

**PROPOSED AMENDMENTS TO
HOUSE BILL 2492**

1 On page 1 of the printed bill, delete lines 7 through 30 and delete pages
2 2 through 28 and insert:

3 **SECTION 1.** ORS 238A.005, as amended by section 1, chapter 31, Oregon
4 Laws 2012, is amended to read:

5 “238A.005. For the purposes of this chapter:

6 “(1) ‘Active member’ means a member of the pension program or the in-
7 dividual account program of the Oregon Public Service Retirement Plan who
8 is actively employed in a qualifying position.

9 “(2) ‘Actuarial equivalent’ means a payment or series of payments having
10 the same value as the payment or series of payments replaced, computed on
11 the basis of interest rate and mortality assumptions adopted by the board.

12 “(3) ‘Board’ means the Public Employees Retirement Board.

13 “(4) ‘Eligible employee’ means a person who performs services for a par-
14 ticipating public employer, including elected officials other than judges. ‘El-
15 igible employee’ does not include:

16 “(a) Persons engaged as independent contractors;

17 “(b) Aliens working under a training or educational visa;

18 “(c) Persons, other than workers in the Industries for the Blind Program
19 under ORS 346.190, provided sheltered employment or make-work by a public
20 employer;

21 “(d) Persons categorized by a participating public employer as student
22 employees;

1 “(e) Any person who is an inmate of a state institution;

2 “(f) Employees of foreign trade offices of the Oregon Business Develop-
3 ment Department who live and perform services in foreign countries under
4 the provisions of ORS 285A.075 (1)(g);

5 “(g) An employee actively participating in an alternative retirement pro-
6 gram established under ORS 353.250 or an optional retirement plan estab-
7 lished under ORS 341.551;

8 “(h) Employees of the Oregon University System who are actively partic-
9 ipating in an optional retirement plan offered under ORS 243.800;

10 “(i) Any employee who belongs to a class of employees that was not eli-
11 gible on August 28, 2003, for membership in the system under the provisions
12 of ORS chapter 238 or other law;

13 “(j) Any person who belongs to a class of employees who are not eligible
14 to become members of the Oregon Public Service Retirement Plan under the
15 provisions of ORS 238A.070 (2);

16 “(k) Any person who is retired under ORS 238A.100 to 238A.245 or ORS
17 chapter 238 and who continues to receive retirement benefits while employed;
18 and

19 “(L) Judges.

20 “(5) ‘Firefighter’ means:

21 “(a) A person employed by a local government, as defined in ORS 174.116,
22 whose primary job duties include the fighting of fires;

23 “(b) The State Fire Marshal, the chief deputy state fire marshal and
24 deputy state fire marshals; and

25 “(c) An employee of the State Forestry Department who is certified by the
26 State Forester as a professional wildland firefighter and whose primary du-
27 ties include the abatement of uncontrolled fires as described in ORS 477.064.

28 “(6) ‘Fund’ means the Public Employees Retirement Fund.

29 “(7)(a) ‘Hour of service’ means:

30 “(A) An hour for which an eligible employee is directly or indirectly paid

1 or entitled to payment by a participating public employer for performance
2 of duties in a qualifying position; and

3 “(B) An hour of vacation, holiday, illness, incapacity, jury duty, military
4 duty or authorized leave during which an employee does not perform duties
5 but for which the employee is directly or indirectly paid or entitled to pay-
6 ment by a participating public employer for services in a qualifying position,
7 as long as the hour is within the number of hours regularly scheduled for
8 the performance of duties during the period of vacation, holiday, illness, in-
9 capacity, jury duty, military duty or authorized leave.

10 “(b) ‘Hour of service’ does not include any hour for which payment is
11 made or due under a plan maintained solely for the purpose of complying
12 with applicable workers’ compensation laws or unemployment compensation
13 laws.

14 “(8) ‘Inactive member’ means a member of the pension program or the
15 individual account program of the Oregon Public Service Retirement Plan
16 whose membership has not been terminated, who is not a retired member and
17 who is not employed in a qualifying position.

18 “(9) ‘Individual account program’ means the defined contribution individ-
19 ual account program of the Oregon Public Service Retirement Plan estab-
20 lished under ORS 238A.025.

21 “(10) ‘Institution of higher education’ means a public university listed in
22 ORS 352.002, the Oregon Health and Science University or a community
23 college, as defined in ORS 341.005.

24 “(11) ‘Member’ means an eligible employee who has established member-
25 ship in the pension program or the individual account program of the Oregon
26 Public Service Retirement Plan and whose membership has not been termi-
27 nated under ORS 238A.110 or 238A.310.

28 “(12) ‘Participating public employer’ means a public employer as defined
29 in ORS 238.005 that provides retirement benefits for employees of the public
30 employer under the system.

1 “(13) ‘Pension program’ means the defined benefit pension program of the
2 Oregon Public Service Retirement Plan established under ORS 238A.025.

3 “(14) ‘Police officer’ means a police officer as described in ORS 238.005.

4 “(15) ‘Qualifying position’ means one or more jobs with one or more par-
5 ticipating public employers in which an eligible employee performs 600 or
6 more hours of service in a calendar year, excluding any service in a job for
7 which benefits are not provided under the Oregon Public Service Retirement
8 Plan pursuant to ORS 238A.070 (2).

9 “(16) ‘Retired member’ means a pension program member who is receiving
10 a pension as provided in ORS 238A.180 to 238A.195.

11 “(17)(a) ‘Salary’ means the remuneration paid to an active member in re-
12 turn for services to the participating public employer, including
13 remuneration in the form of living quarters, board or other items of value,
14 to the extent the remuneration is includable in the employee’s taxable in-
15 come under Oregon law. Salary includes the additional amounts specified
16 in paragraph (b) of this subsection, but does not include the amounts speci-
17 fied in paragraph (c) of this subsection, regardless of whether those amounts
18 are includable in taxable income.

19 “(b) ‘Salary’ includes the following amounts:

20 “(A) Payments of employee and employer money into a deferred compen-
21 sation plan that are made at the election of the employee.

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

24 “(C) Any amount that is contributed to a cafeteria plan or qualified
25 transportation fringe benefit plan by the employer at the election of the
26 employee and that is not includable in the taxable income of the employee
27 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on [*December 31, 2011*]
28 **January 3, 2013.**

29 “(D) Any amount that is contributed to a cash or deferred arrangement
30 by the employer at the election of the employee and that is not included in

1 the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in
2 effect on [*December 31, 2011*] **January 3, 2013**.

3 “(E) Retroactive payments described in ORS 238.008.

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

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

9 “(H) Wages of a deceased member paid to a surviving spouse or dependent
10 children under ORS 652.190.

11 “(c) ‘Salary’ does not include the following amounts:

12 “(A) Travel or any other expenses incidental to employer’s business which
13 is reimbursed by the employer.

14 “(B) Payments made on account of an employee’s death.

15 “(C) Any lump sum payment for accumulated unused sick leave, vacation
16 leave or other paid leave.

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

19 “(E) Any retirement incentive, retirement bonus or retirement gratuitous
20 payment.

21 “(F) Payment for a leave of absence after the date the employer and em-
22 ployee have agreed that no future services in a qualifying position will be
23 performed.

24 “(G) Payments for instructional services rendered to public universities
25 of the Oregon University System or the Oregon Health and Science Univer-
26 sity when those services are in excess of full-time employment subject to this
27 chapter. A person employed under a contract for less than 12 months is
28 subject to this subparagraph only for the months covered by the contract.

29 “(H) The amount of an employee contribution to the individual account
30 program that is paid by the employer and is not deducted from the compen-

1 sation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

2 “(I) Any amount in excess of \$200,000 for a calendar year. If any period
3 over which salary is determined is less than 12 months, the \$200,000 limita-
4 tion for that period shall be multiplied by a fraction, the numerator of which
5 is the number of months in the determination period and the denominator
6 of which is 12. The board shall adopt rules adjusting this dollar limit to in-
7 corporate cost-of-living adjustments authorized by the Internal Revenue Ser-
8 vice.

9 “(18) ‘System’ means the Public Employees Retirement System.

10 “**SECTION 2.** ORS 238A.125, as amended by section 2, chapter 31, Oregon
11 Laws 2012, is amended to read:

12 “238A.125. (1) Upon retiring at normal retirement age, a vested pension
13 program member shall be paid an annual pension for the life of the member
14 as follows:

15 “(a) For service as a police officer or firefighter, 1.8 percent of final av-
16 erage salary multiplied by the number of years of retirement credit attrib-
17 utable to service as a police officer or firefighter.

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

21 “(2) Notwithstanding any provision of ORS 238A.100 to 238A.245, the an-
22 nual benefit payable to a member under the pension program and under any
23 other tax-qualified defined benefit plan maintained by the participating pub-
24 lic employer may not exceed the applicable limitations set forth in 26 U.S.C.
25 415(b), as in effect on [December 31, 2011] **January 3, 2013**. The Public Em-
26 ployees Retirement Board shall adopt rules for the administration of this
27 limitation, including adjustments in the annual dollar limitation to reflect
28 cost-of-living adjustments authorized by the Internal Revenue Service.

29 “(3) The board shall make no actuarial adjustment in a member’s pension
30 calculated under this section by reason of the member’s retirement after

1 normal retirement age.

2 **“SECTION 3.** ORS 238A.150, as amended by section 3, chapter 31, Oregon
3 Laws 2012, is amended to read:

4 “238A.150. (1) Notwithstanding any other provision of ORS 238A.100 to
5 238A.245, an eligible employee who leaves a qualifying position for the pur-
6 pose of performing service in the uniformed services, and who subsequently
7 returns to employment with a participating public employer with reemploy-
8 ment rights under federal law, is entitled to accrue retirement credit, credit
9 toward the probationary period required by ORS 238A.100 and credit toward
10 the vesting requirements of ORS 238A.115 under rules adopted by the Public
11 Employees Retirement Board pursuant to subsection (2) of this section.

12 “(2) The board shall adopt rules establishing benefits and service credit
13 for any period of service in the uniformed services by an employee described
14 in subsection (1) of this section. For the purpose of adopting rules under this
15 subsection, the board shall consider and take into account all federal law
16 relating to benefits and service credit for any period of service in the uni-
17 formed services, including 26 U.S.C. 414(u), as in effect on [*December 31,*
18 *2011*] **January 3, 2013**. Benefits and service credit under rules adopted by the
19 board pursuant to this subsection may not exceed benefits and service credit
20 required under federal law for periods of service in the uniformed services.

21 **“SECTION 4.** ORS 238A.170, as amended by section 4, chapter 31, Oregon
22 Laws 2012, is amended to read:

23 “238A.170. (1) An active member of the pension program who is 70-1/2
24 years of age or older must retire not later than April 1 of the calendar year
25 following the calendar year in which the member terminates employment
26 with all participating public employers. An inactive member of the pension
27 program must retire not later than April 1 of the calendar year following the
28 calendar year in which the member attains 70-1/2 years of age.

29 “(2) Notwithstanding any other provision of ORS 238A.100 to 238A.245,
30 the entire interest of a member of the pension program must be distributed

1 over a time period commencing no later than the required beginning date set
2 forth in subsection (1) of this section, and must be distributed in a manner
3 that satisfies all other minimum distribution requirements of 26 U.S.C.
4 401(a)(9) and regulations implementing that section, as in effect on [*December*
5 *31, 2011*] **January 3, 2013**. The Public Employees Retirement Board shall
6 adopt rules implementing those minimum distribution requirements.

7 **SECTION 5.** ORS 238A.230, as amended by section 5, chapter 31, Oregon
8 Laws 2012, is amended to read:

9 “238A.230. (1) If a member of the pension program who is vested dies be-
10 fore the member’s effective date of retirement, the Public Employees Retire-
11 ment Board shall pay the death benefit provided for in this section to the
12 spouse of the member or to any other person who is constitutionally required
13 to be treated in the same manner as a spouse for the purpose of retirement
14 benefits.

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

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

23 “(A) As of the date of death if the member dies after the earliest retire-
24 ment date for the member under ORS 238A.165; or

25 “(B) As if the member became an inactive member on the date of death
26 and thereafter retired at the earliest retirement date if the member dies be-
27 fore the earliest retirement date for the member under ORS 238A.165.

28 “(3) The death benefit provided under this section is first effective on the
29 first day of the month following the date of death of the member. The sur-
30 viving spouse or other person entitled to the death benefit may elect to delay

1 payment of the death benefit, but payment must commence no later than
2 December 31 of the calendar year in which the member would have reached
3 70-1/2 years of age.

4 “(4) Notwithstanding any other provision of ORS 238A.100 to 238A.245,
5 distributions of death benefits under the pension program must comply with
6 the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regu-
7 lations implementing that section, as in effect on [*December 31, 2011*] **Janu-
8 ary 3, 2013**. The board shall adopt rules implementing those minimum
9 distribution requirements.

10 **“SECTION 6.** ORS 238A.370, as amended by section 6, chapter 31, Oregon
11 Laws 2012, is amended to read:

12 “238A.370. Notwithstanding any other provision of ORS 238A.300 to
13 238A.415, the annual addition to the employee and employer accounts of a
14 member of the individual account program for a calendar year, together with
15 the annual additions to the accounts of the member under any other defined
16 contribution plan maintained by the participating public employer for a cal-
17 endar year, may not exceed the lesser of \$40,000, or 100 percent of the
18 member’s compensation for that calendar year. For purposes of this section,
19 ‘annual addition’ has the meaning given that term in 26 U.S.C. 415(c)(2), as
20 in effect on [*December 31, 2011*] **January 3, 2013**, and ‘compensation’ has the
21 meaning given the term ‘participant’s compensation’ in 26 U.S.C. 415(c)(3),
22 as in effect on [*December 31, 2011*] **January 3, 2013**. The Public Employees
23 Retirement Board shall adopt rules for the administration of this limitation,
24 including adjustments in the annual dollar limitation to reflect cost-of-living
25 adjustments authorized by the Internal Revenue Service.

26 **“SECTION 7.** ORS 238A.400, as amended by section 7, chapter 31, Oregon
27 Laws 2012, is amended to read:

28 “238A.400. (1) Upon retirement on or after the earliest retirement date,
29 as described in ORS 238A.165, a member of the individual account program
30 shall receive in a lump sum the amounts in the member’s employee account,

1 rollover account and employer account to the extent the member is vested
2 in those accounts under ORS 238A.320.

3 “(2) In lieu of a lump sum payment under subsection (1) of this section,
4 a member of the individual account program may elect to receive the
5 amounts in the member’s employee account and employer account, to the
6 extent the member is vested in those accounts under ORS 238A.320, in sub-
7 stantially equal installments paid over a period of 5, 10, 15 or 20 years, or
8 over a period that is equal to the anticipated life span of the member as
9 actuarially determined by the Public Employees Retirement Board. Install-
10 ments may be made on a monthly, quarterly or annual basis. In no event
11 may the period selected by the member exceed the time allowed by the min-
12 imum distribution requirements described in subsection (5) of this section.
13 The board shall by rule establish the manner in which installments will be
14 adjusted to reflect investment gains and losses on the unpaid balance during
15 the payout period elected by the member under this subsection. The board
16 by rule may establish minimum monthly amounts payable under this sub-
17 section. The board may require that a lump sum payment, or an installment
18 schedule different than the schedules provided for in this subsection, be used
19 to pay the vested amounts in the member’s accounts if those amounts are
20 not adequate to generate the minimum monthly amounts specified by the
21 rule.

22 “(3) A member of the individual account program electing to receive in-
23 stallments under subsection (2) of this section must designate a beneficiary
24 or beneficiaries. In the event the member dies before all amounts in the
25 employee and vested employer accounts are paid, all remaining installment
26 payments shall be made to the beneficiary or beneficiaries designated by the
27 member. A beneficiary may elect to receive a lump sum distribution of the
28 remaining amounts.

29 “(4) A member who is entitled to receive retirement benefits under ORS
30 chapter 238 may receive vested amounts in the member’s employee account,

1 rollover account and employer account in the manner provided by this sec-
2 tion when the member retires for service under the provisions of ORS chap-
3 ter 238.

4 “(5) Notwithstanding any other provision of ORS 238A.300 to 238A.415,
5 the entire interest of a member of the individual account program must be
6 distributed over a time period commencing no later than the latest retire-
7 ment date set forth in ORS 238A.170, and must be distributed in a manner
8 that satisfies all other minimum distribution requirements of 26 U.S.C.
9 401(a)(9) and regulations implementing that section, as in effect on [*December*
10 *31, 2011*] **January 3, 2013**. The board shall adopt rules implementing those
11 minimum distribution requirements.

12 **“SECTION 8.** ORS 238A.410, as amended by section 8, chapter 31, Oregon
13 Laws 2012, is amended to read:

14 “238A.410. (1) If a member of the individual account program dies before
15 retirement, the amounts in the member’s employee account, rollover account
16 and employer account, to the extent the member is vested in those accounts
17 under ORS 238A.320, shall be paid in a lump sum to the beneficiary or ben-
18 eficiaries designated by the member for the purposes of this section.

19 “(2) If a member of the individual account program is married at the time
20 of death, or there exists at the time of death any other person who is con-
21 stitutionally required to be treated in the same manner as a spouse for the
22 purpose of retirement benefits, the spouse or other person shall be the ben-
23 eficiary for purposes of the death benefit payable under this section unless
24 the spouse or other person consents to the designation of a different benefi-
25 ciary or beneficiaries before the designation has been made and the consent
26 has not been revoked by the spouse or other person as of the time of the
27 member’s death. Consent and revocation of consent must be in writing, ac-
28 knowledged by a notary public, and submitted to the Public Employees Re-
29 tirement Board in accordance with rules adopted by the board. If the
30 member’s spouse is designated as the member’s beneficiary and the marriage

1 of the member and spouse is subsequently dissolved, the former spouse shall
2 be treated as predeceasing the member for purposes of this section, unless
3 the member expressly designates the former spouse as beneficiary after the
4 effective date of the dissolution or the former spouse is required to be des-
5 ignated as a beneficiary under the provisions of ORS 238.465.

6 “(3) For purposes of this section and ORS 238A.400 (3), if a member fails
7 to designate a beneficiary, or if the person or persons designated do not
8 survive the member, the death benefit provided for in this section shall be
9 paid to the following person or persons, in the following order of priority:

10 “(a) The member’s surviving spouse or other person who is constitu-
11 tionally required to be treated in the same manner as a spouse;

12 “(b) The member’s surviving children, in equal shares; or

13 “(c) The member’s estate.

14 “(4) The entire amount of a deceased member’s vested accounts must be
15 distributed by December 31 of the fifth calendar year after the year in which
16 the member died. Notwithstanding any other provision of this chapter, dis-
17 tributions of death benefits under the individual account program must
18 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9)
19 and the regulations implementing that section, as in effect on [*December 31,*
20 *2011*] **January 3, 2013**. The Public Employees Retirement Board shall adopt
21 rules implementing those minimum distribution requirements.

22 “**SECTION 9.** ORS 238A.415, as amended by section 9, chapter 31, Oregon
23 Laws 2012, is amended to read:

24 “238A.415. (1) Notwithstanding any other provision of ORS 238A.300 to
25 238A.415, an eligible employee who leaves a qualifying position for the pur-
26 pose of performing service in the uniformed services, and who subsequently
27 returns to employment with a participating public employer with reemploy-
28 ment rights under federal law, is entitled to credit toward the probationary
29 period required by ORS 238A.300, credit toward the vesting requirements of
30 ORS 238A.320 and contributions under rules adopted by the Public Employ-

1 ees Retirement Board pursuant to subsection (2) of this section.

2 “(2) The board shall adopt rules establishing contributions and service
3 credit for any period of service in the uniformed services by an employee
4 described in subsection (1) of this section. For the purpose of adopting rules
5 under this subsection, the board shall consider and take into account all
6 federal law relating to benefits and service credit for any period of service
7 in the uniformed services, including 26 U.S.C. 414(u), as in effect on [*De-*
8 *cember 31, 2011*] **January 3, 2013**. Contributions and service credit under
9 rules adopted by the board pursuant to this subsection may not exceed con-
10 tributions and service credit required under federal law for periods of service
11 in the uniformed services.

12 **“SECTION 10.** ORS 238A.430, as amended by section 10, chapter 31,
13 Oregon Laws 2012, is amended to read:

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

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

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

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

30 “(c) A distribution to the extent that the distribution is required under

1 26 U.S.C. 401(a)(9).

2 “(3) The provisions of subsection (1) of this section apply to any portion
3 of a distribution of benefits under the pension program or the individual
4 account program even though the portion consists of after-tax employee
5 contributions that are not includable in gross income. Any portion of a dis-
6 tribution that consists of after-tax employee contributions that are not
7 includable in gross income may be transferred only to an individual retire-
8 ment account or annuity described in 26 U.S.C. 408(a) or (b), or to a quali-
9 fied defined contribution or defined benefit plan described in 26 U.S.C. 401(a)
10 or 403(b) that agrees to account separately for amounts transferred, including
11 accounting separately for the portion of the distribution that is includable
12 in gross income and the portion of the distribution that is not includable in
13 gross income. The amount transferred shall be treated as consisting first of
14 the portion of the distribution that is includable in gross income, determined
15 without regard to 26 U.S.C. 402(c)(1).

16 “(4) The board shall adopt rules implementing the direct rollover re-
17 quirements of 26 U.S.C. 401(a)(31) and the regulations implementing that
18 section, and may adopt administrative exceptions to the direct rollover re-
19 quirements to the extent permitted by 26 U.S.C. 401(a)(31) and the regu-
20 lations implementing that section.

21 “(5) All references in this section to federal laws and regulations are to
22 the laws and regulations in effect on [*December 31, 2011*] **January 3, 2013**.

23 “(6) For purposes of this section:

24 “(a) ‘Distributee’ means a member, a member’s surviving spouse or a
25 member’s alternate payee under ORS 238.465.

26 “(b) ‘Eligible retirement plan’ means:

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

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

30 “(C) A qualified trust under 26 U.S.C. 401(a), that is a defined contribu-

1 tion or defined benefit plan and permits the acceptance of rollover contri-
2 butions;

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

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

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

9 **“SECTION 11.** ORS 305.230, as amended by section 11, chapter 31, Oregon
10 Laws 2012, is amended to read:

11 “305.230. (1) Notwithstanding ORS 9.320:

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

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

25 “(c) Any shareholder of an S corporation, as defined in section 1361 of the
26 Internal Revenue Code, as amended and in effect on [*December 31, 2011*]
27 **January 3, 2013**, may represent the corporation in any proceeding before a
28 tax court magistrate or the department in the same manner as if the share-
29 holder were a partner and the S corporation were a partnership. The S cor-
30 poration must designate in writing a tax matters shareholder authorized to

1 represent the S corporation.

2 “(d) An individual who is licensed as a real estate broker or principal real
3 estate broker under ORS 696.022 or is a state certified appraiser or state li-
4 censed appraiser under ORS 674.310 or is a registered appraiser under ORS
5 308.010 may represent a taxpayer before a tax court magistrate or the de-
6 partment in any conference or proceeding with respect to the administration
7 of any ad valorem property tax.

8 “(e) A general partner who has been designated by members of a part-
9 nership as their tax matters partner under ORS 305.242 may represent those
10 partners in any conference or proceeding with respect to the administration
11 of any tax on or measured by net income.

12 “(f) Any person authorized under rules adopted by the department may
13 represent a taxpayer before the department in any conference or proceeding
14 with respect to any tax. Rules adopted under this paragraph, to the extent
15 feasible, shall be consistent with federal law that governs representation
16 before the Internal Revenue Service, as federal law is amended and in effect
17 on [*December 31, 2011*] **January 3, 2013**.

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

20 “(2) A person may not be recognized as representing a taxpayer pursuant
21 to this section unless there is first filed with the magistrate or department
22 a written authorization, or unless it appears to the satisfaction of the
23 magistrate or department that the representative does in fact have authority
24 to represent the taxpayer. A person recognized as an authorized represen-
25 tative under rules or procedures adopted by the tax court shall be considered
26 an authorized representative by the department.

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

1 “(4) Prior to the holding of a conference or proceeding before the tax
2 court magistrate or department, written notice shall be given by the
3 magistrate or department to the taxpayer of the provisions of subsection (3)
4 of this section.

5 **“SECTION 12.** ORS 305.494, as amended by section 12, chapter 31, Oregon
6 Laws 2012, is amended to read:

7 “305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation
8 as defined in section 1361 of the Internal Revenue Code, as amended and in
9 effect on [*December 31, 2011*] **January 3, 2013**, may represent the corporation
10 in any proceeding before the Oregon Tax Court in the same manner as if the
11 shareholder were a partner and the S corporation were a partnership.

12 **“SECTION 13.** ORS 305.690, as amended by section 13, chapter 31, Oregon
13 Laws 2012, is amended to read:

14 “305.690. As used in ORS 305.690 to 305.753, unless the context otherwise
15 requires:

16 “(1) ‘Biennial years’ means the two income tax years of individual tax-
17 payers that begin in the two calendar years immediately following the cal-
18 endar year in which a list is certified under ORS 305.715.

19 “(2) ‘Commission’ means the Oregon Charitable Checkoff Commission.

20 “(3) ‘Department’ means the Department of Revenue.

21 “(4) ‘Eligibility roster’ means a list, prepared under ORS 305.715 and
22 maintained by the commission in chronological order based on the date of
23 form listing or date of eligibility determination, whichever is later, of char-
24 itable and governmental entities seeking inclusion on the Oregon individual
25 income tax return forms.

26 “(5) ‘Form listed’ or ‘form listing’ means being listed on the Oregon indi-
27 vidual income tax return form.

28 “(6) ‘Instruction listing’ means being listed on the Department of Revenue
29 instructions for tax return checkoff contribution.

30 “(7) ‘Internal Revenue Code’ means the federal Internal Revenue Code as

1 amended and in effect on [*December 31, 2011*] **January 3, 2013.**

2 **“SECTION 14.** ORS 307.130, as amended by section 14, chapter 31, Oregon
3 Laws 2012, is amended to read:

4 “307.130. (1) As used in this section:

5 “(a) ‘Art museum’ means a nonprofit corporation organized to display
6 works of art to the public.

7 “(b) ‘Internal Revenue Code’ means the federal Internal Revenue Code as
8 amended and in effect on [*December 31, 2011*] **January 3, 2013.**

9 “(c) ‘Nonprofit corporation’ means a corporation that:

10 “(A) Is organized not for profit, pursuant to ORS chapter 65 or any
11 predecessor of ORS chapter 65; or

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

14 “(d) ‘Volunteer fire department’ means a nonprofit corporation organized
15 to provide fire protection services in a specific response area.

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

20 “(a) Except as provided in ORS 748.414, only such real or personal prop-
21 erty, or proportion thereof, as is actually and exclusively occupied or used
22 in the literary, benevolent, charitable or scientific work carried on by such
23 institutions.

24 “(b) Parking lots used for parking or any other use as long as that park-
25 ing or other use is permitted without charge for no fewer than 355 days
26 during the tax year.

27 “(c) All real or personal property of a rehabilitation facility or any retail
28 outlet thereof, including inventory. As used in this subsection, ‘rehabilitation
29 facility’ means either those facilities defined in ORS 344.710 or facilities
30 which provide individuals who have physical, mental or emotional disabili-

1 ties with occupational rehabilitation activities of an educational or
2 therapeutic nature, even if remuneration is received by the individual.

3 “(d) All real and personal property of a retail store dealing exclusively
4 in donated inventory, where the inventory is distributed without cost as part
5 of a welfare program or where the proceeds of the sale of any inventory sold
6 to the general public are used to support a welfare program. As used in this
7 subsection, ‘welfare program’ means the providing of food, shelter, clothing
8 or health care, including dental service, to needy persons without charge.

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

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

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

14 “(C) The inventory is either distributed without charge as part of a wel-
15 fare program, or sold to the general public and the sales proceeds used ex-
16 clusively to support a welfare program. As used in this paragraph,
17 ‘primarily’ means at least one-half of the inventory.

18 “(f) The real and personal property of an art museum that is used in
19 conjunction with the public display of works of art or used to educate the
20 public about art, but not including any portion of the art museum’s real or
21 personal property that is used to sell, or hold out for sale, works of art, re-
22 productions of works of art or other items to be sold to the public.

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

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

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

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

1 “(i) Acquire property and construct housing for resale to individuals at
2 or below the cost of acquisition and construction; and

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

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

8 “(4) An institution shall not be deprived of an exemption under this sec-
9 tion because its purpose or the use of its property is not limited to relieving
10 pain, alleviating disease or removing constraints.

11 **“SECTION 15.** ORS 307.147, as amended by section 15, chapter 31, Oregon
12 Laws 2012, is amended to read:

13 “307.147. (1) For purposes of this section:

14 “(a) ‘Internal Revenue Code’ means the federal Internal Revenue Code as
15 amended and in effect on [*December 31, 2011*] **January 3, 2013**.

16 “(b) ‘Nonprofit corporation’ means a corporation that:

17 “(A) Is organized not for profit, pursuant to ORS chapter 65 or any
18 predecessor of ORS chapter 65; or

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

21 “(c) ‘Senior services center’ means property that:

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

23 “(B) Is actually and exclusively used to provide services and activities
24 (including parking) primarily to or for persons over 50 years of age;

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

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

27 “(E) Is not a residential or dwelling place.

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

30 **“SECTION 16.** ORS 308A.450, as amended by section 16, chapter 31,

1 Oregon Laws 2012, is amended to read:

2 “308A.450. As used in ORS 308A.450 to 308A.465:

3 “(1) ‘Conservation easement’ has the meaning given that term in ORS
4 271.715.

5 “(2) ‘Holder’ has the meaning given that term in ORS 271.715.

6 “(3) ‘Internal Revenue Code’ means the federal Internal Revenue Code as
7 amended and in effect on [*December 31, 2011*] **January 3, 2013**.

8 “(4) ‘Lot’ has the meaning given that term in ORS 92.010.

9 “(5) ‘Parcel’ has the meaning given that term in ORS 92.010, as further
10 modified by ORS 215.010.

11 **“SECTION 17.** ORS 310.140, as amended by section 17, chapter 31, Oregon
12 Laws 2012, is amended to read:

13 “310.140. The Legislative Assembly finds that [*section 11b,*] Article XI,
14 **section 11b**, of the Oregon Constitution, was drafted by citizens and placed
15 before the voters of the State of Oregon by initiative petition. [*Section 11b,*]
16 Article XI, **section 11b**, of the Oregon Constitution, uses terms that do not
17 have established legal meanings and require definition by the Legislative
18 Assembly. [*Section 11b,*] Article XI, **section 11b**, of the Oregon Constitution,
19 was amended by [*section 11 (11),*] Article XI, **section 11 (11)**, of the Oregon
20 Constitution. This section is intended to interpret the terms of [*section*
21 *11b,*] Article XI, **section 11b**, of the Oregon Constitution, as originally
22 adopted and as amended by [*section 11 (11),*] Article XI, **section 11 (11)**, of
23 the Oregon Constitution, consistent with the intent of the people in adopting
24 these provisions, so that the provisions of [*section 11b,*] Article XI, **section**
25 **11b**, of the Oregon Constitution, may be given effect uniformly throughout
26 the State of Oregon, with minimal confusion and misunderstanding by citi-
27 zens and affected units of government. As used in the revenue and tax laws
28 of this state, and for purposes of [*section 11b,*] Article XI, **section 11b**, of the
29 Oregon Constitution:

30 “(1) ‘Actual cost’ means all direct or indirect costs incurred by a gov-

1 ernment unit in order to deliver goods or services or to undertake a capital
2 construction project. The ‘actual cost’ of providing goods or services to a
3 property or property owner includes the average cost or an allocated portion
4 of the total amount of the actual cost of making a good or service available
5 to the property or property owner, whether stated as a minimum, fixed or
6 variable amount. ‘Actual cost’ includes, but is not limited to, the costs of
7 labor, materials, supplies, equipment rental, property acquisition, permits,
8 engineering, financing, reasonable program delinquencies, return on invest-
9 ment, required fees, insurance, administration, accounting, depreciation,
10 amortization, operation, maintenance, repair or replacement and debt service,
11 including debt service payments or payments into reserve accounts for debt
12 service and payment of amounts necessary to meet debt service coverage re-
13 quirements.

14 “(2) ‘Assessment for local improvement’ means any tax, fee, charge or
15 assessment that does not exceed the actual cost incurred by a unit of gov-
16 ernment for design, construction and financing of a local improvement.

17 “(3) ‘Bonded indebtedness’ means any formally executed written agree-
18 ment representing a promise by a unit of government to pay to another a
19 specified sum of money, at a specified date or dates at least one year in the
20 future.

21 “(4) ‘Capital construction’:

22 “(a) For bonded indebtedness issued prior to December 5, 1996, and for the
23 proceeds of any bonded indebtedness approved by electors prior to December
24 5, 1996, that were spent or contractually obligated to be spent prior to June
25 20, 1997, means the construction, modification, replacement, repair, remodel-
26 ing or renovation of a structure, or addition to a structure, that is expected
27 to have a useful life of more than one year, and includes, but is not limited
28 to:

29 “(A) Acquisition of land, or a legal interest in land, in conjunction with
30 the capital construction of a structure.

1 “(B) Acquisition, installation of machinery or equipment, furnishings or
2 materials that will become an integral part of a structure.

3 “(C) Activities related to the capital construction, including planning,
4 design, authorizing, issuing, carrying or repaying interim or permanent fi-
5 nancing, research, land use and environmental impact studies, acquisition
6 of permits or licenses or other services connected with the construction.

7 “(D) Acquisition of existing structures, or legal interests in structures, in
8 conjunction with the capital construction.

9 “(b) For bonded indebtedness issued on or after December 5, 1996, except
10 for the proceeds of any bonded indebtedness approved by electors prior to
11 December 5, 1996, that were spent or contractually obligated to be spent be-
12 fore June 20, 1997, has the meaning given that term in paragraph (a) of this
13 subsection, except that ‘capital construction’:

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

16 “(B) Does not include:

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

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

20 “(iii) Furnishings, unless the furnishings are acquired in connection with
21 the acquisition, construction, remodeling or renovation of a structure, or the
22 repair of a structure that is required because of damage or destruction of the
23 structure.

24 “(5) ‘Capital improvements’:

25 “(a) For bonded indebtedness issued prior to December 5, 1996, and for the
26 proceeds of any bonded indebtedness approved by electors before December
27 5, 1996, that were spent or contractually obligated to be spent before June
28 20, 1997, means land, structures, facilities, personal property that is func-
29 tionally related and subordinate to real property, machinery, equipment or
30 furnishings having a useful life longer than one year.

1 “(b) For bonded indebtedness issued on or after December 5, 1996, except
2 for the proceeds of any bonded indebtedness approved by electors prior to
3 December 5, 1996, that were spent or contractually obligated to be spent be-
4 fore June 20, 1997, has the meaning given that term in paragraph (a) of this
5 subsection, except that ‘capital improvements’:

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

8 “(B) Does not include:

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

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

12 “(iii) Furnishings, unless the furnishings are acquired in connection with
13 the acquisition, construction, remodeling or renovation of a structure, or the
14 repair of a structure that is required because of damage or destruction of the
15 structure.

16 “(6) ‘Direct consequence of ownership’ means that the obligation of the
17 owner of property to pay a tax arises solely because that person is the owner
18 of the property, and the obligation to pay the tax arises as an immediate and
19 necessary result of that ownership without respect to any other intervening
20 transaction, condition or event.

21 “(7)(a) ‘Exempt bonded indebtedness’ means:

22 “(A) Bonded indebtedness authorized by a specific provision of the Oregon
23 Constitution;

24 “(B) Bonded indebtedness incurred or to be incurred for capital con-
25 struction or capital improvements that was issued as a general obligation
26 of the issuing governmental unit on or before November 6, 1990;

27 “(C) Bonded indebtedness incurred or to be incurred for capital con-
28 struction or capital improvements that was issued as a general obligation
29 of the issuing governmental unit after November 6, 1990, with the approval
30 of the electors of the issuing governmental unit; or

1 “(D) Bonded indebtedness incurred or to be incurred for capital con-
2 struction or capital improvements, if the issuance of the bonds is approved
3 by voters on or after December 5, 1996, in an election that is in compliance
4 with the voter participation requirements of [section 11 (8),] Article XI,
5 **section 11 (8)**, of the Oregon Constitution.

6 “(b) ‘Exempt bonded indebtedness’ includes bonded indebtedness issued to
7 refund or refinance any bonded indebtedness described in paragraph (a) of
8 this subsection.

9 “(8)(a) ‘Incurred charge’ means a charge imposed by a unit of government
10 on property or upon a property owner that does not exceed the actual cost
11 of providing goods or services and that can be controlled or avoided by the
12 property owner because:

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

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

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

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

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

30 “(9)(a) ‘Local improvement’ means a capital construction project, or part

1 thereof, undertaken by a local government, pursuant to ORS 223.387 to
2 223.399, or pursuant to a local ordinance or resolution prescribing the pro-
3 cedure 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
5 improvement:

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

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

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

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

16 “(10) ‘Maintenance and repairs, the need for which could be reasonably
17 anticipated’:

18 “(a) Means activities, the type of which may be deducted as an expense
19 under the provisions of the federal Internal Revenue Code, as amended and
20 in effect on [*December 31, 2011*] **January 3, 2013**, that keep the property in
21 ordinarily efficient operating condition and that do not add materially to the
22 value of the property nor appreciably prolong the life of the property;

23 “(b) Does not include maintenance and repair of property that is required
24 by damage, destruction or defect in design, or that was otherwise not rea-
25 sonably expected at the time the property was constructed or acquired, or
26 the addition of material that is in the nature of the replacement of property
27 and that arrests the deterioration or appreciably prolongs the useful life of
28 the property; and

29 “(c) Does not include street and highway construction, overlay and re-
30 construction.

1 “(11) ‘Projected useful life’ means the useful life, as reasonably estimated
2 by the unit of government undertaking the capital construction or capital
3 improvement project, beginning with the date the property was acquired,
4 constructed or reconstructed and based on the property’s condition at the
5 time the property was acquired, constructed or reconstructed.

6 “(12) ‘Routine obligations of ownership’ means a standard of operation,
7 maintenance, use or care of property established by law, or if established by
8 custom or common law, a standard that is reasonable for the type of property
9 affected.

10 “(13) ‘Single assessment’ means the complete assessment process, includ-
11 ing preassessment, assessment or reassessment, for any local improvement
12 authorized by ORS 223.387 to 223.399, or a local ordinance or resolution that
13 provides the procedure to be followed in making local assessments for bene-
14 fits from a local improvement upon lots that have been benefited by all or
15 part of the improvement.

16 “(14) ‘Special benefit only to specific properties’ shall have the same
17 meaning as ‘special and peculiar benefit’ as that term is used in ORS 223.389.

18 “(15) ‘Specific request’ means:

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

21 “(b) An affirmative act by a property owner, the legal consequence of
22 which is to cause the delivery of goods or services to the property owner;
23 or

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

26 “(16) ‘Structure’ means any temporary or permanent building or improve-
27 ment to real property of any kind that is constructed on or attached to real
28 property, whether above, on or beneath the surface.

29 “(17) ‘Supplies and equipment intrinsic to a structure’ means the supplies
30 and equipment that are necessary to permit a structure to perform the

1 functions for which the structure was constructed, or that will, upon instal-
2 lation, constitute fixtures considered to be part of the real property that is
3 comprised, in whole or part, of the structure and land supporting the struc-
4 ture.

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

12 **“SECTION 18.** ORS 310.630, as amended by section 18, chapter 31, Oregon
13 Laws 2012, is amended to read:

14 “310.630. As used in ORS 310.630 to 310.706:

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

27 “(2) ‘Department’ means the Department of Revenue.

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

1 telephone service.

2 “(4) ‘Gross rent’ means contract rent paid plus the fuel and utility pay-
3 ments made for the homestead in addition to the contract rent, during the
4 calendar year for which the claim is filed.

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

8 “(6) ‘Household’ means the taxpayer, the spouse of the taxpayer and all
9 other persons residing in the homestead during any part of the calendar year
10 for which a claim is filed.

11 “(7) ‘Household income’ means the aggregate income of the taxpayer and
12 the spouse of the taxpayer who reside in the household, that was received
13 during the calendar year for which the claim is filed. ‘Household income’
14 includes payments received by the taxpayer or the spouse of the taxpayer
15 under the federal Social Security Act for the benefit of a minor child or
16 minor children who are members of the household.

17 “(8) ‘Income’ means ‘adjusted gross income’ as defined in the federal
18 Internal Revenue Code, as amended and in effect on [*December 31, 2011*]
19 **January 3, 2013**, even when the amendments take effect or become operative
20 after that date, relating to the measurement of taxable income of individuals,
21 estates and trusts, with the following modifications:

22 “(a) There shall be added to adjusted gross income the following items
23 of otherwise exempt income:

24 “(A) The gross amount of any otherwise exempt pension less return of
25 investment, if any.

26 “(B) Child support received by the taxpayer.

27 “(C) Inheritances.

28 “(D) Gifts and grants, the sum of which are in excess of \$500 per year.

29 “(E) Amounts received by a taxpayer or spouse of a taxpayer for support
30 from a parent who is not a member of the taxpayer’s household.

1 “(F) Life insurance proceeds.

2 “(G) Accident and health insurance proceeds, except reimbursement of
3 incurred medical expenses.

4 “(H) Personal injury damages.

5 “(I) Sick pay which is not included in federal adjusted gross income.

6 “(J) Strike benefits excluded from federal gross income.

7 “(K) Worker’s compensation, except for reimbursement of medical ex-
8 pense.

9 “(L) Military pay and benefits.

10 “(M) Veteran’s benefits.

11 “(N) Payments received under the federal Social Security Act which are
12 excluded from federal gross income.

13 “(O) Welfare payments, except as follows:

14 “(i) Payments for medical care, drugs and medical supplies, if the pay-
15 ments are not made directly to the welfare recipient;

16 “(ii) In-home services authorized and approved by the Department of Hu-
17 man Services; and

18 “(iii) Direct or indirect reimbursement of expenses paid or incurred for
19 participation in work or training programs.

20 “(P) Nontaxable dividends.

21 “(Q) Nontaxable interest not included in federal adjusted gross income.

22 “(R) Rental allowance paid to a minister that is excluded from federal
23 gross income.

24 “(S) Income from sources without the United States that is excluded from
25 federal gross income.

26 “(b) Adjusted gross income shall be increased due to the disallowance of
27 the following deductions:

28 “(A) The amount of the net loss, in excess of \$1,000, from all dispositions
29 of tangible or intangible properties.

30 “(B) The amount of the net loss, in excess of \$1,000, from the operation

1 of a farm or farms.

2 “(C) The amount of the net loss, in excess of \$1,000, from all operations
3 of a trade or business, profession or other activity entered into for the pro-
4 duction or collection of income.

5 “(D) The amount of the net loss, in excess of \$1,000, from tangible or in-
6 tangible property held for the production of rents, royalties or other income.

7 “(E) The amount of any net operating loss carryovers or carrybacks in-
8 cluded in federal adjusted gross income.

9 “(F) The amount, in excess of \$5,000, of the combined deductions or other
10 allowances for depreciation, amortization or depletion.

11 “(G) The amount added or subtracted, as required within the context of
12 this section, for adjustments made under ORS 316.680 (2)(d) and 316.707 to
13 316.737.

14 “(c) ‘Income’ does not include any of the following:

15 “(A) Any governmental grant which must be used by the taxpayer for re-
16 habilitation of the homestead of the taxpayer.

17 “(B) The amount of any payments made pursuant to ORS 310.630 to
18 310.706.

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

21 “(9) ‘Payments for heat’ means those payments made to secure the com-
22 modities or services to be used as the principal source of heat for the
23 homestead of the taxpayer and includes payments for natural gas, oil,
24 firewood, coal, sawdust, electricity, steam or other materials that are capable
25 of use as a primary source of heat for the homestead.

26 “(10) ‘Statement of gross rent’ means a declaration by the applicant, under
27 penalties of false swearing, that the amount of contract rent and fuel and
28 utility payments designated is the actual amount both incurred and paid
29 during the year for which elderly rental assistance is claimed.

30 “(11) ‘Taxpayer’ means an individual who is a resident of this state on

1 December 31 of the year for which elderly rental assistance is claimed and
2 whose homestead, as of the same December 31 and during all or a portion
3 of the year ending on the same December 31, is rented and while rented is
4 the subject, directly or indirectly, of property tax levied by this state or a
5 political subdivision or of payments made in lieu of taxes.

6 **“SECTION 19.** ORS 310.800, as amended by section 19, chapter 31, Oregon
7 Laws 2012, is amended to read:

8 “310.800. (1) As used in this section:

9 “(a) ‘Authorized representative’ means a senior citizen who is authorized
10 by a tax-exempt entity to perform charitable or public service on behalf of
11 a senior citizen who has entered into a contract under subsection (2) of this
12 section.

13 “(b) ‘Homestead’ means an owner-occupied principal residence.

14 “(c) ‘Senior citizen’ means a person who is 60 years of age or older.

15 “(d) ‘Tax-exempt entity’ means an entity that is exempt from federal in-
16 come taxes under section 501(c) of the Internal Revenue Code, as amended
17 and in effect on [*December 31, 2011*] **January 3, 2013.**

18 “(e) ‘Taxing unit’ means any county, city or common or union high school
19 district, community college service district or community college district
20 within this state with authority to impose ad valorem property taxes.

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

1 citizen who enters into a contract under this section.

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

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

10 **“SECTION 20.** ORS 314.011, as amended by section 20, chapter 31, Oregon
11 Laws 2012, is amended to read:

12 “314.011. (1) As used in this chapter, unless the context requires other-
13 wise, ‘department’ means the Department of Revenue.

14 “(2) As used in this chapter:

15 “(a) Any term has the same meaning as when used in a comparable con-
16 text in the laws of the United States relating to federal income taxes, unless
17 a different meaning is clearly required or the term is specifically defined in
18 this chapter.

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

23 “(A) On [*December 31, 2011*] **January 3, 2013**; or

24 “(B) If related to the definition of taxable income, as applicable to the tax
25 year of the taxpayer.

26 “(c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lob-
27 bing expenditures), 314.260 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330,
28 314.360, 314.362, 314.385, 314.402, 314.410, 314.412, 314.525, 314.742 (7), 314.750
29 and 314.752 and other provisions of this chapter, except those described in
30 paragraph (b) of this subsection, any reference to the laws of the United

1 States or to the Internal Revenue Code means the laws of the United States
2 relating to income taxes or the Internal Revenue Code as they are amended
3 on or before [*December 31, 2011*] **January 3, 2013**, even when the amendments
4 take effect or become operative after that date, except where the Legislative
5 Assembly has specifically provided otherwise.

6 “(3) Insofar as is practicable in the administration of this chapter, the
7 department shall apply and follow the administrative and judicial interpre-
8 tations of the federal income tax law. When a provision of the federal income
9 tax law is the subject of conflicting opinions by two or more federal courts,
10 the department shall follow the rule observed by the United States Commis-
11 sioner of Internal Revenue until the conflict is resolved. Nothing contained
12 in this section limits the right or duty of the department to audit the return
13 of any taxpayer or to determine any fact relating to the tax liability of any
14 taxpayer.

15 “(4) When portions of the Internal Revenue Code incorporated by refer-
16 ence as provided in subsection (2) of this section refer to rules or regulations
17 prescribed by the Secretary of the Treasury, then such rules or regulations
18 shall be regarded as rules adopted by the department under and in accord-
19 ance with the provisions of this chapter, whenever they are prescribed or
20 amended.

21 “(5)(a) When portions of the Internal Revenue Code incorporated by refer-
22 ence as provided in subsection (2) of this section are later corrected by an
23 Act or a Title within an Act of the United States Congress designated as an
24 Act or Title making technical corrections, then notwithstanding the date
25 that the Act or Title becomes law, those portions of the Internal Revenue
26 Code, as so corrected, shall be the portions of the Internal Revenue Code
27 incorporated by reference as provided in subsection (2) of this section and
28 shall take effect, unless otherwise indicated by the Act or Title (in which
29 case the provisions shall take effect as indicated in the Act or Title), as if
30 originally included in the provisions of the Act being technically corrected.

1 If, on account of this subsection, any adjustment is required to an Oregon
2 return that would otherwise be prevented by operation of law or rule, the
3 adjustment shall be made, notwithstanding any law or rule to the contrary,
4 in the manner provided under ORS 314.135.

5 “(b) As used in this subsection, ‘Act or Title’ includes any subtitle, divi-
6 sion or other part of an Act or Title.

7 **“SECTION 21.** ORS 315.004, as amended by section 21, chapter 31, Oregon
8 Laws 2012, is amended to read:

9 “315.004. (1) Except when the context requires otherwise, the definitions
10 contained in ORS chapters 314, 316, 317 and 318 are applicable in the con-
11 struction, interpretation and application of the personal and corporate in-
12 come and excise tax credits contained in this chapter.

13 “(2)(a) For purposes of the tax credits contained in this chapter, any term
14 has the same meaning as when used in a comparable context in the laws of
15 the United States relating to federal income taxes, unless a different meaning
16 is clearly required or the term is specifically defined for purposes of con-
17 struing, interpreting and applying the credit.

18 “(b) With respect to the tax credits contained in this chapter, any refer-
19 ence to the laws of the United States or to the Internal Revenue Code means
20 the laws of the United States relating to income taxes or the Internal Rev-
21 enue Code as they are amended on or before [*December 31, 2011*] **January**
22 **3, 2013**, even when the amendments take effect or become operative after that
23 date.

24 “(3) Insofar as is practicable in the administration of this chapter, the
25 Department of Revenue shall apply and follow the administrative and judi-
26 cial interpretations of the federal income tax law. When a provision of the
27 federal income tax law is the subject of conflicting opinions by two or more
28 federal courts, the department shall follow the rule observed by the United
29 States Commissioner of Internal Revenue until the conflict is resolved.
30 Nothing contained in this section limits the right or duty of the department

1 to audit the return of any taxpayer or to determine any fact relating to the
2 tax liability of any taxpayer.

3 “(4) When portions of the Internal Revenue Code incorporated by refer-
4 ence as provided in subsection (2) of this section refer to rules or regulations
5 prescribed by the Secretary of the Treasury, then such rules or regulations
6 shall be regarded as rules adopted by the department under and in accord-
7 ance with the provisions of this chapter, whenever they are prescribed or
8 amended.

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

23 “(b) As used in this subsection, ‘Act or Title’ includes any subtitle, divi-
24 sion or other part of an Act or Title.

25 **“SECTION 22.** ORS 316.012, as amended by section 22, chapter 31, Oregon
26 Laws 2012, is amended to read:

27 “316.012. Any term used in this chapter has the same meaning as when
28 used in a comparable context in the laws of the United States relating to
29 federal income taxes, unless a different meaning is clearly required or the
30 term is specifically defined in this chapter. Except where the Legislative

1 Assembly has provided otherwise, any reference in this chapter to the laws
2 of the United States or to the Internal Revenue Code refers to the laws of
3 the United States or to the Internal Revenue Code as they are amended and
4 in effect:

5 “(1) On [*December 31, 2011*] **January 3, 2013**; or

6 “(2) If related to the definition of taxable income, as applicable to the tax
7 year of the taxpayer.

8 **“SECTION 23.** ORS 317.010, as amended by section 23, chapter 31, Oregon
9 Laws 2012, is amended to read:

10 “317.010. As used in this chapter, unless the context requires otherwise:

11 “(1) ‘Centrally assessed corporation’ means every corporation the property
12 of which is assessed by the Department of Revenue under ORS 308.505 to
13 308.665.

14 “(2) ‘Department’ means the Department of Revenue.

15 “(3)(a) ‘Consolidated federal return’ means the return permitted or re-
16 quired to be filed by a group of affiliated corporations under section 1501 of
17 the Internal Revenue Code.

18 “(b) ‘Consolidated state return’ means the return required to be filed un-
19 der ORS 317.710 (5).

20 “(4) ‘Doing business’ means any transaction or transactions in the course
21 of its activities conducted within the state by a national banking association,
22 or any other corporation; provided, however, that a foreign corporation
23 whose activities in this state are confined to purchases of personal property,
24 and the storage thereof incident to shipment outside the state, shall not be
25 deemed to be doing business unless such foreign corporation is an affiliate
26 of another foreign or domestic corporation which is doing business in
27 Oregon. Whether or not corporations are affiliated shall be determined as
28 provided in section 1504 of the Internal Revenue Code.

29 “(5) ‘Excise tax’ means a tax measured by or according to net income
30 imposed upon national banking associations, all other banks, and financial,

1 centrally assessed, mercantile, manufacturing and business corporations for
2 the privilege of carrying on or doing business in this state.

3 “(6) ‘Financial institution’ has the meaning given that term in ORS
4 314.610 except that it does not include a credit union as defined in ORS
5 723.006, an interstate credit union as defined in ORS 723.001 or a federal
6 credit union.

7 “(7) ‘Internal Revenue Code,’ except where the Legislative Assembly has
8 provided otherwise, refers to the laws of the United States or to the Internal
9 Revenue Code as they are amended and in effect:

10 “(a) On [*December 31, 2011*] **January 3, 2013**; or

11 “(b) If related to the definition of taxable income, as applicable to the tax
12 year of the taxpayer.

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

16 “(9) ‘Oregon net loss’ means taxable loss, except as otherwise provided
17 with respect to insurers in subsection (11) of this section and ORS 317.650
18 to 317.665.

19 “(10) ‘Taxable income or loss’ means the taxable income or loss deter-
20 mined, or in the case of a corporation for which no federal taxable income
21 or loss is determined, as would be determined, under chapter 1, Subtitle A
22 of the Internal Revenue Code and any other laws of the United States re-
23 lating to the determination of taxable income or loss of corporate taxpayers,
24 with the additions, subtractions, adjustments and other modifications as are
25 specifically prescribed by this chapter except that in determining taxable
26 income or loss for any year, no deduction under ORS 317.476 or 317.478 and
27 section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corpo-
28 ration is a corporation to which ORS 314.280 or 314.605 to 314.675 (requiring
29 or permitting apportionment of income from transactions or activities carried
30 on both within and without the state) applies, to derive taxable income or

1 loss, the following shall occur:

2 “(a) From the amount otherwise determined under this subsection, sub-
3 tract nonbusiness income, or add nonbusiness loss, whichever is applicable.

4 “(b) Multiply the amount determined under paragraph (a) of this sub-
5 section by the Oregon apportionment percentage defined under ORS 314.280,
6 314.650 or 314.670, whichever is applicable. The resulting product shall be
7 Oregon apportioned income or loss.

8 “(c) To the amount determined as Oregon apportioned income or loss un-
9 der paragraph (b) of this subsection, add nonbusiness income allocable en-
10 tirely to Oregon under ORS 314.280 or 314.625 to 314.645, or subtract
11 nonbusiness loss allocable entirely to Oregon under ORS 314.280 or 314.625
12 to 314.645. The resulting figure is ‘taxable income or loss’ for those corpo-
13 rations carrying on taxable transactions or activities both within and with-
14 out Oregon.

15 “(11) As used in ORS 317.122 and 317.650 to 317.665, ‘insurer’ means any
16 domestic, foreign or alien insurer as defined in ORS 731.082 and any inter-
17 insurance and reciprocal exchange and its attorney in fact with respect to
18 its attorney in fact net income as a corporate attorney in fact acting as at-
19 torney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the
20 reciprocal or interinsurance exchange. However, ‘insurer’ does not include
21 title insurers or health care service contractors operating pursuant to ORS
22 750.005 to 750.095.

23 **“SECTION 24.** ORS 317.097, as amended by section 24, chapter 31, Oregon
24 Laws 2012, is amended to read:

25 “317.097. (1) As used in this section:

26 “(a) ‘Annual rate’ means the yearly interest rate specified on the note,
27 and not the annual percentage rate, if any, disclosed to the applicant to
28 comply with the federal Truth in Lending Act.

29 “(b) ‘Finance charge’ means the total of all interest, loan fees, interest
30 on any loan fees financed by the lending institution, and other charges re-

1 lated to the cost of obtaining credit.

2 “(c) ‘Lending institution’ means any insured institution, as that term is
3 defined in ORS 706.008, any mortgage banking company that maintains an
4 office in this state or any community development corporation that is or-
5 ganized under the Oregon Nonprofit Corporation Law.

6 “(d) ‘Manufactured dwelling park’ has the meaning given that term in
7 ORS 446.003.

8 “(e) ‘Nonprofit corporation’ means a corporation that is exempt from in-
9 come taxes under section 501(c)(3) or (4) of the Internal Revenue Code as
10 amended and in effect on [*December 31, 2011*] **January 3, 2013**.

11 “(f) ‘Preservation project’ means housing that was previously developed
12 as affordable housing with a contract for rent assistance from the United
13 States Department of Housing and Urban Development or the United States
14 Department of Agriculture and that is being acquired by a sponsoring entity.

15 “(g) ‘Qualified assignee’ means any investor participating in the second-
16 ary market for real estate loans.

17 “(h) ‘Qualified borrower’ means any borrower that is a sponsoring entity
18 that has a controlling interest in the real property that is financed by a
19 qualified loan. A controlling interest includes, but is not limited to, a con-
20 trolling interest in the general partner of a limited partnership that owns
21 the real property.

22 “(i) ‘Qualified loan’ means:

23 “(A) A loan that meets the criteria stated in subsection (5) of this section
24 or that is made to refinance a loan that meets the criteria described in sub-
25 section (5) of this section; or

26 “(B) The purchase by a lending institution of bonds, as defined in ORS
27 286A.001, issued on behalf of the Housing and Community Services Depart-
28 ment, the proceeds of which are used to finance or refinance a loan that
29 meets the criteria described in subsection (5) of this section.

30 “(j) ‘Sponsoring entity’ means a nonprofit corporation, nonprofit cooper-

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

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

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

15 “(b) The amount of finance charge that would have been charged during
16 the taxable year by the lending institution for the qualified loan for housing
17 construction, development, acquisition or rehabilitation measured at the an-
18 nual rate charged by the lending institution for nonsubsidized loans made
19 under like terms and conditions at the time the qualified loan for housing
20 construction, development, acquisition or rehabilitation is made.

21 “(3) The maximum amount of credit for the difference between the
22 amounts described in subsection (2)(a) and (b) of this section may not exceed
23 four percent of the average unpaid balance of the qualified loan during the
24 tax year for which the credit is claimed.

25 “(4) Any tax credit allowed under this section that is not used by the
26 taxpayer in a particular year may be carried forward and offset against the
27 taxpayer’s tax liability for the next succeeding tax year. Any credit remain-
28 ing unused in the next succeeding tax year may be carried forward and used
29 in the second succeeding tax year, and likewise, any credit not used in that
30 second succeeding tax year may be carried forward and used in the third

1 succeeding tax year, and any credit not used in that third succeeding tax
2 year may be carried forward and used in the fourth succeeding tax year, and
3 any credit not used in that fourth succeeding tax year may be carried for-
4 ward and used in the fifth succeeding tax year, but may not be carried for-
5 ward for any tax year thereafter.

6 “(5) To be eligible for the tax credit allowable under this section, a
7 lending institution must make a qualified loan by either purchasing bonds,
8 as defined in ORS 286A.001, issued on behalf of the Housing and Community
9 Services Department, the proceeds of which are used to finance or refinance
10 a loan that meets the criteria stated in this subsection, or by making a loan
11 directly to:

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

16 “(b) A qualified borrower who:

17 “(A) Uses the loan proceeds to finance construction, development, acqui-
18 sition or rehabilitation of housing; and

19 “(B) Provides a written certification executed by the Housing and Com-
20 munity Services Department that the:

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

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

27 “(c) Subject to subsection (14) of this section, a qualified borrower who:

28 “(A) Uses the loan proceeds to finance construction, development, acqui-
29 sition or rehabilitation of housing consisting of a manufactured dwelling
30 park; and

1 “(B) Provides a written certification executed by the Housing and Com-
2 munity Services Department that the housing will continue to be operated
3 as a manufactured dwelling park during the period for which the tax credit
4 is allowed; or

5 “(d) A qualified borrower who:

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

8 “(B) Provides a written certification executed by the Housing and Com-
9 munity Services Department that the housing preserved by the loan:

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

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

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

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

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

24 “(b) States that the qualified loan is within the limitation imposed by
25 subsection (8) of this section.

26 “(8) The Housing and Community Services Department may certify quali-
27 fied loans that are eligible under subsection (5) of this section if the total
28 credits attributable to all qualified loans eligible for credits under this sec-
29 tion and then outstanding do not exceed \$17 million for any fiscal year. In
30 making loan certifications under subsection (7) of this section, the Housing

1 and Community Services Department shall attempt to distribute the tax
2 credits statewide, but shall concentrate the tax credits in those areas of the
3 state that are determined by the State Housing Council to have the greatest
4 need for affordable housing.

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

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

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

12 “(10) For a qualified loan defined in subsection (1)(i)(B) of this section
13 financed through the purchase of bonds, the interest of which is exempt from
14 federal taxation under section 103 of the Internal Revenue Code, the amount
15 of finance charge that would have been charged under subsection (2)(b) of
16 this section is determined by reference to the finance charge that would have
17 been charged if the federally tax exempt bonds had been issued and the tax
18 credit under this section did not apply.

19 “(11) A lending institution may sell a qualified loan for which a certif-
20 ication has been executed to a qualified assignee whether or not the lending
21 institution retains servicing of the qualified loan so long as a designated
22 lending institution maintains records, annually verified by a loan servicer,
23 that establish the amount of tax credit earned by the taxpayer throughout
24 each year of eligibility.

25 “(12) Notwithstanding any other provision of law, a lending institution
26 that is a community development corporation organized under the Oregon
27 Nonprofit Corporation Law may transfer all or part of a tax credit allowed
28 under this section to one or more other lending institutions that are stock-
29 holders or members of the community development corporation or that oth-
30 erwise participate through the community development corporation in the

1 making of one or more qualified loans for which the tax credit under this
2 section is allowed.

3 “(13) The lending institution shall file an annual statement with the
4 Housing and Community Services Department, specifying that it has con-
5 formed with all requirements imposed by law to qualify for a tax credit under
6 this section.

7 “(14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified
8 borrower on a loan to finance the construction, development, acquisition or
9 rehabilitation of a manufactured dwelling park under subsection (5)(c) of this
10 section must be a nonprofit corporation, manufactured dwelling park
11 nonprofit cooperative, state governmental entity, local unit of government
12 as defined in ORS 466.706 or housing authority.

13 “(15) The Housing and Community Services Department and the Depart-
14 ment of Revenue may adopt rules to carry out the provisions of this section.

15 **“SECTION 25.** ORS 348.841, as amended by section 25, chapter 31, Oregon
16 Laws 2012, is amended to read:

17 “348.841. As used in ORS 348.841 to 348.873:

18 “(1) ‘Account’ means an individual account established in accordance with
19 ORS 348.841 to 348.873.

20 “(2) ‘Account owner’ means the person who has the right to withdraw
21 funds from the account. The account owner may also be the designated ben-
22 eficiary of the account.

23 “(3) ‘Board’ means the Oregon 529 College Savings Board established un-
24 der ORS 348.849.

25 “(4) ‘Designated beneficiary’ means, except as provided in ORS 348.867,
26 the individual designated at the time the account is opened as having the
27 right to receive a qualified withdrawal for the payment of qualified higher
28 education expenses, or if the designated beneficiary is replaced in accordance
29 with ORS 348.867, the replacement.

30 “(5) ‘Financial institution’ means a bank, a commercial bank, a national

1 bank, a savings bank, a savings and loan, a thrift institution, a credit union,
2 an insurance company, a trust company, a mutual fund, an investment firm
3 or other similar entity authorized to do business in this state.

4 “(6) ‘Higher education institution’ means an eligible education institution
5 as defined in section 529(e)(5) of the Internal Revenue Code.

6 “(7) ‘Internal Revenue Code’ means the federal Internal Revenue Code as
7 amended and in effect on [*December 31, 2011*] **January 3, 2013**.

8 “(8) ‘Member of the family’ shall have the same meaning as contained in
9 section 529(e) of the Internal Revenue Code.

10 “(9) ‘Network’ means the Oregon 529 College Savings Network established
11 under ORS 348.841 to 348.873.

12 “(10) ‘Nonqualified withdrawal’ means a withdrawal from an account that
13 is not a qualified withdrawal.

14 “(11) ‘Qualified higher education expenses’ means tuition and other per-
15 mitted expenses as set forth in section 529(e) of the Internal Revenue Code
16 for the enrollment or attendance of a designated beneficiary at a higher ed-
17 ucation institution.

18 “(12) ‘Qualified withdrawal’ means a withdrawal made as prescribed under
19 ORS 348.870 and made:

20 “(a) From an account to pay the qualified higher education expenses of
21 the designated beneficiary;

22 “(b) As the result of the death or disability of the designated beneficiary;

23 “(c) As the result of a scholarship, allowance or payment described in
24 section 135(d)(1)(A), (B) or (C) of the Internal Revenue Code that is received
25 by the designated beneficiary, but only to the extent of the amount of the
26 scholarship, allowance or payment; or

27 “(d) As a rollover or change in the designated beneficiary described in
28 ORS 348.867.

29 **“SECTION 26.** ORS 458.670, as amended by section 26, chapter 31, Oregon
30 Laws 2012, is amended to read:

1 “458.670. As used in this section and ORS 458.675 to 458.700, unless the
2 context requires otherwise:

3 “(1) ‘Account holder’ means a resident of this state who:

4 “(a) Is 12 years of age or older;

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

6 “(c) Has established an individual development account with a fiduciary
7 organization.

8 “(2) ‘Fiduciary organization’ means an organization selected under ORS
9 458.695 to administer state moneys directed to individual development ac-
10 counts and that is:

11 “(a) A nonprofit, fund raising organization that is exempt from taxation
12 under section 501(c)(3) of the Internal Revenue Code as amended and in ef-
13 fect on [December 31, 2011] **January 3, 2013**; or

14 “(b) A federally recognized Oregon Indian tribe that is located, to a sig-
15 nificant degree, within the boundaries of this state.

16 “(3) ‘Financial institution’ means:

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

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

21 “(4) ‘Individual development account’ means a contract between an ac-
22 count holder and a fiduciary organization, for the deposit of funds into a fi-
23 nancial institution by the account holder, and the deposit of matching funds
24 into the financial institution by the fiduciary organization, to allow the ac-
25 count holder to accumulate assets for use toward achieving a specific pur-
26 pose approved by the fiduciary organization.

27 “(5) ‘Lower income household’ means a household having an income equal
28 to or less than the greater of the following:

29 “(a) 80 percent of the median household income for the area as determined
30 by the Housing and Community Services Department. In making the deter-

1 mination, the department shall give consideration to any data on area
2 household income published by the United States Department of Housing and
3 Urban Development.

4 “(b) 200 percent of the poverty guidelines as determined by the Housing
5 and Community Services Department. In making the determination, the de-
6 partment shall give consideration to poverty guidelines published by the
7 United States Department of Health and Human Services and may consider
8 other income data periodically published by other federal or Oregon agen-
9 cies.

10 “(6) ‘Resident of this state’ has the meaning given that term in ORS
11 316.027.

12 **“SECTION 27.** ORS 657.010, as amended by section 27, chapter 31, Oregon
13 Laws 2012, is amended to read:

14 “657.010. As used in this chapter, unless the context requires otherwise:

15 “(1) ‘Base year’ means the first four of the last five completed calendar
16 quarters preceding the benefit year.

17 “(2) ‘Benefits’ means the money allowances payable to unemployed per-
18 sons under this chapter.

19 “(3) ‘Benefit year’ means a period of 52 consecutive weeks commencing
20 with the first week with respect to which an individual files an initial valid
21 claim for benefits, and thereafter the 52 consecutive weeks period beginning
22 with the first week with respect to which the individual next files an initial
23 valid claim after the termination of the individual’s last preceding benefit
24 year except that the benefit year shall be 53 weeks if the filing of an initial
25 valid claim would result in overlapping any quarter of the base year of a
26 previously filed initial valid claim.

27 “(4) ‘Calendar quarter’ means the period of three consecutive calendar
28 months ending on March 31, June 30, September 30 or December 31, or the
29 approximate equivalent thereof, as the Director of the Employment Depart-
30 ment may, by regulation, prescribe.

1 “(5) ‘Contribution’ or ‘contributions’ means the taxes, as defined in sub-
2 section (13) of this section, that are the money payments required by this
3 chapter, or voluntary payments permitted, to be made to the Unemployment
4 Compensation Trust Fund.

5 “(6) ‘Educational institution,’ including an institution of higher education
6 as defined in subsection (9) of this section, means an institution:

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

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

15 “(c) In which the course or courses of study or training that it offers may
16 be academic, technical, trade or preparation for gainful employment in a re-
17 cognized occupation; and

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

20 “(7) ‘Employment office’ means a free public employment office or branch
21 thereof, operated by this state or maintained as a part of a state-controlled
22 system of public employment offices.

23 “(8) ‘Hospital’ means an organization that has been licensed, certified or
24 approved by the Oregon Health Authority as a hospital.

25 “(9) ‘Institution of higher education’ means an educational institution
26 that:

27 “(a) Admits as regular students only individuals having a certificate of
28 graduation from a high school, or the recognized equivalent of such a cer-
29 tificate;

30 “(b) Is legally authorized in this state to provide a program of education

1 beyond high school;

2 “(c) Provides an educational program for which it awards a bachelor’s or
3 higher degree, or provides a program that is acceptable for full credit toward
4 such a degree, a program of post-graduate or post-doctoral studies, or a pro-
5 gram of training to prepare students for gainful employment in a recognized
6 occupation; and

7 “(d) Is a public or other nonprofit institution.

8 “(10) ‘Internal Revenue Code’ means the federal Internal Revenue Code,
9 as amended and in effect on [*December 31, 2011*] **January 3, 2013.**

10 “(11) ‘Nonprofit employing unit’ means an organization, or group of or-
11 ganizations, described in section 501(c)(3) of the Internal Revenue Code that
12 is exempt from income tax under section 501(a) of the Internal Revenue Code.

13 “(12) ‘State’ includes, in addition to the states of the United States of
14 America, the District of Columbia and Puerto Rico. However, for all pur-
15 poses of this chapter the Virgin Islands shall be considered a state on and
16 after the day on which the United States Secretary of Labor first approves
17 the Virgin Islands’ law under section 3304(a) of the Federal Unemployment
18 Tax Act as amended by Public Law 94-566.

19 “(13) ‘Taxes’ means the money payments to the Unemployment Compens-
20 ation Trust Fund required, or voluntary payments permitted, by this chap-
21 ter.

22 “(14) ‘Valid claim’ means any claim for benefits made in accordance with
23 ORS 657.260 if the individual meets the wages-paid-for-employment require-
24 ments of ORS 657.150.

25 “(15) ‘Week’ means any period of seven consecutive calendar days ending
26 at midnight, as the director may, by regulation, prescribe. The director may
27 by regulation prescribe that a ‘week’ shall be ‘in,’ ‘within,’ or ‘during’ the
28 calendar quarter that includes the greater part of such week.

29 **“SECTION 28. Notwithstanding ORS 315.004, as used in ORS 315.266,**
30 **‘Internal Revenue Code’ means the federal Internal Revenue Code as**

1 amended and in effect on December 31, 2011.

2 **“SECTION 29. (1) Except as provided in subsections (2) and (3) of**
3 **this section, section 28 of this 2013 Act and the amendments to stat-**
4 **utes by sections 1 to 27 of this 2013 Act apply to transactions or ac-**
5 **tivities occurring on or after January 1, 2013, in tax years beginning**
6 **on or after January 1, 2013.**

7 **“(2) The effective and applicable dates, and the exceptions, special**
8 **rules and coordination with the Internal Revenue Code, as amended,**
9 **relative to those dates, contained in the Middle Class Tax Relief and**
10 **Job Creation Act of 2012 (P.L. 112-96), the American Taxpayer Relief**
11 **Act of 2012 (P.L. 112-240) and other federal law amending the Internal**
12 **Revenue Code and enacted before January 3, 2013, apply for Oregon**
13 **personal income and corporate excise and income tax purposes, to the**
14 **extent they can be made applicable, in the same manner as they are**
15 **applied under the Internal Revenue Code and related federal law.**

16 **“(3)(a) If a deficiency is assessed against any taxpayer for a tax year**
17 **beginning before January 1, 2013, and the deficiency or any portion**
18 **thereof is attributable to any retroactive treatment under the amend-**
19 **ments to ORS 305.230, 305.494, 305.690, 307.130, 307.147, 308A.450, 310.140,**
20 **310.630, 310.800, 314.011, 315.004, 316.012, 317.010, 317.097 and 348.841 by**
21 **sections 11 to 25 of this 2013 Act, then any interest or penalty assessed**
22 **under ORS chapter 305, 314, 315, 316, 317 or 318 with respect to the de-**
23 **ficiency or portion thereof shall be canceled.**

24 **“(b) If a refund is due any taxpayer for a tax year beginning before**
25 **January 1, 2013, and the refund or any portion thereof is due the tax-**
26 **payer on account of any retroactive treatment under the amendments**
27 **to ORS 305.230, 305.494, 305.690, 307.130, 307.147, 308A.450, 310.140, 310.630,**
28 **310.800, 314.011, 315.004, 316.012, 317.010, 317.097 and 348.841 by sections**
29 **11 to 25 of this 2013 Act, then notwithstanding ORS 305.270 or 314.415**
30 **or other law, the refund or portion thereof shall be paid without in-**

1 **terest.**

2 **“(c) Any changes required because of the amendments to ORS**
3 **305.230, 305.494, 305.690, 307.130, 307.147, 308A.450, 310.140, 310.630, 310.800,**
4 **314.011, 315.004, 316.012, 317.010, 317.097 and 348.841 by sections 11 to 25**
5 **of this 2013 Act for a tax year beginning before January 1, 2013, shall**
6 **be made by filing an amended return within the time prescribed by**
7 **law.**

8 **“(d) If a taxpayer fails to file an amended return under paragraph**
9 **(c) of this subsection, the Department of Revenue shall make any**
10 **changes under paragraph (c) of this subsection on the return to which**
11 **the changes relate within the period specified for issuing a notice of**
12 **deficiency or claiming a refund as otherwise provided by law with re-**
13 **spect to that return, or within one year after a return for a tax year**
14 **beginning on or after January 1, 2013, and before January 1, 2014, is**
15 **filed, whichever period expires later.**

16 **“SECTION 30. This 2013 Act takes effect on the 91st day after the**
17 **date on which the 2013 regular session of the Seventy-seventh Legis-**
18 **lative Assembly adjourns sine die.”.**

19
