vested dies before the member's effec-  
27 tive date of retirement, the Public Employees Retirement Board shall pay the death benefit provided  
28 for in this section to the spouse of the member or to any other person who is constitutionally re-  
29 quired to be treated in the same manner as a spouse for the purpose of retirement benefits.

30 (2)(a) The death benefit to be paid under this section shall be for the life of the spouse or other  
31 person who is constitutionally required to be treated in the same manner as a spouse, and shall be  
32 the actuarial equivalent of 50 percent of the pension that would otherwise have been paid to the  
33 deceased member.

34 (b) For the purpose of paragraph (a) of this subsection, the amount of the pension that would  
35 otherwise have been paid to the deceased member shall be calculated:

36 (A) As of the date of death if the member dies after the earliest retirement date for the member  
37 under ORS 238A.165; or

38 (B) As if the member became an inactive member on the date of death and thereafter retired  
39 at the earliest retirement date if the member dies before the earliest retirement date for the member  
40 under ORS 238A.165.

41 (3) The death benefit provided under this section is first effective on the first day of the month  
42 following the date of death of the member. The surviving spouse or other person entitled to the  
43 death benefit may elect to delay payment of the death benefit, but payment must commence no later  
44 than December 31 of the calendar year in which the member would have reached 70-1/2 years of age.

45 (4) Notwithstanding any other provision of ORS 238A.100 to 238A.245, distributions of death

1 benefits under the pension program must comply with the minimum distribution requirements of 26  
2 U.S.C. 401(a)(9) and the regulations implementing that section, as in effect on [December 31, 2008]  
3 **May 1, 2009**. The board shall adopt rules implementing those minimum distribution requirements.

4 **SECTION 6.** ORS 238A.370, as amended by section 6, chapter 5, Oregon Laws 2009 (Enrolled  
5 House Bill 2157), is amended to read:

6 238A.370. Notwithstanding any other provision of ORS 238A.300 to 238A.415, the annual addition  
7 to the employee and employer accounts of a member of the individual account program for a cal-  
8 endar year, together with the annual additions to the accounts of the member under any other de-  
9 fined contribution plan maintained by the participating public employer for a calendar year, may  
10 not exceed the lesser of \$40,000, or 100 percent of the member's compensation for that calendar year.  
11 For purposes of this section, "annual addition" has the meaning given that term in 26 U.S.C.  
12 415(c)(2), as in effect on [December 31, 2008] **May 1, 2009**, and "compensation" has the meaning given  
13 the term "participant's compensation" in 26 U.S.C. 415(c)(3), as in effect on [December 31, 2008] **May**  
14 **1, 2009**. The Public Employees Retirement Board shall adopt rules for the administration of this  
15 limitation, including adjustments in the annual dollar limitation to reflect cost-of-living adjustments  
16 authorized by the Internal Revenue Service.

17 **SECTION 7.** ORS 238A.400, as amended by section 7, chapter 5, Oregon Laws 2009 (Enrolled  
18 House Bill 2157), is amended to read:

19 238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS  
20 238A.165, a member of the individual account program shall receive in a lump sum the amounts in  
21 the member's employee account, rollover account and employer account to the extent the member  
22 is vested in those accounts under ORS 238A.320.

23 (2) In lieu of a lump sum payment under subsection (1) of this section, a member of the individ-  
24 ual account program may elect to receive the amounts in the member's employee account and em-  
25 ployer account, to the extent the member is vested in those accounts under ORS 238A.320, in  
26 substantially equal installments paid over a period of 5, 10, 15 or 20 years, or over a period that is  
27 equal to the anticipated life span of the member as actuarially determined by the Public Employees  
28 Retirement Board. Installments may be made on a monthly, quarterly or annual basis. In no event  
29 may the period selected by the member exceed the time allowed by the minimum distribution re-  
30 quirements described in subsection (5) of this section. The board shall by rule establish the manner  
31 in which installments will be adjusted to reflect investment gains and losses on the unpaid balance  
32 during the payout period elected by the member under this subsection. The board by rule may es-  
33 tablish minimum monthly amounts payable under this subsection. The board may require that a  
34 lump sum payment, or an installment schedule different than the schedules provided for in this  
35 subsection, be used to pay the vested amounts in the member's accounts if those amounts are not  
36 adequate to generate the minimum monthly amounts specified by the rule.

37 (3) A member of the individual account program electing to receive installments under sub-  
38 section (2) of this section must designate a beneficiary or beneficiaries. In the event the member dies  
39 before all amounts in the employee and vested employer accounts are paid, all remaining installment  
40 payments shall be made to the beneficiary or beneficiaries designated by the member. A beneficiary  
41 may elect to receive a lump sum distribution of the remaining amounts.

42 (4) A member who is entitled to receive retirement benefits under ORS chapter 238 may receive  
43 vested amounts in the member's employee account, rollover account and employer account in the  
44 manner provided by this section when the member retires for service under the provisions of ORS  
45 chapter 238.

1 (5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest of a  
 2 member of the individual account program must be distributed over a time period commencing no  
 3 later than the latest retirement date set forth in ORS 238A.170, and must be distributed in a manner  
 4 that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations im-  
 5 plementing that section, as in effect on [December 31, 2008] **May 1, 2009**. The board shall adopt rules  
 6 implementing those minimum distribution requirements.

7 **SECTION 8.** ORS 238A.410, as amended by section 8, chapter 5, Oregon Laws 2009 (Enrolled  
 8 House Bill 2157), is amended to read:

9 238A.410. (1) If a member of the individual account program dies before retirement, the amounts  
 10 in the member's employee account, rollover account and employer account, to the extent the member  
 11 is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the beneficiary or  
 12 beneficiaries designated by the member for the purposes of this section.

13 (2) If a member of the individual account program is married at the time of death, or there exists  
 14 at the time of death any other person who is constitutionally required to be treated in the same  
 15 manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the  
 16 beneficiary for purposes of the death benefit payable under this section unless the spouse or other  
 17 person consents to the designation of a different beneficiary or beneficiaries before the designation  
 18 has been made and the consent has not been revoked by the spouse or other person as of the time  
 19 of the member's death. Consent and revocation of consent must be in writing, acknowledged by a  
 20 notary public, and submitted to the Public Employees Retirement Board in accordance with rules  
 21 adopted by the board. If the member's spouse is designated as the member's beneficiary and the  
 22 marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated as  
 23 predeceasing the member for purposes of this section, unless the member expressly designates the  
 24 former spouse as beneficiary after the effective date of the dissolution or the former spouse is re-  
 25 quired to be designated as a beneficiary under the provisions of ORS 238.465.

26 (3) For purposes of this section and ORS 238A.400 (3), if a member fails to designate a benefi-  
 27 ciary, or if the person or persons designated do not survive the member, the death benefit provided  
 28 for in this section shall be paid to the following person or persons, in the following order of priority:

29 (a) The member's surviving spouse or other person who is constitutionally required to be treated  
 30 in the same manner as a spouse;

31 (b) The member's surviving children, in equal shares; or

32 (c) The member's estate.

33 (4) The entire amount of a deceased member's vested accounts must be distributed by December  
 34 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other  
 35 provision of this chapter, distributions of death benefits under the individual account program must  
 36 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-  
 37 plementing that section, as in effect on [December 31, 2008] **May 1, 2009**. The Public Employees  
 38 Retirement Board shall adopt rules implementing those minimum distribution requirements.

39 **SECTION 9.** ORS 238A.415, as amended by section 9, chapter 5, Oregon Laws 2009 (Enrolled  
 40 House Bill 2157), is amended to read:

41 238A.415. (1) Notwithstanding any other provision of ORS 238A.300 to 238A.415, an eligible em-  
 42 ployee who leaves a qualifying position for the purpose of performing service in the uniformed ser-  
 43 vices, and who subsequently returns to employment with a participating public employer with  
 44 reemployment rights under federal law, is entitled to credit toward the probationary period required  
 45 by ORS 238A.300, credit toward the vesting requirements of ORS 238A.320 and contributions under

1 rules adopted by the Public Employees Retirement Board pursuant to subsection (2) of this section.

2 (2) The board shall adopt rules establishing contributions and service credit for any period of  
3 service in the uniformed services by an employee described in subsection (1) of this section. For the  
4 purpose of adopting rules under this subsection, the board shall consider and take into account all  
5 federal law relating to benefits and service credit for any period of service in the uniformed ser-  
6 vices, including 26 U.S.C. 414(u), as in effect on [December 31, 2008] **May 1, 2009**. Contributions and  
7 service credit under rules adopted by the board pursuant to this subsection may not exceed contri-  
8 butions and service credit required under federal law for periods of service in the uniformed ser-  
9 vices.

10 **SECTION 10.** ORS 238A.430, as amended by section 10, chapter 5, Oregon Laws 2009 (Enrolled  
11 House Bill 2157), is amended to read:

12 238A.430. (1) To the extent required by law, and except as otherwise provided by rules adopted  
13 by the Public Employees Retirement Board under subsection (4) of this section, any portion of a  
14 distribution of benefits described in subsection (2) of this section shall, at the election of and in lieu  
15 of distribution to the distributee, be paid directly to an eligible retirement plan specified by the  
16 distributee.

17 (2) The provisions of subsection (1) of this section apply to a distribution of any benefit under  
18 the pension program or the individual account program except:

19 (a) A distribution that is one of a series of substantially equal periodic payments made at least  
20 annually for the life or life expectancy of the distributee, or for the joint lives or life expectancies  
21 of the distributee and a designated beneficiary;

22 (b) A distribution that is one of a series of substantially equal periodic payments made at least  
23 annually for a specified period of 10 years or more; and

24 (c) A distribution to the extent that the distribution is required under 26 U.S.C. 401(a)(9).

25 (3) The provisions of subsection (1) of this section apply to any portion of a distribution of  
26 benefits under the pension program or the individual account program even though the portion  
27 consists of after-tax employee contributions that are not includable in gross income. Any portion of  
28 a distribution that consists of after-tax employee contributions that are not includable in gross in-  
29 come may be transferred only to an individual retirement account or annuity described in 26 U.S.C.  
30 408(a) or (b), or to a qualified defined contribution or defined benefit plan described in 26 U.S.C.  
31 401(a) or 403(b) that agrees to account separately for amounts transferred, including accounting  
32 separately for the portion of the distribution that is includable in gross income and the portion of  
33 the distribution that is not includable in gross income. The amount transferred shall be treated as  
34 consisting first of the portion of the distribution that is includable in gross income, determined  
35 without regard to 26 U.S.C. 402(c)(1).

36 (4) The board shall adopt rules implementing the direct rollover requirements of 26 U.S.C.  
37 401(a)(31) and the regulations implementing that section, and may adopt administrative exceptions  
38 to the direct rollover requirements to the extent permitted by 26 U.S.C. 401(a)(31) and the regu-  
39 lations implementing that section.

40 (5) All references in this section to federal laws and regulations are to the laws and regulations  
41 in effect on [December 31, 2008] **May 1, 2009**.

42 (6) For purposes of this section:

43 (a) "Distributee" means a member, a member's surviving spouse or a member's alternate payee  
44 under ORS 238.465.

45 (b) "Eligible retirement plan" means:

1 (A) An individual retirement account described in 26 U.S.C. 408(a);

2 (B) An individual retirement annuity described in 26 U.S.C. 408(b), other than an endowment  
3 contract;

4 (C) A qualified trust under 26 U.S.C. 401(a), that is a defined contribution or defined benefit plan  
5 and permits the acceptance of rollover contributions;

6 (D) An annuity plan described in 26 U.S.C. 403(a);

7 (E) An eligible deferred compensation plan described in 26 U.S.C. 457(b) that is maintained by  
8 an eligible governmental employer described in 26 U.S.C. 457(e)(1)(A) and that agrees to account  
9 separately for amounts transferred into such plan from the distributing plan; or

10 (F) An annuity contract described in 26 U.S.C. 403(b).

11 **SECTION 11.** ORS 305.230, as amended by section 1, chapter 45, Oregon Laws 2008, and section  
12 11, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

13 305.230. (1) Notwithstanding ORS 9.320:

14 (a) Any person who is qualified to practice law or public accountancy in this state, any person  
15 who has been granted active enrollment to practice before the Internal Revenue Service and who  
16 is qualified to prepare tax returns in this state or any person who is the authorized employee of a  
17 taxpayer and is regularly employed by the taxpayer in tax matters may represent the taxpayer be-  
18 fore a tax court magistrate or the Department of Revenue in any conference or proceeding with  
19 respect to the administration of any tax.

20 (b) Any person who is licensed by the State Board of Tax Practitioners or who is exempt from  
21 such licensing requirement as provided for and limited by ORS 673.610 may represent a taxpayer  
22 before a tax court magistrate or the department in any conference or proceeding with respect to the  
23 administration of any tax on or measured by net income.

24 (c) Any shareholder of an S corporation, as defined in section 1361 of the Internal Revenue  
25 Code, as amended and in effect on [*December 31, 2008*] **May 1, 2009**, may represent the corporation  
26 in any proceeding before a tax court magistrate or the department in the same manner as if the  
27 shareholder were a partner and the S corporation were a partnership. The S corporation must des-  
28 ignate in writing a tax matters shareholder authorized to represent the S corporation.

29 (d) An individual who is licensed as a real estate broker or principal real estate broker under  
30 ORS 696.022 or is a state certified appraiser or state licensed appraiser under ORS 674.310 or is a  
31 registered appraiser under ORS 308.010 may represent a taxpayer before a tax court magistrate or  
32 the department in any conference or proceeding with respect to the administration of any ad  
33 valorem property tax.

34 (e) A general partner who has been designated by members of a partnership as their tax matters  
35 partner under ORS 305.242 may represent those partners in any conference or proceeding with re-  
36 spect to the administration of any tax on or measured by net income.

37 (f) Any person authorized under rules adopted by the department may represent a taxpayer be-  
38 fore the department in any conference or proceeding with respect to any tax. Rules adopted under  
39 this paragraph, to the extent feasible, shall be consistent with federal law that governs represen-  
40 tation before the Internal Revenue Service, as federal law is amended and in effect on [*December*  
41 *31, 2008*] **May 1, 2009**.

42 (g) Any person authorized under rules adopted by the tax court may represent a taxpayer in a  
43 proceeding before a tax court magistrate.

44 (2) A person may not be recognized as representing a taxpayer pursuant to this section unless  
45 there is first filed with the magistrate or department a written authorization, or unless it appears

1 to the satisfaction of the magistrate or department that the representative does in fact have au-  
2 thority to represent the taxpayer. A person recognized as an authorized representative under rules  
3 or procedures adopted by the tax court shall be considered an authorized representative by the de-  
4 partment.

5 (3) A taxpayer represented by someone other than an attorney is bound by all things done by  
6 the authorized representative, and may not thereafter claim any proceeding was legally defective  
7 because the taxpayer was not represented by an attorney.

8 (4) Prior to the holding of a conference or proceeding before the tax court magistrate or de-  
9 partment, written notice shall be given by the magistrate or department to the taxpayer of the  
10 provisions of subsection (3) of this section.

11 **SECTION 12.** ORS 305.494, as amended by section 2, chapter 45, Oregon Laws 2008, and section  
12 12, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

13 305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation as defined in section  
14 1361 of the Internal Revenue Code, as amended and in effect on [December 31, 2008] **May 1, 2009**,  
15 may represent the corporation in any proceeding before the Oregon Tax Court in the same manner  
16 as if the shareholder were a partner and the S corporation were a partnership.

17 **SECTION 13.** ORS 305.690, as amended by section 3, chapter 45, Oregon Laws 2008, and section  
18 13, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

19 305.690. As used in ORS 305.690 to 305.753, unless the context otherwise requires:

20 (1) "Biennial years" means the two income tax years of individual taxpayers that begin in the  
21 two calendar years immediately following the calendar year in which a list is certified under ORS  
22 305.715.

23 (2) "Commission" means the Oregon Charitable Checkoff Commission.

24 (3) "Department" means the Department of Revenue.

25 (4) "Eligibility roster" means a list, prepared under ORS 305.715 and maintained by the com-  
26 mission in chronological order based on the date of form listing or date of eligibility determination,  
27 whichever is later, of charitable and governmental entities seeking inclusion on the Oregon indi-  
28 vidual income tax return forms.

29 (5) "Form listed" or "form listing" means being listed on the Oregon individual income tax re-  
30 turn form.

31 (6) "Instruction listing" means being listed on the Department of Revenue instructions for tax  
32 return checkoff contribution.

33 (7) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect  
34 on [December 31, 2008] **May 1, 2009**.

35 **SECTION 14.** ORS 307.130, as amended by section 4, chapter 45, Oregon Laws 2008, and section  
36 14, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

37 307.130. (1) As used in this section:

38 (a) "Art museum" means a nonprofit corporation organized to display works of art to the public.

39 (b) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect  
40 on [December 31, 2008] **May 1, 2009**.

41 (c) "Nonprofit corporation" means a corporation that:

42 (A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter  
43 65; or

44 (B) Is organized and operated as described under section 501(c) of the Internal Revenue Code.

45 (d) "Volunteer fire department" means a nonprofit corporation organized to provide fire pro-

1 tection services in a specific response area.

2 (2) Upon compliance with ORS 307.162, the following property owned or being purchased by art  
3 museums, volunteer fire departments, or incorporated literary, benevolent, charitable and scientific  
4 institutions shall be exempt from taxation:

5 (a) Except as provided in ORS 748.414, only such real or personal property, or proportion  
6 thereof, as is actually and exclusively occupied or used in the literary, benevolent, charitable or  
7 scientific work carried on by such institutions.

8 (b) Parking lots used for parking or any other use as long as that parking or other use is per-  
9 mitted without charge for no fewer than 355 days during the tax year.

10 (c) All real or personal property of a rehabilitation facility or any retail outlet thereof, including  
11 inventory. As used in this subsection, "rehabilitation facility" means either those facilities defined  
12 in ORS 344.710 or facilities which provide individuals who have physical, mental or emotional disa-  
13 bilities with occupational rehabilitation activities of an educational or therapeutic nature, even if  
14 remuneration is received by the individual.

15 (d) All real and personal property of a retail store dealing exclusively in donated inventory,  
16 where the inventory is distributed without cost as part of a welfare program or where the proceeds  
17 of the sale of any inventory sold to the general public are used to support a welfare program. As  
18 used in this subsection, "welfare program" means the providing of food, shelter, clothing or health  
19 care, including dental service, to needy persons without charge.

20 (e) All real and personal property of a retail store if:

21 (A) The retail store deals primarily and on a regular basis in donated and consigned inventory;

22 (B) The individuals who operate the retail store are all individuals who work as volunteers; and

23 (C) The inventory is either distributed without charge as part of a welfare program, or sold to  
24 the general public and the sales proceeds used exclusively to support a welfare program. As used  
25 in this paragraph, "primarily" means at least one-half of the inventory.

26 (f) The real and personal property of an art museum that is used in conjunction with the public  
27 display of works of art or used to educate the public about art, but not including any portion of the  
28 art museum's real or personal property that is used to sell, or hold out for sale, works of art, re-  
29 productions of works of art or other items to be sold to the public.

30 (g) All real and personal property of a volunteer fire department that is used in conjunction with  
31 services and activities for providing fire protection to all residents within a fire response area.

32 (h) All real and personal property, including inventory, of a retail store owned by a nonprofit  
33 corporation if:

34 (A) The retail store deals exclusively in donated inventory; and

35 (B) Proceeds of the retail store sales are used to support a not-for-profit housing program whose  
36 purpose is to:

37 (i) Acquire property and construct housing for resale to individuals at or below the cost of ac-  
38 quisition and construction; and

39 (ii) Provide loans bearing no interest to individuals purchasing housing through the program.

40 (3) An art museum or institution shall not be deprived of an exemption under this section solely  
41 because its primary source of funding is from one or more governmental entities.

42 (4) An institution shall not be deprived of an exemption under this section because its purpose  
43 or the use of its property is not limited to relieving pain, alleviating disease or removing constraints.

44 **SECTION 15.** ORS 307.147, as amended by section 5, chapter 45, Oregon Laws 2008, and section  
45 15, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

1 307.147. (1) For purposes of this section:

2 (a) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect  
3 on [December 31, 2008] **May 1, 2009**.

4 (b) "Nonprofit corporation" means a corporation that:

5 (A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter  
6 65; or

7 (B) Is organized and operated as described under section 501(c) of the Internal Revenue Code.

8 (c) "Senior services center" means property that:

9 (A) Is owned or being purchased by a nonprofit corporation;

10 (B) Is actually and exclusively used to provide services and activities (including parking) pri-  
11 marily to or for persons over 50 years of age;

12 (C) Is open generally to all persons over 50 years of age;

13 (D) Is not used primarily for fund-raising activities; and

14 (E) Is not a residential or dwelling place.

15 (2) Upon compliance with ORS 307.162, a senior services center is exempt from ad valorem  
16 property taxation.

17 **SECTION 16.** ORS 308A.450, as amended by section 6, chapter 45, Oregon Laws 2008, and sec-  
18 tion 16, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

19 308A.450. As used in ORS 308A.450 to 308A.465:

20 (1) "Conservation easement" has the meaning given that term in ORS 271.715.

21 (2) "Holder" has the meaning given that term in ORS 271.715.

22 (3) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect  
23 on [December 31, 2008] **May 1, 2009**.

24 (4) "Lot" has the meaning given that term in ORS 92.010.

25 (5) "Parcel" has the meaning given that term in ORS 92.010, as further modified by ORS 215.010.

26 **SECTION 17.** ORS 310.140, as amended by section 7, chapter 45, Oregon Laws 2008, and section  
27 17, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

28 310.140. The Legislative Assembly finds that section 11b, Article XI of the Oregon Constitution,  
29 was drafted by citizens and placed before the voters of the State of Oregon by initiative petition.  
30 Section 11b, Article XI of the Oregon Constitution, uses terms that do not have established legal  
31 meanings and require definition by the Legislative Assembly. Section 11b, Article XI of the Oregon  
32 Constitution, was amended by section 11 (11), Article XI of the Oregon Constitution. This section is  
33 intended to interpret the terms of section 11b, Article XI of the Oregon Constitution, as originally  
34 adopted and as amended by section 11 (11), Article XI of the Oregon Constitution, consistent with  
35 the intent of the people in adopting these provisions, so that the provisions of section 11b, Article  
36 XI of the Oregon Constitution, may be given effect uniformly throughout the State of Oregon, with  
37 minimal confusion and misunderstanding by citizens and affected units of government. As used in the  
38 revenue and tax laws of this state, and for purposes of section 11b, Article XI of the Oregon Con-  
39 stitution:

40 (1) "Actual cost" means all direct or indirect costs incurred by a government unit in order to  
41 deliver goods or services or to undertake a capital construction project. The "actual cost" of pro-  
42 viding goods or services to a property or property owner includes the average cost or an allocated  
43 portion of the total amount of the actual cost of making a good or service available to the property  
44 or property owner, whether stated as a minimum, fixed or variable amount. "Actual cost" includes,  
45 but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition,

1 permits, engineering, financing, reasonable program delinquencies, return on investment, required  
2 fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, re-  
3 pair or replacement and debt service, including debt service payments or payments into reserve ac-  
4 counts for debt service and payment of amounts necessary to meet debt service coverage  
5 requirements.

6 (2) "Assessment for local improvement" means any tax, fee, charge or assessment that does not  
7 exceed the actual cost incurred by a unit of government for design, construction and financing of  
8 a local improvement.

9 (3) "Bonded indebtedness" means any formally executed written agreement representing a  
10 promise by a unit of government to pay to another a specified sum of money, at a specified date or  
11 dates at least one year in the future.

12 (4) "Capital construction":

13 (a) For bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any  
14 bonded indebtedness approved by electors prior to December 5, 1996, that were spent or  
15 contractually obligated to be spent prior to June 20, 1997, means the construction, modification,  
16 replacement, repair, remodeling or renovation of a structure, or addition to a structure, that is ex-  
17 pected to have a useful life of more than one year, and includes, but is not limited to:

18 (A) Acquisition of land, or a legal interest in land, in conjunction with the capital construction  
19 of a structure.

20 (B) Acquisition, installation of machinery or equipment, furnishings or materials that will be-  
21 come an integral part of a structure.

22 (C) Activities related to the capital construction, including planning, design, authorizing, issuing,  
23 carrying or repaying interim or permanent financing, research, land use and environmental impact  
24 studies, acquisition of permits or licenses or other services connected with the construction.

25 (D) Acquisition of existing structures, or legal interests in structures, in conjunction with the  
26 capital construction.

27 (b) For bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any  
28 bonded indebtedness approved by electors prior to December 5, 1996, that were spent or  
29 contractually obligated to be spent before June 20, 1997, has the meaning given that term in para-  
30 graph (a) of this subsection, except that "capital construction":

31 (A) Includes public safety and law enforcement vehicles with a projected useful life of five years  
32 or more; and

33 (B) Does not include:

34 (i) Maintenance and repairs, the need for which could be reasonably anticipated;

35 (ii) Supplies and equipment that are not intrinsic to the structure; or

36 (iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, con-  
37 struction, remodeling or renovation of a structure, or the repair of a structure that is required be-  
38 cause of damage or destruction of the structure.

39 (5) "Capital improvements":

40 (a) For bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any  
41 bonded indebtedness approved by electors before December 5, 1996, that were spent or contractually  
42 obligated to be spent before June 20, 1997, means land, structures, facilities, personal property that  
43 is functionally related and subordinate to real property, machinery, equipment or furnishings having  
44 a useful life longer than one year.

45 (b) For bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any

1 bonded indebtedness approved by electors prior to December 5, 1996, that were spent or  
2 contractually obligated to be spent before June 20, 1997, has the meaning given that term in para-  
3 graph (a) of this subsection, except that “capital improvements”:

4 (A) Includes public safety and law enforcement vehicles with a projected useful life of five years  
5 or more; and

6 (B) Does not include:

7 (i) Maintenance and repairs, the need for which could be reasonably anticipated;

8 (ii) Supplies and equipment that are not intrinsic to the structure; or

9 (iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, con-  
10 struction, remodeling or renovation of a structure, or the repair of a structure that is required be-  
11 cause of damage or destruction of the structure.

12 (6) “Direct consequence of ownership” means that the obligation of the owner of property to pay  
13 a tax arises solely because that person is the owner of the property, and the obligation to pay the  
14 tax arises as an immediate and necessary result of that ownership without respect to any other in-  
15 tervening transaction, condition or event.

16 (7)(a) “Exempt bonded indebtedness” means:

17 (A) Bonded indebtedness authorized by a specific provision of the Oregon Constitution;

18 (B) Bonded indebtedness incurred or to be incurred for capital construction or capital improve-  
19 ments that was issued as a general obligation of the issuing governmental unit on or before No-  
20 vember 6, 1990;

21 (C) Bonded indebtedness incurred or to be incurred for capital construction or capital improve-  
22 ments that was issued as a general obligation of the issuing governmental unit after November 6,  
23 1990, with the approval of the electors of the issuing governmental unit; or

24 (D) Bonded indebtedness incurred or to be incurred for capital construction or capital improve-  
25 ments, if the issuance of the bonds is approved by voters on or after December 5, 1996, in an election  
26 that is in compliance with the voter participation requirements of section 11 (8), Article XI of the  
27 Oregon Constitution.

28 (b) “Exempt bonded indebtedness” includes bonded indebtedness issued to refund or refinance  
29 any bonded indebtedness described in paragraph (a) of this subsection.

30 (8)(a) “Incurred charge” means a charge imposed by a unit of government on property or upon  
31 a property owner that does not exceed the actual cost of providing goods or services and that can  
32 be controlled or avoided by the property owner because:

33 (A) The charge is based on the quantity of the goods or services used, and the owner has direct  
34 control over the quantity;

35 (B) The goods or services are provided only on the specific request of the property owner; or

36 (C) The goods or services are provided by the government unit only after the individual property  
37 owner has failed to meet routine obligations of ownership of the affected property, and such action  
38 is deemed necessary by an appropriate government unit to enforce regulations pertaining to health  
39 or safety.

40 (b) For purposes of this subsection, an owner of property may control or avoid an incurred  
41 charge if the owner is capable of taking action to affect the amount of a charge that is or will be  
42 imposed or to avoid imposition of a charge even if the owner must incur expense in so doing.

43 (c) For purposes of paragraph (a)(A) of this subsection, an owner of property has direct control  
44 over the quantity of goods or services if the owner of property has the ability, whether or not that  
45 ability is exercised, to determine the quantity of goods or services provided or to be provided.

1 (9)(a) "Local improvement" means a capital construction project, or part thereof, undertaken by  
2 a local government, pursuant to ORS 223.387 to 223.399, or pursuant to a local ordinance or resol-  
3 ution prescribing the procedure to be followed in making local assessments for benefits from a local  
4 improvement upon the lots that have been benefited by all or a part of the improvement:

5 (A) That provides a special benefit only to specific properties or rectifies a problem caused by  
6 specific properties;

7 (B) The costs of which are assessed against those properties in a single assessment upon the  
8 completion of the project; and

9 (C) For which the property owner may elect to make payment of the assessment plus appropriate  
10 interest over a period of at least 10 years.

11 (b) For purposes of paragraph (a) of this subsection, the status of a capital construction project  
12 as a local improvement is not affected by the accrual of a general benefit to property other than the  
13 property receiving the special benefit.

14 (10) "Maintenance and repairs, the need for which could be reasonably anticipated":

15 (a) Means activities, the type of which may be deducted as an expense under the provisions of  
16 the federal Internal Revenue Code, as amended and in effect on [December 31, 2008] **May 1, 2009**,  
17 that keep the property in ordinarily efficient operating condition and that do not add materially to  
18 the value of the property nor appreciably prolong the life of the property;

19 (b) Does not include maintenance and repair of property that is required by damage, destruction  
20 or defect in design, or that was otherwise not reasonably expected at the time the property was  
21 constructed or acquired, or the addition of material that is in the nature of the replacement of  
22 property and that arrests the deterioration or appreciably prolongs the useful life of the property;  
23 and

24 (c) Does not include street and highway construction, overlay and reconstruction.

25 (11) "Projected useful life" means the useful life, as reasonably estimated by the unit of gov-  
26 ernment undertaking the capital construction or capital improvement project, beginning with the  
27 date the property was acquired, constructed or reconstructed and based on the property's condition  
28 at the time the property was acquired, constructed or reconstructed.

29 (12) "Routine obligations of ownership" means a standard of operation, maintenance, use or care  
30 of property established by law, or if established by custom or common law, a standard that is rea-  
31 sonable for the type of property affected.

32 (13) "Single assessment" means the complete assessment process, including preassessment, as-  
33 sessment or reassessment, for any local improvement authorized by ORS 223.387 to 223.399, or a  
34 local ordinance or resolution that provides the procedure to be followed in making local assessments  
35 for benefits from a local improvement upon lots that have been benefited by all or part of the im-  
36 provement.

37 (14) "Special benefit only to specific properties" shall have the same meaning as "special and  
38 peculiar benefit" as that term is used in ORS 223.389.

39 (15) "Specific request" means:

40 (a) An affirmative act by a property owner to seek or obtain delivery of goods or services;

41 (b) An affirmative act by a property owner, the legal consequence of which is to cause the de-  
42 livery of goods or services to the property owner; or

43 (c) Failure of an owner of property to change a request for goods or services made by a prior  
44 owner of the property.

45 (16) "Structure" means any temporary or permanent building or improvement to real property

1 of any kind that is constructed on or attached to real property, whether above, on or beneath the  
2 surface.

3 (17) "Supplies and equipment intrinsic to a structure" means the supplies and equipment that  
4 are necessary to permit a structure to perform the functions for which the structure was con-  
5 structed, or that will, upon installation, constitute fixtures considered to be part of the real property  
6 that is comprised, in whole or part, of the structure and land supporting the structure.

7 (18) "Tax on property" means any tax, fee, charge or assessment imposed by any government  
8 unit upon property or upon a property owner as a direct consequence of ownership of that property,  
9 but does not include incurred charges or assessments for local improvements. As used in this sub-  
10 section, "property" means real or tangible personal property, and intangible property that is part  
11 of a unit of real or tangible personal property to the extent that such intangible property is subject  
12 to a tax on property.

13 **SECTION 18.** ORS 310.630, as amended by section 8, chapter 45, Oregon Laws 2008, and section  
14 18, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

15 310.630. As used in ORS 310.630 to 310.706:

16 (1) "Contract rent" means rental paid to the landlord for the right to occupy a homestead, in-  
17 cluding the right to use the personal property located therein. "Contract rent" does not include  
18 rental paid for the right to occupy a homestead that is exempt from taxation, unless payments in lieu  
19 of taxes of 10 percent or more of the rental exclusive of fuel and utilities are made on behalf of the  
20 homestead. "Contract rent" does not include advanced rental payments for another period and rental  
21 deposits, whether or not expressly set out in the rental agreement, or payments made to a nonprofit  
22 home for the elderly described in ORS 307.375. If a landlord and tenant have not dealt with each  
23 other at arm's length, and the Department of Revenue is satisfied that the contract rent charged  
24 was excessive, it may adjust the contract rent to a reasonable amount for purposes of ORS 310.630  
25 to 310.706.

26 (2) "Department" means the Department of Revenue.

27 (3) "Fuel and utility payments" includes payments for heat, lights, water, sewer and garbage  
28 made solely to secure those commodities or services for the homestead of the taxpayer. "Fuel and  
29 utility payments" does not include telephone service.

30 (4) "Gross rent" means contract rent paid plus the fuel and utility payments made for the  
31 homestead in addition to the contract rent, during the calendar year for which the claim is filed.

32 (5) "Homestead" means the taxable principal dwelling located in Oregon, either real or personal  
33 property, rented by the taxpayer, and the taxable land area of the tax lot upon which it is built.

34 (6) "Household" means the taxpayer, the spouse of the taxpayer and all other persons residing  
35 in the homestead during any part of the calendar year for which a claim is filed.

36 (7) "Household income" means the aggregate income of the taxpayer and the spouse of the tax-  
37 payer who reside in the household, that was received during the calendar year for which the claim  
38 is filed. "Household income" includes payments received by the taxpayer or the spouse of the tax-  
39 payer under the federal Social Security Act for the benefit of a minor child or minor children who  
40 are members of the household.

41 (8) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code,  
42 as amended and in effect on [December 31, 2008] **May 1, 2009**, even when the amendments take effect  
43 or become operative after that date, relating to the measurement of taxable income of individuals,  
44 estates and trusts, with the following modifications:

45 (a) There shall be added to adjusted gross income the following items of otherwise exempt in-

- 1 come:
- 2 (A) The gross amount of any otherwise exempt pension less return of investment, if any.
- 3 (B) Child support received by the taxpayer.
- 4 (C) Inheritances.
- 5 (D) Gifts and grants, the sum of which are in excess of \$500 per year.
- 6 (E) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is  
7 not a member of the taxpayer's household.
- 8 (F) Life insurance proceeds.
- 9 (G) Accident and health insurance proceeds, except reimbursement of incurred medical expenses.
- 10 (H) Personal injury damages.
- 11 (I) Sick pay which is not included in federal adjusted gross income.
- 12 (J) Strike benefits excluded from federal gross income.
- 13 (K) Worker's compensation, except for reimbursement of medical expense.
- 14 (L) Military pay and benefits.
- 15 (M) Veteran's benefits.
- 16 (N) Payments received under the federal Social Security Act which are excluded from federal  
17 gross income.
- 18 (O) Welfare payments, except as follows:
- 19 (i) Payments for medical care, drugs and medical supplies, if the payments are not made directly  
20 to the welfare recipient;
- 21 (ii) In-home services authorized and approved by the Department of Human Services; and
- 22 (iii) Direct or indirect reimbursement of expenses paid or incurred for participation in work or  
23 training programs.
- 24 (P) Nontaxable dividends.
- 25 (Q) Nontaxable interest not included in federal adjusted gross income.
- 26 (R) Rental allowance paid to a minister that is excluded from federal gross income.
- 27 (S) Income from sources without the United States that is excluded from federal gross income.
- 28 (b) Adjusted gross income shall be increased due to the disallowance of the following deductions:
- 29 (A) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible  
30 properties.
- 31 (B) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.
- 32 (C) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business,  
33 profession or other activity entered into for the production or collection of income.
- 34 (D) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for  
35 the production of rents, royalties or other income.
- 36 (E) The amount of any net operating loss carryovers or carrybacks included in federal adjusted  
37 gross income.
- 38 (F) The amount, in excess of \$5,000, of the combined deductions or other allowances for depre-  
39 ciation, amortization or depletion.
- 40 (G) The amount added or subtracted, as required within the context of this section, for adjust-  
41 ments made under ORS 316.680 (2)(d) and 316.707 to 316.737.
- 42 (c) "Income" does not include any of the following:
- 43 (A) Any governmental grant which must be used by the taxpayer for rehabilitation of the  
44 homestead of the taxpayer.
- 45 (B) The amount of any payments made pursuant to ORS 310.630 to 310.706.

1 (C) Any refund of Oregon personal income taxes that were imposed under ORS chapter 316.

2 (9) "Payments for heat" means those payments made to secure the commodities or services to  
3 be used as the principal source of heat for the homestead of the taxpayer and includes payments for  
4 natural gas, oil, firewood, coal, sawdust, electricity, steam or other materials that are capable of use  
5 as a primary source of heat for the homestead.

6 (10) "Statement of gross rent" means a declaration by the applicant, under penalties of false  
7 swearing, that the amount of contract rent and fuel and utility payments designated is the actual  
8 amount both incurred and paid during the year for which elderly rental assistance is claimed.

9 (11) "Taxpayer" means an individual who is a resident of this state on December 31 of the year  
10 for which elderly rental assistance is claimed and whose homestead, as of the same December 31  
11 and during all or a portion of the year ending on the same December 31, is rented and while rented  
12 is the subject, directly or indirectly, of property tax levied by this state or a political subdivision  
13 or of payments made in lieu of taxes.

14 **SECTION 19.** ORS 310.800, as amended by section 9, chapter 45, Oregon Laws 2008, and section  
15 19, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

16 310.800. (1) As used in this section:

17 (a) "Authorized representative" means a senior citizen who is authorized by a tax-exempt entity  
18 to perform charitable or public service on behalf of a senior citizen who has entered into a contract  
19 under subsection (2) of this section.

20 (b) "Homestead" means an owner-occupied principal residence.

21 (c) "Senior citizen" means a person who is 60 years of age or older.

22 (d) "Tax-exempt entity" means an entity that is exempt from federal income taxes under section  
23 501(c) of the Internal Revenue Code, as amended and in effect on [December 31, 2008] **May 1, 2009.**

24 (e) "Taxing unit" means any county, city or common or union high school district, community  
25 college service district or community college district within this state with authority to impose ad  
26 valorem property taxes.

27 (2) A tax-exempt entity may establish a property tax work-off program pursuant to which a  
28 senior citizen may contract to perform charitable or public service in consideration of payment of  
29 property taxes extended against the homestead of the senior citizen and billed to the senior citizen.  
30 For purposes of ORS chapters 316 and 656, and notwithstanding ORS 670.600 or other law, a senior  
31 citizen who enters into a contract under this subsection shall be considered an independent con-  
32 tractor and not a worker or employee with respect to the services performed pursuant to the con-  
33 tract. Nothing in this section precludes a taxing unit from being considered an employer, for  
34 purposes of unemployment compensation under ORS chapter 657, of a senior citizen who enters into  
35 a contract under this section.

36 (3) A taxing unit may enter into an agreement with a tax-exempt entity that has established a  
37 property tax work-off program. Pursuant to the agreement the taxing unit may accept, as volunteer  
38 and public service, the services of a senior citizen who has entered into a contract described in  
39 subsection (2) of this section or an authorized representative.

40 (4) A taxing unit may provide funds or make grants to any tax-exempt entity that has established  
41 a property tax work-off program for use to carry out the program.

42 **SECTION 20.** ORS 311.689, as amended by section 10, chapter 45, Oregon Laws 2008, and sec-  
43 tion 20, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

44 311.689. (1) Notwithstanding ORS 311.668 or any other provision of ORS 311.666 to 311.701, if  
45 the individual or, in the case of two or more individuals electing to defer property taxes jointly, all

1 of the individuals together, or the spouse who has filed a claim under ORS 311.688, has federal ad-  
2 justed gross income that exceeds \$32,000 for the tax year that began in the previous calendar year,  
3 then for the tax year next beginning, the amount of taxes for which deferral is allowed shall be re-  
4 duced by \$0.50 for each dollar of federal adjusted gross income in excess of \$32,000.

5 (2) Prior to June 1 of each year, and notwithstanding ORS 314.835, the Department of Revenue  
6 shall review returns filed under ORS chapter 314 and 316 to determine if subsection (1) of this sec-  
7 tion is applicable for a homestead for the tax year next beginning. If subsection (1) of this section  
8 is applicable, the department shall notify by mail the taxpayer or spouse electing deferral, and the  
9 taxes otherwise to be deferred for the tax year next beginning shall be reduced as provided in sub-  
10 section (1) of this section or, if federal adjusted gross income in excess of \$32,000 exceeds the  
11 amount of property taxes by a factor of two, the property taxes shall not be deferred.

12 (3) If the taxpayer or spouse does not file a return for purposes of ORS chapters 314 and 316  
13 and the department has reason to believe that the federal adjusted gross income of the taxpayer or  
14 spouse exceeds \$32,000 for the tax year that began in the previous calendar year, the department  
15 shall notify by mail the taxpayer or spouse electing deferral. If, within 30 days after the notice is  
16 mailed, the taxpayer or spouse does not file a return under ORS chapter 314 or 316 or otherwise  
17 satisfy the department that federal adjusted gross income does not exceed \$32,000, the department  
18 shall again notify the taxpayer or spouse, and the taxes otherwise to be deferred for the tax year  
19 next beginning shall not be deferred.

20 (4) For tax years beginning on or after July 1, 2002, the federal adjusted gross income limit set  
21 forth in subsections (1) to (3) of this section shall be recomputed by multiplying \$32,000 by the in-  
22 dexing factor described in ORS 311.668 (7)(a)(A), and rounding the amount so computed to the  
23 nearest multiple of \$500.

24 (5) Nothing in this section shall affect the continued deferral of taxes that have been deferred  
25 for tax years beginning prior to the tax year next beginning or the right to deferral of taxes for a  
26 tax year beginning after the tax year next beginning if subsection (1) is not applicable for that tax  
27 year for the homestead.

28 (6) As used in this section, "federal adjusted gross income" means federal adjusted gross income  
29 of the individual or, in the case of two or more individuals electing to defer property tax jointly, the  
30 combined federal adjusted gross income of the individuals, or the federal adjusted gross income of  
31 the spouse who has filed a claim under ORS 311.688, all as determined for the tax year beginning  
32 in the calendar year prior to which a determination is required under subsection (2) of this section.  
33 "Federal adjusted gross income" shall be determined under the Internal Revenue Code, as amended  
34 and in effect on [December 31, 2008] **May 1, 2009**, without any of the additions, subtractions or other  
35 modifications or adjustments required under ORS chapter 314 or 316.

36 (7)(a) If, after an initial determination under this section has been made by the department, upon  
37 audit or examination or otherwise, it is discovered that the taxpayer or spouse had federal adjusted  
38 gross income in excess of the limitation provided under subsection (1) of this section, the department  
39 shall determine the amount of taxes deferred that should not have been deferred and give notice to  
40 the taxpayer or spouse of the amount of taxes that should not have been deferred. The provisions  
41 of ORS chapters 305 and 314 shall apply to a determination of the department under this section in  
42 the same manner as those provisions are applicable to an income tax deficiency. The amount of de-  
43 ferred taxes that should not have been deferred shall bear interest from the date paid by the de-  
44 partment until paid at the rate established under ORS 305.220 for deficiencies. A deficiency shall  
45 not be assessed under this section if notice required under this section is not given to the taxpayer

1 or spouse within three years after the date that the department has paid the deferred taxes to the  
 2 county. Upon payment of the amount assessed as deficiency, and interest, the department shall ex-  
 3 ecute a release in the amount of the payment and the release shall be conclusive evidence of the  
 4 removal and extinguishment of the lien under ORS 311.666 to 311.701 to the extent of the payment.

5 (b) If, after an initial determination under this section has been made by the department, upon  
 6 claim for refund, audit or examination or otherwise, it is discovered that the taxpayer or spouse had  
 7 federal adjusted gross income in the amount of or less than the limitation provided under subsection  
 8 (1) of this section, the department shall determine the amount of taxes deferred that should have  
 9 been deferred and give notice to the taxpayer or spouse of the amount of taxes that should have  
 10 been deferred. The provisions of ORS chapters 305 and 314 shall apply to a determination of the  
 11 department under this section in the same manner as those provisions are applicable to an income  
 12 tax refund. The amount of the taxes that should have been deferred shall bear interest from the  
 13 date paid by the taxpayer to the county at the rate established under ORS 305.220 for refunds until  
 14 paid. Claim for refund under this paragraph must be filed within three years after the earliest date  
 15 that the taxpayer or spouse is notified by the department that the taxes are not deferred.

16 (8) This section applies to all tax-deferred property, notwithstanding that election to defer taxes  
 17 is made under ORS 311.666 to 311.701 before or after October 3, 1989.

18 **SECTION 21.** ORS 314.011, as amended by section 11, chapter 45, Oregon Laws 2008, and sec-  
 19 tion 21, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

20 314.011. (1) As used in this chapter, unless the context requires otherwise, “department” means  
 21 the Department of Revenue.

22 (2) As used in this chapter:

23 (a) Any term has the same meaning as when used in a comparable context in the laws of the  
 24 United States relating to federal income taxes, unless a different meaning is clearly required or the  
 25 term is specifically defined in this chapter.

26 (b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of  
 27 the United States or to the Internal Revenue Code refers to the laws of the United States or to the  
 28 Internal Revenue Code as they are amended and in effect on [December 31, 2008] **May 1, 2009**.

29 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260  
 30 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412,  
 31 314.525, 314.742 (7), 314.750 and 314.752 and other provisions of this chapter, any reference to the  
 32 laws of the United States or to the Internal Revenue Code means the laws of the United States re-  
 33 lating to income taxes or the Internal Revenue Code as they are amended on or before [December  
 34 31, 2008] **May 1, 2009**, even when the amendments take effect or become operative after that date,  
 35 except where the Legislative Assembly has specifically provided otherwise.

36 (3) Insofar as is practicable in the administration of this chapter, the department shall apply and  
 37 follow the administrative and judicial interpretations of the federal income tax law. When a pro-  
 38 vision of the federal income tax law is the subject of conflicting opinions by two or more federal  
 39 courts, the department shall follow the rule observed by the United States Commissioner of Internal  
 40 Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of  
 41 the department to audit the return of any taxpayer or to determine any fact relating to the tax li-  
 42 ability of any taxpayer.

43 (4) When portions of the Internal Revenue Code incorporated by reference as provided in sub-  
 44 section (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury,  
 45 then such rules or regulations shall be regarded as rules adopted by the department under and in

1 accordance with the provisions of this chapter, whenever they are prescribed or amended.

2 (5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in  
3 subsection (2) of this section are later corrected by an Act or a Title within an Act of the United  
4 States Congress designated as an Act or Title making technical corrections, then notwithstanding  
5 the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so  
6 corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided  
7 in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title  
8 (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-  
9 cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any  
10 adjustment is required to an Oregon return that would otherwise be prevented by operation of law  
11 or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the  
12 manner provided under ORS 314.135.

13 (b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an  
14 Act or Title.

15 **SECTION 22.** ORS 314.011, as amended by section 11, chapter 45, Oregon Laws 2008, section  
16 21, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), and section 21 of this 2009 Act, is  
17 amended to read:

18 314.011. (1) As used in this chapter, unless the context requires otherwise, "department" means  
19 the Department of Revenue.

20 (2) As used in this chapter:

21 (a) Any term has the same meaning as when used in a comparable context in the laws of the  
22 United States relating to federal income taxes, unless a different meaning is clearly required or the  
23 term is specifically defined in this chapter.

24 (b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of  
25 the United States or to the Internal Revenue Code refers to the laws of the United States or to the  
26 Internal Revenue Code as they are amended and in effect:

27 **(A)** On May 1, 2009[.]; or

28 **(B) If related to the definition of taxable income, as applicable to the tax year of the**  
29 **taxpayer.**

30 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260  
31 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412,  
32 314.525, 314.742 (7), 314.750 and 314.752 and other provisions of this chapter, **except those de-**  
33 **scribed in paragraph (b) of this subsection,** any reference to the laws of the United States or to  
34 the Internal Revenue Code means the laws of the United States relating to income taxes or the  
35 Internal Revenue Code as they are amended on or before May 1, 2009, even when the amendments  
36 take effect or become operative after that date, except where the Legislative Assembly has specif-  
37 ically provided otherwise.

38 (3) Insofar as is practicable in the administration of this chapter, the department shall apply and  
39 follow the administrative and judicial interpretations of the federal income tax law. When a pro-  
40 vision of the federal income tax law is the subject of conflicting opinions by two or more federal  
41 courts, the department shall follow the rule observed by the United States Commissioner of Internal  
42 Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of  
43 the department to audit the return of any taxpayer or to determine any fact relating to the tax li-  
44 ability of any taxpayer.

45 (4) When portions of the Internal Revenue Code incorporated by reference as provided in sub-

1 section (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury,  
2 then such rules or regulations shall be regarded as rules adopted by the department under and in  
3 accordance with the provisions of this chapter, whenever they are prescribed or amended.

4 (5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in  
5 subsection (2) of this section are later corrected by an Act or a Title within an Act of the United  
6 States Congress designated as an Act or Title making technical corrections, then notwithstanding  
7 the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so  
8 corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided  
9 in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title  
10 (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-  
11 cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any  
12 adjustment is required to an Oregon return that would otherwise be prevented by operation of law  
13 or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the  
14 manner provided under ORS 314.135.

15 (b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an  
16 Act or Title.

17 **SECTION 23.** ORS 315.004, as amended by section 12, chapter 45, Oregon Laws 2008, and sec-  
18 tion 22, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

19 315.004. (1) Except when the context requires otherwise, the definitions contained in ORS  
20 chapters 314, 316, 317 and 318 are applicable in the construction, interpretation and application of  
21 the personal and corporate income and excise tax credits contained in this chapter.

22 (2)(a) For purposes of the tax credits contained in this chapter, any term has the same meaning  
23 as when used in a comparable context in the laws of the United States relating to federal income  
24 taxes, unless a different meaning is clearly required or the term is specifically defined for purposes  
25 of construing, interpreting and applying the credit.

26 (b) With respect to the tax credits contained in this chapter, any reference to the laws of the  
27 United States or to the Internal Revenue Code means the laws of the United States relating to in-  
28 come taxes or the Internal Revenue Code as they are amended on or before [December 31, 2008]  
29 **May 1, 2009**, even when the amendments take effect or become operative after that date.

30 (3) Insofar as is practicable in the administration of this chapter, the Department of Revenue  
31 shall apply and follow the administrative and judicial interpretations of the federal income tax law.  
32 When a provision of the federal income tax law is the subject of conflicting opinions by two or more  
33 federal courts, the department shall follow the rule observed by the United States Commissioner of  
34 Internal Revenue until the conflict is resolved. Nothing contained in this section limits the right  
35 or duty of the department to audit the return of any taxpayer or to determine any fact relating to  
36 the tax liability of any taxpayer.

37 (4) When portions of the Internal Revenue Code incorporated by reference as provided in sub-  
38 section (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury,  
39 then such rules or regulations shall be regarded as rules adopted by the department under and in  
40 accordance with the provisions of this chapter, whenever they are prescribed or amended.

41 (5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in  
42 subsection (2) of this section are later corrected by an Act or a Title within an Act of the United  
43 States Congress designated as an Act or Title making technical corrections, then notwithstanding  
44 the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so  
45 corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided

1 in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title  
 2 (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-  
 3 cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any  
 4 adjustment is required to an Oregon return that would otherwise be prevented by operation of law  
 5 or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the  
 6 manner provided under ORS 314.135.

7 (b) As used in this subsection, “Act or Title” includes any subtitle, division or other part of an  
 8 Act or Title.

9 **SECTION 24.** ORS 316.012, as amended by section 13, chapter 45, Oregon Laws 2008, and sec-  
 10 tion 23, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

11 316.012. Any term used in this chapter has the same meaning as when used in a comparable  
 12 context in the laws of the United States relating to federal income taxes, unless a different meaning  
 13 is clearly required or the term is specifically defined in this chapter. Except where the Legislative  
 14 Assembly has provided otherwise, any reference in this chapter to the laws of the United States or  
 15 to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue  
 16 Code as they are amended and in effect on [December 31, 2008] **May 1, 2009.**

17 **SECTION 25.** ORS 316.012, as amended by section 13, chapter 45, Oregon Laws 2008, section  
 18 23, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), and section 24 of this 2009 Act, is  
 19 amended to read:

20 316.012. Any term used in this chapter has the same meaning as when used in a comparable  
 21 context in the laws of the United States relating to federal income taxes, unless a different meaning  
 22 is clearly required or the term is specifically defined in this chapter. Except where the Legislative  
 23 Assembly has provided otherwise, any reference in this chapter to the laws of the United States or  
 24 to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue  
 25 Code as they are amended and in effect:

26 (1) On May 1, 2009[.]; or

27 (2) **If related to the definition of taxable income, as applicable to the tax year of the**  
 28 **taxpayer.**

29 **SECTION 26.** ORS 317.010, as amended by section 14, chapter 45, Oregon Laws 2008, and sec-  
 30 tion 24, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

31 317.010. As used in this chapter, unless the context requires otherwise:

32 (1) “Centrally assessed corporation” means every corporation the property of which is assessed  
 33 by the Department of Revenue under ORS 308.505 to 308.665.

34 (2) “Department” means the Department of Revenue.

35 (3)(a) “Consolidated federal return” means the return permitted or required to be filed by a  
 36 group of affiliated corporations under section 1501 of the Internal Revenue Code.

37 (b) “Consolidated state return” means the return required to be filed under ORS 317.710 (5).

38 (4) “Doing business” means any transaction or transactions in the course of its activities con-  
 39 ducted within the state by a national banking association, or any other corporation; provided, how-  
 40 ever, that a foreign corporation whose activities in this state are confined to purchases of personal  
 41 property, and the storage thereof incident to shipment outside the state, shall not be deemed to be  
 42 doing business unless such foreign corporation is an affiliate of another foreign or domestic corpo-  
 43 ration which is doing business in Oregon. Whether or not corporations are affiliated shall be de-  
 44 termined as provided in section 1504 of the Internal Revenue Code.

45 (5) “Excise tax” means a tax measured by or according to net income imposed upon national

1 banking associations, all other banks, and financial, centrally assessed, mercantile, manufacturing  
2 and business corporations for the privilege of carrying on or doing business in this state.

3 (6) "Financial institution" or "financial corporation" means a bank or trust company organized  
4 under ORS chapter 707, national banking association or production credit association organized  
5 under federal statute, building and loan association, savings and loan association, mutual savings  
6 bank, and any other corporation whose principal business is in direct competition with national and  
7 state banks.

8 (7) "Internal Revenue Code," except where the Legislative Assembly has provided otherwise,  
9 refers to the laws of the United States or to the Internal Revenue Code as they are amended and  
10 in effect on [December 31, 2008] **May 1, 2009**.

11 (8) "Oregon taxable income" means taxable income, less the deduction allowed under ORS  
12 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and  
13 ORS 317.650 to 317.665.

14 (9) "Oregon net loss" means taxable loss, except as otherwise provided with respect to insurers  
15 in subsection (11) of this section and ORS 317.650 to 317.665.

16 (10) "Taxable income or loss" means the taxable income or loss determined, or in the case of a  
17 corporation for which no federal taxable income or loss is determined, as would be determined, un-  
18 der chapter 1, Subtitle A of the Internal Revenue Code and any other laws of the United States  
19 relating to the determination of taxable income or loss of corporate taxpayers, with the additions,  
20 subtractions, adjustments and other modifications as are specifically prescribed by this chapter ex-  
21 cept that in determining taxable income or loss for any year, no deduction under ORS 317.476 or  
22 317.478 and section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corporation is a  
23 corporation to which ORS 314.280 or 314.605 to 314.675 (requiring or permitting apportionment of  
24 income from transactions or activities carried on both within and without the state) applies, to  
25 derive taxable income or loss, the following shall occur:

26 (a) From the amount otherwise determined under this subsection, subtract nonbusiness income,  
27 or add nonbusiness loss, whichever is applicable.

28 (b) Multiply the amount determined under paragraph (a) of this subsection by the Oregon ap-  
29 portionment percentage defined under ORS 314.280, 314.650 or 314.670, whichever is applicable. The  
30 resulting product shall be Oregon apportioned income or loss.

31 (c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this  
32 subsection, add nonbusiness income allocable entirely to Oregon under ORS 314.280 or 314.625 to  
33 314.645, or subtract nonbusiness loss allocable entirely to Oregon under ORS 314.280 or 314.625 to  
34 314.645. The resulting figure is "taxable income or loss" for those corporations carrying on taxable  
35 transactions or activities both within and without Oregon.

36 (11) As used in ORS 317.122 and 317.650 to 317.665, "insurer" means any domestic, foreign or  
37 alien insurer as defined in ORS 731.082 and any interinsurance and reciprocal exchange and its at-  
38 torney in fact with respect to its attorney in fact net income as a corporate attorney in fact acting  
39 as attorney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the reciprocal or  
40 interinsurance exchange. However, "insurer" does not include title insurers or health care service  
41 contractors operating pursuant to ORS 750.005 to 750.095.

42 **SECTION 27.** ORS 317.010, as amended by section 14, chapter 45, Oregon Laws 2008, section  
43 24, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), and section 26 of this 2009 Act, is  
44 amended to read:

45 317.010. As used in this chapter, unless the context requires otherwise:

1 (1) "Centrally assessed corporation" means every corporation the property of which is assessed  
2 by the Department of Revenue under ORS 308.505 to 308.665.

3 (2) "Department" means the Department of Revenue.

4 (3)(a) "Consolidated federal return" means the return permitted or required to be filed by a  
5 group of affiliated corporations under section 1501 of the Internal Revenue Code.

6 (b) "Consolidated state return" means the return required to be filed under ORS 317.710 (5).

7 (4) "Doing business" means any transaction or transactions in the course of its activities con-  
8 ducted within the state by a national banking association, or any other corporation; provided, how-  
9 ever, that a foreign corporation whose activities in this state are confined to purchases of personal  
10 property, and the storage thereof incident to shipment outside the state, shall not be deemed to be  
11 doing business unless such foreign corporation is an affiliate of another foreign or domestic corpo-  
12 ration which is doing business in Oregon. Whether or not corporations are affiliated shall be de-  
13 termined as provided in section 1504 of the Internal Revenue Code.

14 (5) "Excise tax" means a tax measured by or according to net income imposed upon national  
15 banking associations, all other banks, and financial, centrally assessed, mercantile, manufacturing  
16 and business corporations for the privilege of carrying on or doing business in this state.

17 (6) "Financial institution" or "financial corporation" means a bank or trust company organized  
18 under ORS chapter 707, national banking association or production credit association organized  
19 under federal statute, building and loan association, savings and loan association, mutual savings  
20 bank, and any other corporation whose principal business is in direct competition with national and  
21 state banks.

22 (7) "Internal Revenue Code," except where the Legislative Assembly has provided otherwise,  
23 refers to the laws of the United States or to the Internal Revenue Code as they are amended and  
24 in effect:

25 (a) On May 1, 2009[.]; or

26 (b) **If related to the definition of taxable income, as applicable to the tax year of the**  
27 **taxpayer.**

28 (8) "Oregon taxable income" means taxable income, less the deduction allowed under ORS  
29 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and  
30 ORS 317.650 to 317.665.

31 (9) "Oregon net loss" means taxable loss, except as otherwise provided with respect to insurers  
32 in subsection (11) of this section and ORS 317.650 to 317.665.

33 (10) "Taxable income or loss" means the taxable income or loss determined, or in the case of a  
34 corporation for which no federal taxable income or loss is determined, as would be determined, un-  
35 der chapter 1, Subtitle A of the Internal Revenue Code and any other laws of the United States  
36 relating to the determination of taxable income or loss of corporate taxpayers, with the additions,  
37 subtractions, adjustments and other modifications as are specifically prescribed by this chapter ex-  
38 cept that in determining taxable income or loss for any year, no deduction under ORS 317.476 or  
39 317.478 and section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corporation is a  
40 corporation to which ORS 314.280 or 314.605 to 314.675 (requiring or permitting apportionment of  
41 income from transactions or activities carried on both within and without the state) applies, to  
42 derive taxable income or loss, the following shall occur:

43 (a) From the amount otherwise determined under this subsection, subtract nonbusiness income,  
44 or add nonbusiness loss, whichever is applicable.

45 (b) Multiply the amount determined under paragraph (a) of this subsection by the Oregon ap-

1 portionment percentage defined under ORS 314.280, 314.650 or 314.670, whichever is applicable. The  
2 resulting product shall be Oregon apportioned income or loss.

3 (c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this  
4 subsection, add nonbusiness income allocable entirely to Oregon under ORS 314.280 or 314.625 to  
5 314.645, or subtract nonbusiness loss allocable entirely to Oregon under ORS 314.280 or 314.625 to  
6 314.645. The resulting figure is “taxable income or loss” for those corporations carrying on taxable  
7 transactions or activities both within and without Oregon.

8 (11) As used in ORS 317.122 and 317.650 to 317.665, “insurer” means any domestic, foreign or  
9 alien insurer as defined in ORS 731.082 and any interinsurance and reciprocal exchange and its at-  
10 torney in fact with respect to its attorney in fact net income as a corporate attorney in fact acting  
11 as attorney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the reciprocal or  
12 interinsurance exchange. However, “insurer” does not include title insurers or health care service  
13 contractors operating pursuant to ORS 750.005 to 750.095.

14 **SECTION 28.** ORS 317.097, as amended by section 6, chapter 29, Oregon Laws 2008, section 15,  
15 chapter 45, Oregon Laws 2008, section 25, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157),  
16 and section 1a, chapter 82, Oregon Laws 2009 (Enrolled House Bill 2261), is amended to read:

17 317.097. (1) As used in this section:

18 (a) “Annual rate” means the yearly interest rate specified on the note, and not the annual per-  
19 centage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

20 (b) “Finance charge” means the total of all interest, loan fees, interest on any loan fees financed  
21 by the lending institution, and other charges related to the cost of obtaining credit.

22 (c) “Lending institution” means any insured institution, as that term is defined in ORS 706.008,  
23 any mortgage banking company that maintains an office in this state or any community development  
24 corporation that is organized under the Oregon Nonprofit Corporation Law.

25 (d) “Manufactured dwelling park” has the meaning given that term in ORS 446.003.

26 (e) “Nonprofit corporation” means a corporation that is exempt from income taxes under section  
27 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on [December 31, 2008] **May**  
28 **1, 2009.**

29 (f) “Preservation project” means housing that was previously developed as affordable housing  
30 with a contract for rent assistance from the United States Department of Housing and Urban De-  
31 velopment or the United States Department of Agriculture and that is being acquired by a spon-  
32 soring entity.

33 (g) “Qualified assignee” means any investor participating in the secondary market for real estate  
34 loans.

35 (h) “Qualified borrower” means any borrower that is a sponsoring entity that has a controlling  
36 interest in the real property that is financed by a qualified loan. A controlling interest includes, but  
37 is not limited to, a controlling interest in the general partner of a limited partnership that owns the  
38 real property.

39 (i) “Qualified loan” means:

40 (A) A loan that meets the criteria stated in subsection (5) of this section or that is made to re-  
41 finance a loan that meets the criteria described in subsection (5) of this section; or

42 (B) The purchase by a lending institution of bonds, as defined in ORS 286A.001, issued on behalf  
43 of the Housing and Community Services Department, the proceeds of which are used to finance or  
44 refinance a loan that meets the criteria described in subsection (5) of this section.

45 (j) “Sponsoring entity” means a nonprofit corporation, nonprofit cooperative, state governmental

1 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,  
2 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,  
3 nonprofit cooperative, state governmental entity, local unit of government or housing authority.

4 (2) The Department of Revenue shall allow a credit against taxes otherwise due under this  
5 chapter for the taxable year to a lending institution that makes a qualified loan certified by the  
6 Housing and Community Services Department as provided in subsection (7) of this section. The  
7 amount of the credit is equal to the difference between:

8 (a) The amount of finance charge charged by the lending institution during the taxable year at  
9 an annual rate less than the market rate for a qualified loan that is made before January 1, 2020,  
10 that complies with the requirements of this section; and

11 (b) The amount of finance charge that would have been charged during the taxable year by the  
12 lending institution for the qualified loan for housing construction, development, acquisition or re-  
13 habilitation measured at the annual rate charged by the lending institution for nonsubsidized loans  
14 made under like terms and conditions at the time the qualified loan for housing construction, de-  
15 velopment, acquisition or rehabilitation is made.

16 (3) The maximum amount of credit for the difference between the amounts described in sub-  
17 section (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of  
18 the qualified loan during the tax year for which the credit is claimed.

19 (4) Any tax credit allowed under this section that is not used by the taxpayer in a particular  
20 year may be carried forward and offset against the taxpayer's tax liability for the next succeeding  
21 tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and  
22 used in the second succeeding tax year, and likewise, any credit not used in that second succeeding  
23 tax year may be carried forward and used in the third succeeding tax year, and any credit not used  
24 in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year,  
25 and any credit not used in that fourth succeeding tax year may be carried forward and used in the  
26 fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

27 (5) To be eligible for the tax credit allowable under this section, a lending institution must make  
28 a qualified loan by either purchasing bonds, as defined in ORS 286A.001, issued on behalf of the  
29 Housing and Community Services Department, the proceeds of which are used to finance or refi-  
30 nance a loan that meets the criteria stated in this subsection, or by making a loan directly to:

31 (a) An individual or individuals who own a dwelling, participate in an owner-occupied commu-  
32 nity rehabilitation program and are certified by the local government or its designated agent as  
33 having an income level when the loan is made of less than 80 percent of the area median income;

34 (b) A qualified borrower who:

35 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation  
36 of housing; and

37 (B) Provides a written certification executed by the Housing and Community Services Depart-  
38 ment that the:

39 (i) Housing created by the loan is or will be occupied by households earning less than 80 percent  
40 of the area median income; and

41 (ii) Full amount of savings from the reduced interest rate provided by the lending institution is  
42 or will be passed on to the tenants in the form of reduced housing payments, regardless of other  
43 subsidies provided to the housing project;

44 (c) A qualified borrower who:

45 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation

1 of housing consisting of a manufactured dwelling park; and

2 (B) Provides a written certification executed by the Housing and Community Services Depart-  
3 ment that the housing will continue to be operated as a manufactured dwelling park during the pe-  
4 riod for which the tax credit is allowed; or

5 (d) A qualified borrower who:

6 (A) Uses the loan proceeds to finance acquisition or rehabilitation of housing consisting of a  
7 preservation project; and

8 (B) Provides a written certification executed by the Housing and Community Services Depart-  
9 ment that the housing preserved by the loan:

10 (i) Is or will be occupied by households earning less than 80 percent of the area median income;  
11 and

12 (ii) Is the subject of a rent assistance contract with the United States Department of Housing  
13 and Urban Development or the United States Department of Agriculture that will be maintained by  
14 the qualified borrower.

15 (6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this sec-  
16 tion must be treated the same as a loan that meets the criteria stated in subsection (5) of this sec-  
17 tion.

18 (7) For a qualified loan to be eligible for the tax credit allowable under this section, the Housing  
19 and Community Services Department must execute a written certification for the qualified loan that:

20 (a) Specifies the period, not to exceed 20 years, as determined by the Housing and Community  
21 Services Department, during which the tax credit is allowed for the qualified loan; and

22 (b) States that the qualified loan is within the limitation imposed by subsection (8) of this sec-  
23 tion.

24 (8) The Housing and Community Services Department may certify qualified loans that are eligi-  
25 ble under subsection (5) of this section if the total credits attributable to all qualified loans eligible  
26 for credits under this section and then outstanding do not exceed \$17 million for any fiscal year. In  
27 making loan certifications under subsection (7) of this section, the Housing and Community Services  
28 Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax  
29 credits in those areas of the state that are determined by the State Housing Council to have the  
30 greatest need for affordable housing.

31 (9) The tax credit provided for in this section may be taken whether or not:

32 (a) The financial institution is eligible to take a federal income tax credit under section 42 of  
33 the Internal Revenue Code with respect to the project financed by the qualified loan; or

34 (b) The project receives financing from bonds, the interest on which is exempt from federal  
35 taxation under section 103 of the Internal Revenue Code.

36 (10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the pur-  
37 chase of bonds, the interest of which is exempt from federal taxation under section 103 of the  
38 Internal Revenue Code, the amount of finance charge that would have been charged under sub-  
39 section (2)(b) of this section is determined by reference to the finance charge that would have been  
40 charged if the federally tax exempt bonds had been issued and the tax credit under this section did  
41 not apply.

42 (11) A lending institution may sell a qualified loan for which a certification has been executed  
43 to a qualified assignee whether or not the lending institution retains servicing of the qualified loan  
44 so long as a designated lending institution maintains records, annually verified by a loan servicer,  
45 that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

1 (12) Notwithstanding any other provision of law, a lending institution that is a community de-  
2 velopment corporation organized under the Oregon Nonprofit Corporation Law may transfer all or  
3 part of a tax credit allowed under this section to one or more other lending institutions that are  
4 stockholders or members of the community development corporation or that otherwise participate  
5 through the community development corporation in the making of one or more qualified loans for  
6 which the tax credit under this section is allowed.

7 (13) The lending institution shall file an annual statement with the Housing and Community  
8 Services Department, specifying that it has conformed with all requirements imposed by law to  
9 qualify for a tax credit under this section.

10 (14) The Housing and Community Services Department and the Department of Revenue may  
11 adopt rules to carry out the provisions of this section.

12 **SECTION 29.** ORS 458.670, as amended by section 16, chapter 45, Oregon Laws 2008, and sec-  
13 tion 26, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

14 458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires other-  
15 wise:

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

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

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

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

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

22 (a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3)  
23 of the Internal Revenue Code as amended and in effect on [December 31, 2008] **May 1, 2009**; or

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

26 (3) "Financial institution" means:

27 (a) An organization regulated under ORS chapters 706 to 716, 722 or 723; or

28 (b) In the case of individual development accounts established for the purpose described in ORS  
29 458.685 (1)(c), a financial institution as defined in ORS 348.841.

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

35 (5) "Lower income household" means a household having an income equal to or less than 80  
36 percent of the median household income for the area as determined by the Housing and Community  
37 Services Department. In making the determination, the department shall give consideration to any  
38 data on area household income published by the United States Department of Housing and Urban  
39 Development.

40 (6) "Resident of this state" has the meaning given that term in ORS 316.027.

41 **SECTION 30.** ORS 657.010, as amended by section 17, chapter 45, Oregon Laws 2008, and sec-  
42 tion 27, chapter 5, Oregon Laws 2009 (Enrolled House Bill 2157), is amended to read:

43 657.010. As used in this chapter, unless the context requires otherwise:

44 (1) "Base year" means the first four of the last five completed calendar quarters preceding the  
45 benefit year.

1 (2) "Benefits" means the money allowances payable to unemployed persons under this chapter.

2 (3) "Benefit year" means a period of 52 consecutive weeks commencing with the first week with  
3 respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consec-  
4 utive weeks period beginning with the first week with respect to which the individual next files an  
5 initial valid claim after the termination of the individual's last preceding benefit year except that  
6 the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping  
7 any quarter of the base year of a previously filed initial valid claim.

8 (4) "Calendar quarter" means the period of three consecutive calendar months ending on March  
9 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the Director  
10 of the Employment Department may, by regulation, prescribe.

11 (5) "Contribution" or "contributions" means the taxes, as defined in subsection (13) of this sec-  
12 tion, that are the money payments required by this chapter, or voluntary payments permitted, to be  
13 made to the Unemployment Compensation Trust Fund.

14 (6) "Educational institution," including an institution of higher education as defined in sub-  
15 section (9) of this section, means an institution:

16 (a) In which participants, trainees or students are offered an organized course of study or  
17 training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities  
18 from, by or under the guidance of an instructor or teacher;

19 (b) That is accredited, registered, approved, licensed or issued a permit to operate as a school  
20 by the Department of Education or other government agency, or that offers courses for credit that  
21 are transferable to an approved, registered or accredited school;

22 (c) In which the course or courses of study or training that it offers may be academic, technical,  
23 trade or preparation for gainful employment in a recognized occupation; and

24 (d) In which the course or courses of study or training are offered on a regular and continuing  
25 basis.

26 (7) "Employment office" means a free public employment office or branch thereof, operated by  
27 this state or maintained as a part of a state-controlled system of public employment offices.

28 (8) "Hospital" means an organization that has been licensed, certified or approved by the De-  
29 partment of Human Services as a hospital.

30 (9) "Institution of higher education" means an educational institution that:

31 (a) Admits as regular students only individuals having a certificate of graduation from a high  
32 school, or the recognized equivalent of such a certificate;

33 (b) Is legally authorized in this state to provide a program of education beyond high school;

34 (c) Provides an educational program for which it awards a bachelor's or higher degree, or pro-  
35 vides a program that is acceptable for full credit toward such a degree, a program of post-graduate  
36 or post-doctoral studies, or a program of training to prepare students for gainful employment in a  
37 recognized occupation; and

38 (d) Is a public or other nonprofit institution.

39 (10) "Internal Revenue Code" means the federal Internal Revenue Code, as amended and in ef-  
40 fect on [December 31, 2008] **May 1, 2009**.

41 (11) "Nonprofit employing unit" means an organization, or group of organizations, described in  
42 section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a)  
43 of the Internal Revenue Code.

44 (12) "State" includes, in addition to the states of the United States of America, the District of  
45 Columbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be

1 considered a state on and after the day on which the United States Secretary of Labor first approves  
 2 the Virgin Islands' law under section 3304(a) of the Federal Unemployment Tax Act as amended by  
 3 Public Law 94-566.

4 (13) "Taxes" means the money payments to the Unemployment Compensation Trust Fund re-  
 5 quired, or voluntary payments permitted, by this chapter.

6 (14) "Valid claim" means any claim for benefits made in accordance with ORS 657.260 if the  
 7 individual meets the wages-paid-for-employment requirements of ORS 657.150.

8 (15) "Week" means any period of seven consecutive calendar days ending at midnight, as the  
 9 director may, by regulation, prescribe. The director may by regulation prescribe that a "week" shall  
 10 be "in," "within," or "during" the calendar quarter that includes the greater part of such week.

11 **SECTION 31.** ORS 316.013, as amended by section 29, chapter 5, Oregon Laws 2009 (Enrolled  
 12 House Bill 2157), is amended to read:

13 316.013. Unless the context requires otherwise and notwithstanding ORS 316.012, whenever, in  
 14 the calculation of Oregon taxable income, reference to the taxpayer's federal adjusted gross income  
 15 is required to be made, the taxpayer's federal adjusted gross income shall be as determined under  
 16 the provisions of the Internal Revenue Code as they may be in effect on [December 31, 2008] **May**  
 17 **1, 2009**, without any of the additions, subtractions or other modifications or adjustments required  
 18 under this chapter and other laws of this state applicable to personal income taxation.

19 **SECTION 32.** ORS 316.013, as amended by section 29, chapter 5, Oregon Laws 2009 (Enrolled  
 20 House Bill 2157), and section 31 of this 2009 Act, is amended to read:

21 316.013. Unless the context requires otherwise and notwithstanding ORS 316.012, whenever, in  
 22 the calculation of Oregon taxable income, reference to the taxpayer's federal adjusted gross income  
 23 is required to be made, the taxpayer's federal adjusted gross income shall be as determined under  
 24 the provisions of the Internal Revenue Code as they may be in effect [on May 1, 2009,] **for the tax**  
 25 **year of the taxpayer** without any of the additions, subtractions or other modifications or adjust-  
 26 ments required under this chapter and other laws of this state applicable to personal income taxa-  
 27 tion.

28 **SECTION 33.** ORS 317.018, as amended by section 30, chapter 5, Oregon Laws 2009 (Enrolled  
 29 House Bill 2157), is amended to read:

30 317.018. It is the intent of the Legislative Assembly:

31 (1) To make the Oregon corporate excise tax law, insofar as it relates to the measurement of  
 32 taxable income, identical to the provisions of the federal Internal Revenue Code, as in effect and  
 33 applicable on [December 31, 2008] **May 1, 2009**, to the end that taxable income of a corporation for  
 34 Oregon purposes is the same as it is for federal income tax purposes, subject to Oregon's jurisdiction  
 35 to tax, and subject to the additions, subtractions, adjustments and modifications contained in this  
 36 chapter.

37 (2) To achieve the results desired under subsection (1) of this section by application of the var-  
 38 ious provisions of the federal Internal Revenue Code relating to the definitions for corporations, of  
 39 income, deductions, accounting methods, accounting periods, taxation of corporations, basis and  
 40 other pertinent provisions relating to gross income. It is not the intent of the Legislative Assembly  
 41 to adopt federal Internal Revenue Code provisions dealing with the computation of tax, tax credits  
 42 or any other provisions designed to mitigate the amount of tax due.

43 (3) To impose on each corporation doing business within this state an excise tax for the privi-  
 44 lege of carrying on or doing that business measured by its federal taxable income as adjusted in this  
 45 chapter.

1       **SECTION 34.** ORS 317.018, as amended by section 30, chapter 5, Oregon Laws 2009 (Enrolled  
2 House Bill 2157), and section 33 of this 2009 Act, is amended to read:

3       317.018. It is the intent of the Legislative Assembly:

4       (1) To make the Oregon corporate excise tax law, insofar as it relates to the measurement of  
5 taxable income, identical to the provisions of the federal Internal Revenue Code, as in effect and  
6 applicable [on May 1, 2009] **for the tax year of the taxpayer**, to the end that taxable income of a  
7 corporation for Oregon purposes is the same as it is for federal income tax purposes, subject to  
8 Oregon's jurisdiction to tax, and subject to the additions, subtractions, adjustments and modifica-  
9 tions contained in this chapter.

10       (2) To achieve the results desired under subsection (1) of this section by application of the var-  
11 ious provisions of the federal Internal Revenue Code relating to the definitions for corporations, of  
12 income, deductions, accounting methods, accounting periods, taxation of corporations, basis and  
13 other pertinent provisions relating to gross income. It is not the intent of the Legislative Assembly  
14 to adopt federal Internal Revenue Code provisions dealing with the computation of tax, tax credits  
15 or any other provisions designed to mitigate the amount of tax due.

16       (3) To impose on each corporation doing business within this state an excise tax for the privi-  
17 lege of carrying on or doing that business measured by its federal taxable income as adjusted in this  
18 chapter.

19       **SECTION 35.** (1) **Except as provided in subsections (2) and (3) of this section, the**  
20 **amendments to statutes by sections 1 to 34 of this 2009 Act apply to transactions or activities**  
21 **occurring on or after May 1, 2009, in tax years beginning on or after January 1, 2009.**

22       (2) **The effective and applicable dates, and the exceptions, special rules and coordination**  
23 **with the Internal Revenue Code, as amended, relative to those dates, contained in the**  
24 **American Recovery and Reinvestment Act of 2009 (P.L. 111-5) and other federal law amend-**  
25 **ing the Internal Revenue Code apply for Oregon personal income and corporate excise and**  
26 **income tax purposes, to the extent they can be made applicable, in the same manner as they**  
27 **are applied under the Internal Revenue Code and related federal law.**

28       (3)(a) **If a deficiency is assessed against any taxpayer for a tax year beginning before**  
29 **January 1, 2009, and the deficiency or any portion thereof is attributable to any retroactive**  
30 **treatment under the amendments to ORS 305.230, 305.494, 305.690, 307.130, 307.147, 308A.450,**  
31 **310.140, 310.630, 310.800, 311.689, 314.011, 315.004, 316.012, 316.013, 317.010, 317.018, 317.097,**  
32 **458.670 and 657.010 by sections 11 to 34 of this 2009 Act, then any interest or penalty assessed**  
33 **under ORS chapter 305, 314, 315, 316, 317 or 318 with respect to the deficiency or portion**  
34 **thereof shall be canceled.**

35       (b) **If a refund is due any taxpayer for a tax year beginning before January 1, 2010, and**  
36 **the refund or any portion thereof is due the taxpayer on account of any retroactive treat-**  
37 **ment under the amendments to ORS 305.230, 305.494, 305.690, 307.130, 307.147, 308A.450,**  
38 **310.140, 310.630, 310.800, 311.689, 314.011, 315.004, 316.012, 316.013, 317.010, 317.018, 317.097,**  
39 **458.670 and 657.010 by sections 11 to 34 of this 2009 Act, then notwithstanding ORS 305.270**  
40 **or 314.415 or other law, the refund or portion thereof shall be paid without interest.**

41       (c) **Any changes required because of the amendments to ORS 305.230, 305.494, 305.690,**  
42 **307.130, 307.147, 308A.450, 310.140, 310.630, 310.800, 311.689, 314.011, 315.004, 316.012, 316.013,**  
43 **317.010, 317.018, 317.097, 458.670 and 657.010 by sections 11 to 34 of this 2009 Act for a tax year**  
44 **beginning before January 1, 2010, shall be made by filing an amended return within the time**  
45 **prescribed by law.**

1 (d) If a taxpayer fails to file an amended return under paragraph (c) of this subsection,  
2 the Department of Revenue shall make any changes under paragraph (c) of this subsection  
3 on the return to which the changes relate within the period specified for issuing a notice of  
4 deficiency or claiming a refund as otherwise provided by law with respect to that return, or  
5 within one year after a return for a tax year beginning on or after January 1, 2009, and be-  
6 fore January 1, 2010, is filed, whichever period expires later.

7 **SECTION 36.** Sections 37 and 42 of this 2009 Act are added to and made a part of ORS  
8 chapter 316.

9 **SECTION 37.** (1) There shall be added to federal taxable income for Oregon tax purposes  
10 the difference between the amount allowable as a deduction under section 108 of the Internal  
11 Revenue Code as applicable to the tax year of the taxpayer and the amount allowable as a  
12 deduction under section 108 of the Internal Revenue Code as amended and in effect on De-  
13 cember 31, 2008, and as applicable to tax years beginning on or after January 1, 2008, and  
14 before January 1, 2009.

15 (2) There shall be added to federal taxable income for Oregon tax purposes the difference  
16 between the amount allowable as a deduction under section 168(k) of the Internal Revenue  
17 Code as applicable to the tax year of the taxpayer and the amount allowable as a deduction  
18 under section 168(k) of the Internal Revenue Code as amended and in effect on December 31,  
19 2008, and as applicable to tax years beginning on or after January 1, 2008, and before January  
20 1, 2009.

21 (3) There shall be added to federal taxable income for Oregon tax purposes the difference  
22 between the amount allowable as a deduction under section 179 of the Internal Revenue Code  
23 as applicable to the tax year of the taxpayer and the amount allowable as a deduction under  
24 section 179 of the Internal Revenue Code as amended and in effect on December 31, 2008, and  
25 as applicable to tax years beginning on or after January 1, 2008, and before January 1, 2009.

26 (4) Amounts added to federal taxable income for Oregon tax purposes under subsections  
27 (1) to (3) of this section may thereafter be subtracted from federal taxable income for Oregon  
28 tax purposes in the tax year for which the amounts would have been allowed as a deduction  
29 on the taxpayer's federal income tax return under the Internal Revenue Code as amended  
30 and in effect on December 31, 2008, and as applicable to tax years beginning on or after  
31 January 1, 2008, and before January 1, 2009.

32 **SECTION 38.** Section 39 of this 2009 Act is added to and made a part of ORS chapter 317.

33 **SECTION 39.** (1) There shall be added to federal taxable income for Oregon tax purposes  
34 the difference between the amount allowable as a deduction under section 108 of the Internal  
35 Revenue Code as applicable to the tax year of the taxpayer and the amount allowable as a  
36 deduction under section 108 of the Internal Revenue Code as amended and in effect on De-  
37 cember 31, 2008, and as applicable to tax years beginning on or after January 1, 2008, and  
38 before January 1, 2009.

39 (2) There shall be added to federal taxable income for Oregon tax purposes the difference  
40 between the amount allowable as a deduction under section 168(k) of the Internal Revenue  
41 Code as applicable to the tax year of the taxpayer and the amount allowable as a deduction  
42 under section 168(k) of the Internal Revenue Code as amended and in effect on December 31,  
43 2008, and as applicable to tax years beginning on or after January 1, 2008, and before January  
44 1, 2009.

45 (3) There shall be added to federal taxable income for Oregon tax purposes the difference

1 between the amount allowable as a deduction under section 179 of the Internal Revenue Code  
2 as applicable to the tax year of the taxpayer and the amount allowable as a deduction under  
3 section 179 of the Internal Revenue Code as amended and in effect on December 31, 2008, and  
4 as applicable to tax years beginning on or after January 1, 2008, and before January 1, 2009.

5 (4) Amounts added to federal taxable income for Oregon tax purposes under subsections  
6 (1) to (3) of this section may thereafter be subtracted from federal taxable income for Oregon  
7 tax purposes in the tax year for which the amounts would have been allowed as a deduction  
8 on the taxpayer's federal income tax return under the Internal Revenue Code as amended  
9 and in effect on December 31, 2008, and as applicable to tax years beginning on or after  
10 January 1, 2008, and before January 1, 2009.

11 **SECTION 40.** ORS 316.752 is amended to read:

12 316.752. For purposes of ORS 316.752 to 316.771:

13 (1) A person has a "severe disability" if the person:

14 (a) Has lost the use of one or more lower extremities;

15 (b) Has lost the use of both hands; [*or*]

16 (c) **Is disabled as that term is defined in section 72(m)(7) of the Internal Revenue Code,**  
17 **to a degree that the person is unable to engage in any substantial gainful activity; or**

18 [*(c)*] (d) Has a physical or mental condition that limits the abilities of the person to earn a liv-  
19 ing, maintain a household or provide personal transportation for the person without employing  
20 orthopedic or medical equipment or outside help.

21 (2) "Orthopedic or medical equipment" includes, but is not limited to, wheelchairs, braces,  
22 prostheses or special crutches.

23 (3) "Outside help" includes, but is not limited to, unrelated individuals whom the taxpayer with  
24 a severe disability employs to keep house, maintain the house or yard, or to transport the taxpayer.

25 **SECTION 41.** ORS 315.262 is amended to read:

26 315.262. (1) As used in this section:

27 (a) "Child care" means care provided to a qualifying child of the taxpayer for the purpose of  
28 allowing the taxpayer to be gainfully employed, to seek employment or to attend school on a full-  
29 time or part-time basis, except that the term does not include care provided by:

30 (A) The child's parent or guardian, unless the care is provided in a certified or registered child  
31 care facility; or

32 (B) A person who has a relationship to the taxpayer that is described in section 152(a) of the  
33 Internal Revenue Code who has not yet attained 19 years of age at the close of the tax year.

34 (b) "Child care expenses" means the costs associated with providing child care to a qualifying  
35 child of a qualified taxpayer.

36 (c) "Disability" means a physical or cognitive condition that results in a person requiring as-  
37 sistance with activities of daily living.

38 (d) "Earned income" has the meaning given that term in section 32 of the Internal Revenue  
39 Code.

40 (e) "Qualified taxpayer" means a taxpayer:

41 (A) Who is an Oregon resident with at least \$6,000 of earned income for the tax year or who is  
42 a nonresident of Oregon with at least \$6,000 of earned income from Oregon sources for the tax year;

43 (B) With federal adjusted gross income for the tax year that does not exceed 250 percent of the  
44 federal poverty level;

45 (C) With Oregon adjusted gross income for the tax year that does not exceed 250 percent of the

1 federal poverty level; and

2 (D) Who does not have more than the maximum amount of disqualified income under section  
 3 32(i) of the Internal Revenue Code that is allowed to a taxpayer entitled to the earned income tax  
 4 credit for federal tax purposes.

5 (f) “Qualifying child” has the meaning given that term in section [152] **152(c)** of the Internal  
 6 Revenue Code, **determined without regard to section 152(c)(1)(D) of the Internal Revenue Code**  
 7 **or section 152(e) of the Internal Revenue Code**, except that it is limited to an individual who is  
 8 under 13 years of age, or who is a child with a disability, as that term is defined in ORS 316.099.

9 (2) A taxpayer is not disqualified from claiming the credit under this section solely because the  
 10 taxpayer’s spouse has a disability, if the disability is such that it prevents the taxpayer’s spouse  
 11 from providing child care, being gainfully employed, seeking employment and attending school. The  
 12 Department of Revenue may require that a physician verify the existence of the disability and its  
 13 severity.

14 (3) A qualified taxpayer shall be allowed a credit against the taxes otherwise due under ORS  
 15 chapter 316 equal to the applicable percentage of the qualified taxpayer’s child care expenses  
 16 (rounded to the nearest \$50).

17 (4) The applicable percentage to be used in calculating the amount of the credit provided in this  
 18 section shall be determined in accordance with the following table:

---

Applicable Percentage	Greater of Oregon Adjusted Gross Income or Federal Adjusted Gross Income, as Percent of Federal Poverty Level
27 40	200 or less
28 36	Greater than 200 and less than 29 or equal to 210
30 32	Greater than 210 and less than 31 or equal to 220
32 24	Greater than 220 and less than 33 or equal to 230
34 16	Greater than 230 and less than 35 or equal to 240
36 8	Greater than 240 and less than 37 or equal to 250
38 0	Greater than 250 percent 39 of federal poverty level

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41 (5) The department may:

42 (a) Adopt rules for carrying out the provisions of this section; and

43 (b) Prescribe the form used to claim a credit and the information required on the form. The form  
 44 may provide for verification of an individual’s disability by a physician, if applicable, as described  
 45

1 in subsection (2) of this section.

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

3 (a) A nonresident shall be allowed the credit under this section in the proportion provided in  
4 ORS 316.117.

5 (b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
6 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
7 ORS 316.117.

8 (c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
9 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
10 lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

11 (d) In the case of a qualified taxpayer who is married, a credit shall be allowed under this sec-  
12 tion only if:

13 (A) The taxpayer files a joint return;

14 (B) The taxpayer files a separate return and is legally separated or subject to a separate main-  
15 tenance agreement; or

16 (C) The taxpayer files a separate return and the taxpayer and the taxpayer's spouse reside in  
17 separate households on the last day of the tax year with the intent of remaining in separate  
18 households in the future.

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

25 (8)(a) The minimum amount of earned income a taxpayer must earn in order to be a qualified  
26 taxpayer shall be adjusted for tax years beginning in each calendar year by multiplying \$6,000 by  
27 the ratio of the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive  
28 months ending August 31 of the prior calendar year over the monthly averaged index for the second  
29 quarter of the calendar year 1998.

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

33 (c) If any adjustment determined under paragraph (a) of this subsection is not a multiple of \$50,  
34 the adjustment shall be rounded to the nearest multiple of \$50.

35 (d) Notwithstanding paragraphs (a) to (c) of this subsection, the adjusted minimum amount of  
36 earned income a taxpayer must earn may not exceed the amount an individual would earn if the  
37 individual worked 1,040 hours at the minimum wage established under ORS 653.025 and in effect on  
38 January 1 of the calendar year in which begins the tax year of the taxpayer, rounded to the next  
39 lower multiple of \$50.

40 **SECTION 42. There shall be added to federal taxable income for Oregon tax purposes the**  
41 **difference between the amount allowable as a deduction under section 85 of the Internal**  
42 **Revenue Code as applicable to the tax year of the taxpayer and the amount allowable as a**  
43 **deduction under section 85 of the Internal Revenue Code as amended and in effect on De-**  
44 **cember 31, 2008, and as applicable to tax years beginning on or after January 1, 2008, and**  
45 **before January 1, 2009.**

1       **SECTION 43.** (1) If House Bill 2649 becomes law, section 42 of this 2009 Act is repealed.

2       (2) If House Bill 2649 becomes law, section 5, chapter \_\_\_, Oregon Laws 2009 (Enrolled  
3 House Bill 2649), is repealed.

4       **SECTION 44.** If House Bill 2649 becomes law, section 9, chapter \_\_\_, Oregon Laws 2009 (En-  
5 rolled House Bill 2649), is amended to read:

6       **Sec. 9.** [*Sections 5 and 8 of this 2009 Act apply*] **Section 8, chapter \_\_\_, Oregon Laws 2009**  
7 **(Enrolled House Bill 2649) applies** to tax years beginning on or after January 1, 2009, and before  
8 January 1, 2010.

9       **SECTION 45.** Sections 37, 39 and 42 of this 2009 Act, the amendments to statutes by  
10 sections 1 to 21, 23, 24, 26, 28 to 31, 33, 40 and 41 of this 2009 Act and the repeal of section  
11 5, chapter \_\_\_, Oregon Laws 2009 (Enrolled House Bill 2649), and section 42 of this 2009 Act  
12 by section 43 of this 2009 Act apply to tax years beginning on or after January 1, 2009.

13       **SECTION 46.** The amendments to statutes by sections 22, 25, 27, 32 and 34 of this 2009  
14 Act apply to tax years beginning on or after January 1, 2011.

15       **SECTION 47.** ORS 316.116 is amended to read:

16       316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due  
17 under this chapter for costs paid or incurred for construction or installation of each of one or more  
18 alternative energy devices in a dwelling.

19       (b) A resident individual shall be allowed a credit against the taxes otherwise due under this  
20 chapter for costs paid or incurred to modify or purchase an alternative fuel vehicle or related  
21 equipment.

22       (2)(a) In the case of a category one alternative energy device that is not an alternative fuel  
23 device, the credit shall be based upon the first year energy yield of the alternative energy device  
24 that qualifies under ORS 469.160 to 469.180. The amount of the credit shall be the same whether for  
25 collective or noncollective investment.

26       (b) The credit allowed under this section for each category one alternative energy device for  
27 each dwelling may not exceed the lesser of:

28       (A) \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per  
29 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or  
30 domestic water heating for tax years beginning on or after January 1, 1990, and before January 1,  
31 1996.

32       (B) \$1,200 or the first year energy yield in kilowatt hours per year multiplied by 48 cents per  
33 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or  
34 domestic water heating for tax years beginning on or after January 1, 1996, and before January 1,  
35 1998.

36       (C) \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per  
37 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or  
38 domestic water heating for tax years beginning on or after January 1, 1998.

39       (c) For each category one alternative energy device used for swimming pool, spa or hot tub  
40 heating, the credit allowed under this section shall be based upon 50 percent of the cost of the de-  
41 vice or the first year's energy yield in kilowatt hours per year multiplied by 15 cents, whichever is  
42 lower, up to:

43       (A) \$1,500 for tax years beginning on or after January 1, 1990, and before January 1, 1996.

44       (B) \$1,200 for tax years beginning on or after January 1, 1996, and before January 1, 1998.

45       (C) \$1,500 for tax years beginning on or after January 1, 1998.

1 (d) For each alternative fuel device, the credit allowed under this section is 25 percent of the  
2 cost of the alternative fuel device but the total credit shall not exceed \$750 if the device is placed  
3 in service on or after January 1, 1998.

4 (e)(A) For each category two alternative energy device that is a solar electric system or fuel  
5 cell system, the credit allowed under this section shall equal \$3 per watt of installed output, but the  
6 installed output that is used to determine the amount of credit under this paragraph may not exceed  
7 2,000 watts.

8 (B) For each category two alternative energy device that is a wind electric system, the credit  
9 allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield in  
10 kilowatt hours per year multiplied by \$2.

11 (C) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credits  
12 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each al-  
13 ternative energy device, whichever is less. Unused credit amounts may be carried forward as pro-  
14 vided in subsection (7) of this section, but may not be carried forward to a tax year that is more  
15 than five tax years following the first tax year for which any credit was allowed with respect to the  
16 category two alternative energy device that is the basis for the credit.

17 (D) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credit  
18 for each device allowed under this paragraph may not exceed 50 percent of the total installed cost  
19 of the category two alternative energy device.

20 (3)(a) In the case of a credit for a category one alternative energy device that is an energy ef-  
21 ficient appliance, the credit allowed for each appliance to a resident individual under this section  
22 shall equal:

23 (A) 48 cents per first year kilowatt hour saved, or the equivalent for other fuel saved, not to  
24 exceed \$1,200 for each tax year beginning on or after January 1, 1998, and before January 1, 1999;  
25 and

26 (B) 40 cents per kilowatt hour saved, or the equivalent for other fuel saved, not to exceed \$1,000  
27 for each tax year beginning on or after January 1, 1999.

28 (b) Notwithstanding paragraph (a) of this subsection, the credit allowed for an energy efficient  
29 appliance may not exceed 25 percent of the cost of the appliance.

30 (4) To qualify for a credit under this section, all of the following are required:

31 (a) The alternative energy device must be purchased, constructed, installed and operated in ac-  
32 cordance with ORS 469.160 to 469.180 and a certificate issued thereunder.

33 (b) Except for credits claimed for alternative fuel devices, the taxpayer who is allowed the credit  
34 must be the owner or contract purchaser of the dwelling or dwellings served by the alternative en-  
35 ergy device or the tenant of the owner or of the contract purchaser and must:

36 (A) Use the dwelling or dwellings served by the alternative energy device as a principal or  
37 secondary residence; or

38 (B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant  
39 who uses the dwelling or dwellings as a principal or secondary residence, unless the basis for the  
40 credit is the installation of an energy efficient appliance. If the basis for the credit is the installation  
41 of an energy efficient appliance, the credit shall be allowed only to the taxpayer who actually oc-  
42 cupies the dwelling as a principal or secondary residence.

43 (c) In the case of an alternative fuel device, if the device is a fueling station necessary to op-  
44 erate an alternative fuel vehicle, unless the verification form and certificate are transferred as au-  
45 thorized under ORS 469.170 (8), the taxpayer who is allowed the credit must be the contractor who

1 constructs the dwelling that incorporates the fueling station into the dwelling or installs the fueling  
2 station in the dwelling. If the category one alternative energy device is an alternative fuel vehicle,  
3 the credit must be claimed by the owner as defined under ORS 801.375 or contract purchaser. If the  
4 category one alternative energy device is related equipment for an alternative fuel vehicle, the  
5 credit may be claimed by the owner or contract purchaser.

6 (d) The credit must be claimed for the tax year in which the alternative energy device was  
7 purchased if the device is operational by April 1 of the next following tax year.

8 **(e) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for**  
9 **electric plug-in charging, it must be purchased before January 1, 2010.**

10 (5) The credit provided by this section does not affect the computation of basis under this  
11 chapter.

12 (6) The total credits allowed under this section in any one year may not exceed the tax liability  
13 of the taxpayer.

14 (7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
15 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
16 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
17 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
18 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
19 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
20 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried  
21 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year  
22 thereafter.

23 (8) A nonresident shall be allowed the credit under this section in the proportion provided in  
24 ORS 316.117.

25 (9) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
26 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
27 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

28 (10) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
29 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
30 ORS 316.117.

31 (11) A husband and wife who file separate returns for a taxable year may each claim a share  
32 of the tax credit that would have been allowed on a joint return in proportion to the contribution  
33 of each. However, a husband or wife living in a separate principal residence may claim the tax  
34 credit in the same amount as permitted a single person.

35 (12) As used in this section, unless the context requires otherwise:

36 (a) "Collective investment" means an investment by two or more taxpayers for the acquisition,  
37 construction and installation of an alternative energy device for one or more dwellings.

38 (b) "Noncollective investment" means an investment by an individual taxpayer for the acqui-  
39 sition, construction and installation of an alternative energy device for one or more dwellings.

40 (c) "Taxpayer" includes a transferee of a verification form under ORS 469.170 (8).

41 (13) Notwithstanding any provision of subsection (1) or (2) of this section, the sum of the credit  
42 allowed under subsection (1) of this section plus any similar credit allowed for federal income tax  
43 purposes may not exceed the cost to the taxpayer for the acquisition, construction and installation  
44 of the alternative energy device.

45 **SECTION 48.** ORS 315.354 is amended to read:

1 315.354. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if  
2 the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of the  
3 facility during the period for which that facility is certified under ORS 469.185 to 469.225. The credit  
4 is allowed as follows:

5 (a) Except as provided in paragraph (b) or (c) of this subsection, the credit allowed in each of  
6 the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the  
7 facility, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the  
8 succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability  
9 of the taxpayer.

10 (b) If the certified cost of the facility does not exceed \$20,000, the total amount of the credit  
11 allowable under subsection (4) of this section may be claimed in the first tax year for which the  
12 credit may be claimed, but may not exceed the tax liability of the taxpayer.

13 (c) If the facility uses or produces renewable energy resources or is a renewable energy re-  
14 source equipment manufacturing facility, the credit allowed in each of five succeeding tax years  
15 shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the  
16 taxpayer.

17 (2) Notwithstanding subsection (1) of this section:

18 (a) If the facility is one or more renewable energy resource systems installed in a single-family  
19 dwelling, the amount of the credit for each system shall be determined as if the facility was con-  
20 sidered a residential alternative energy device under ORS 316.116, but subject to the maximum  
21 credit amount under subsection (4)(b) of this section;

22 (b) If the facility is a high-performance home, the amount of the credit shall equal the amount  
23 determined under paragraph (a) of this subsection plus \$3,000; and

24 (c) If the facility is a high-performance home or a homebuilder-installed renewable energy sys-  
25 tem, the total amount of the credit may be claimed in the first tax year for which the credit is  
26 claimed, but may not exceed the tax liability of the taxpayer.

27 (3) In order for a tax credit to be allowable under this section:

28 (a) The facility must be located in Oregon;

29 (b) The facility must have received final certification from the Director of the State Department  
30 of Energy under ORS 469.185 to 469.225; *[and]*

31 (c) The taxpayer must be an eligible applicant under ORS 469.205 (1)(c)[.]; **and**

32 **(d) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for**  
33 **electric plug-in charging, it must be purchased before January 1, 2010.**

34 (4) The total amount of credit allowable to an eligible taxpayer under this section may not ex-  
35 ceed:

36 (a) 50 percent of the certified cost of a renewable energy resources facility, a renewable energy  
37 resource equipment manufacturing facility or a high-efficiency combined heat and power facility;

38 (b) \$9,000 per single-family dwelling for homebuilder-installed renewable energy systems;

39 (c) \$12,000 per single-family dwelling for homebuilder-installed renewable energy systems, if the  
40 dwelling also constitutes a high-performance home; or

41 (d) 35 percent of the certified cost of any other facility.

42 (5)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the  
43 facility, notice thereof shall be given to the Director of the State Department of Energy who shall  
44 revoke the certificate covering the facility as of the date of such disposition. The new owner, or  
45 upon re-leasing of the facility, the new lessor, may apply for a new certificate under ORS 469.215,

1 but the tax credit available to the new owner shall be limited to the amount of credit not claimed  
2 by the former owner or, for a new lessor, the amount of credit not claimed by the lessor under all  
3 previous leases.

4 (b) The State Department of Energy may not revoke the certificate covering a facility under  
5 paragraph (a) of this subsection if the tax credit associated with the facility has been transferred  
6 to a taxpayer who is an eligible applicant under ORS 469.205 (1)(c)(A).

7 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
8 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
9 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried  
10 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
11 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,  
12 any credit not used in that third succeeding tax year may be carried forward and used in the fourth  
13 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be  
14 carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that  
15 fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and  
16 likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in  
17 the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax  
18 year may be carried forward and used in the eighth succeeding tax year, but may not be carried  
19 forward for any tax year thereafter. Credits may be carried forward to and used in a tax year be-  
20 yond the years specified in subsection (1) of this section only as provided in this subsection.

21 (7) The credit provided by this section is not in lieu of any depreciation or amortization de-  
22 duction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter  
23 316, 317 or 318 for such year.

24 (8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax  
25 credits allowed under this section.

26 (9) If a homebuilder claims a credit under this section with respect to a homebuilder-installed  
27 renewable energy system or a high-performance home:

28 (a) The homebuilder may not claim credits for both a homebuilder-installed renewable energy  
29 system and a high-performance home with respect to the same dwelling;

30 (b) The homebuilder must inform the buyer of the dwelling that the homebuilder is claiming a  
31 tax credit under this section with respect to the dwelling; and

32 (c) The buyer of the dwelling may not claim a credit under this section that is based on any  
33 facility for which the homebuilder has already claimed a credit.

34 (10) The definitions in ORS 469.185 apply to this section.

35 **SECTION 49.** ORS 315.141 is amended to read:

36 315.141. (1) As used in this section:

37 (a) "Agricultural producer" means a person that produces biomass **in Oregon** that is used, in  
38 Oregon, as biofuel or to produce biofuel.

39 (b) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, **that have been con-**  
40 **verted into a processed fuel ready for use as energy by a biofuel producer's customers or for**  
41 **direct biomass energy use at the biofuel producer's site.**

42 (c) "Biofuel producer" means a person that through activities in Oregon:

43 (A) Alters the physical makeup of biomass to convert it into biofuel;

44 (B) Changes one biofuel into another type of biofuel; or

45 (C) Uses biomass in Oregon to produce energy.

1        [(c)] (d) “Biomass” means organic matter that is available on a renewable or recurring basis and  
2 that is derived from:

3        (A) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest  
4 or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

5        (B) Wood material from hardwood timber described in ORS 321.267 (3);

6        (C) Agricultural residues;

7        (D) Offal and tallow from animal rendering;

8        (E) Food wastes collected as provided under ORS chapter 459 or 459A;

9        (F) Yard or wood debris collected as provided under ORS chapter 459 or 459A;

10       (G) Wastewater solids; or

11       (H) Crops grown solely to be used for energy.

12       [(d)] (e) “Biomass” does not mean wood that has been treated with creosote, pentachlorophenol,  
13 inorganic arsenic or other inorganic chemical compounds **or waste, other than matter described**  
14 **in paragraph (d) of this subsection.**

15       [(e)] (f) “Biomass collector” means a person that collects biomass **in Oregon** to be used, in  
16 Oregon, as biofuel or to produce biofuel.

17       **(2) The Director of the State Department of Energy may adopt rules to define criteria,**  
18 **only as the criteria apply to organic biomass, to determine additional characteristics of**  
19 **biomass for purposes of this section.**

20       [(2)(a)] (3)(a) An agricultural producer or biomass collector shall be allowed a credit against the  
21 taxes that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under  
22 ORS chapter 317 or 318 for:

23       (A) The production of biomass **in Oregon** that is used, in Oregon, as biofuel or to produce  
24 biofuel; or

25       (B) The collection of biomass **in Oregon** that is used, in Oregon, as biofuel or to produce  
26 biofuel.

27       (b) A credit under this section may be claimed in the tax year in which the [*agricultural pro-*  
28 *ducer or biomass collector transfers biomass to a biofuel producer*] **credit is certified under sub-**  
29 **section (5) of this section.**

30       (c) **A taxpayer may be allowed a credit under this section for more than one of the roles**  
31 **defined in subsection (1) of this section, but a biofuel producer that is not also an agricul-**  
32 **tural producer or a biomass collector may not claim a credit under this section.**

33       [(c)] (d) Notwithstanding paragraph (a) of this subsection, a tax credit is not allowed for grain  
34 corn, but a tax credit shall be allowed for other corn material.

35       [(3) *The amount of the credit shall be calculated as follows:*]

36       [(a) *Determine the quantity of biomass transferred to a biofuel producer during the tax year;*]

37       [(b) *Categorize the biomass into appropriate categories; and*]

38       [(c) *Multiply the quantity of biomass in a particular category by the appropriate credit rate for that*  
39 *category, expressed in dollars and cents, that is prescribed in ORS 469.790.*]

40       **(4) The amount of the credit shall equal the amount certified under subsection (5) of this**  
41 **section.**

42       **(5)(a) The State Department of Energy may establish by rule procedures and criteria for**  
43 **determining the amount of the tax credit to be certified under this section, consistent with**  
44 **ORS 469.790. The department shall provide written certification to taxpayers that are eligible**  
45 **to claim the credit under this section.**

1       **(b) The State Department of Energy may charge and collect a fee from taxpayers for**  
 2 **certification of credits under this section. The fee may not exceed the cost to the department**  
 3 **of determining the amount of certified cost.**

4       **(c) The State Department of Energy shall provide to the Department of Revenue a list,**  
 5 **by tax year, of taxpayers for which a credit is certified under this section, upon request of**  
 6 **the Department of Revenue.**

7       [(4)] **(6)** The amount of the credit claimed under this section for any tax year may not exceed  
 8 the tax liability of the taxpayer.

9       [(5)(a) *A biofuel producer shall provide a written receipt to an agricultural producer or biomass*  
 10 *collector at the time biomass is transferred from the agricultural producer or biomass collector to the*  
 11 *biofuel producer. The receipt must state the quantity and type of biomass being transferred and that*  
 12 *the biomass is to be used to produce biofuel.*]

13       [(b)] **(7)** Each agricultural producer or biomass collector shall maintain the [*receipts described*  
 14 *in this subsection*] **written documentation of the amount certified for tax credit under this**  
 15 **section** in [*their*] **its** records for a period of at least five years after the tax year in which the credit  
 16 is claimed [*or for a longer period of time prescribed by the Department of Revenue*] **and provide the**  
 17 **written documentation to the Department of Revenue upon request.**

18       [(6)] **(8)** The credit shall be claimed on a form prescribed by the Department of Revenue that  
 19 contains the information required by the department.

20       [(7)] **(9)** Any tax credit otherwise allowable under this section that is not used by the taxpayer  
 21 in a particular tax year may be carried forward and offset against the taxpayer's tax liability for  
 22 the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be  
 23 carried forward and used in the second succeeding tax year, and likewise any credit not used in that  
 24 second succeeding tax year may be carried forward and used in the third succeeding tax year, and  
 25 any credit not used in that third succeeding tax year may be carried forward and used in the fourth  
 26 succeeding tax year, but may not be carried forward for any tax year thereafter.

27       [(8)] **(10)** In the case of a credit allowed under this section:

28       (a) A nonresident shall be allowed the credit under this section in the proportion provided in  
 29 ORS 316.117.

30       (b) If a change in the status of the taxpayer from resident to nonresident or from nonresident  
 31 to resident occurs, the credit allowed by this section shall be determined in a manner consistent  
 32 with ORS 316.117.

33       (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the  
 34 department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this  
 35 section shall be prorated or computed in a manner consistent with ORS 314.085.

36       **SECTION 50.** ORS 315.144 is amended to read:

37       315.144. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit  
 38 [*for consideration*] to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

39       **(2) A tax credit allowed under ORS 315.141 may be transferred on or before the date on**  
 40 **which the return is due for the tax year in which the credit may first be claimed. After that**  
 41 **date, no portion of a credit allowed under ORS 315.141 may be transferred.**

42       [(2)] **(3)** To transfer the tax credit, the taxpayer earning the credit and the taxpayer that will  
 43 claim the credit shall, **on or before the date prescribed in subsection (2) of this section**, jointly  
 44 file a notice of tax credit transfer with the Department of Revenue. The notice shall be given on a  
 45 form prescribed by the department that contains all of the following:

- 1 (a) The name[,] **and** address [*and taxpayer identification number*] of the transferor and transferee;  
2 (b) The amount of the tax credit **that is being transferred**; [*and*]  
3 **(c) The amount of the tax credit that is being retained by the transferor; and**  
4 [*(c)*] **(d)** Any other information required by the department.  
5 [*(3) Notwithstanding subsection (1) of this section, a tax credit may not be transferred under this*  
6 *section.*]  
7 [*(a) From an agricultural producer to a biomass collector claiming a credit for collecting the*  
8 *biomass; or*]  
9 [*(b) From a biomass collector to an agricultural producer claiming a credit for producing the*  
10 *biomass.*]  
11 **(4) The State Department of Energy may establish by rule a minimum discounted value**  
12 **of a tax credit under this section.**  
13 **(5) The Department of Revenue, in consultation with the State Department of Energy,**  
14 **may by rule establish procedures for the transfer of tax credits provided by this section.**  
15 **SECTION 51. The amendments to ORS 315.141, 315.144, 315.354 and 316.116 by sections 47**  
16 **to 50 of this 2009 Act apply to tax years beginning on or after January 1, 2010.**  
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