

D R A F T

SUMMARY

Updates connection date to federal Internal Revenue Code and other provisions of federal tax law.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to connection to federal tax law; creating new provisions; amending
3 ORS 178.300, 238A.005, 238A.125, 238A.150, 238A.170, 238A.230, 238A.370,
4 238A.400, 238A.410, 238A.415, 238A.430, 238A.435, 305.230, 305.494, 305.690,
5 305.842, 311.666, 314.011, 315.004, 316.012, 316.147, 316.157, 317.010, 317.097,
6 458.670 and 657.010; and prescribing an effective date.

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

8 **SECTION 1.** ORS 178.300, as amended by section 1, chapter 33, Oregon
9 Laws 2016, is amended to read:

10 178.300. As used in ORS 178.300 to 178.355:

11 (1) "Account" means an individual account established in accordance with
12 ORS 178.300 to 178.355.

13 (2) "Account owner" means the person who has the right to withdraw
14 funds from the account. The account owner may also be the designated ben-
15 eficiary of the account.

16 (3) "Board" means the Oregon 529 Savings Board established under ORS
17 178.310.

18 (4) "Designated beneficiary" means, except as provided in ORS 178.350,
19 the individual designated at the time the account is opened as having the
20 right to receive a qualified withdrawal for the payment of qualified higher

1 education expenses, or if the designated beneficiary is replaced in accordance
2 with ORS 178.350, the replacement.

3 (5) "Financial institution" means a bank, a commercial bank, a national
4 bank, a savings bank, a savings and loan, a thrift institution, a credit union,
5 an insurance company, a trust company, a mutual fund, an investment firm
6 or other similar entity authorized to do business in this state.

7 (6) "Higher education institution" means an eligible education institution
8 as defined in section 529(e)(5) of the Internal Revenue Code.

9 (7) "Internal Revenue Code" means the federal Internal Revenue Code as
10 amended and in effect on December 31, [2015] **2016**.

11 (8) "Member of the family" shall have the same meaning as contained in
12 section 529(e) of the Internal Revenue Code.

13 (9) "Network" means the Oregon 529 Savings Network established under
14 ORS 178.305.

15 (10) "Nonqualified withdrawal" means a withdrawal from an account that
16 is not a qualified withdrawal.

17 (11) "Qualified higher education expenses" means tuition and other per-
18 mitted expenses as set forth in section 529(e) of the Internal Revenue Code
19 for the enrollment or attendance of a designated beneficiary at a higher ed-
20 ucation institution.

21 (12) "Qualified withdrawal" means a withdrawal made as prescribed under
22 ORS 178.355 and made:

23 (a) From an account to pay the qualified higher education expenses of the
24 designated beneficiary;

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

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

30 (d) As a rollover or change in the designated beneficiary described in ORS
31 178.350.

1 **SECTION 2.** ORS 238A.005, as amended by section 2, chapter 33, Oregon
2 Laws 2016, is amended to read:

3 238A.005. For the purposes of this chapter:

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

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

10 (3) “Board” means the Public Employees Retirement Board.

11 (4) “Eligible employee” means a person who performs services for a par-
12 ticipating public employer, including elected officials other than judges.
13 “Eligible employee” does not include:

14 (a) Persons engaged as independent contractors;

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

16 (c) Persons provided sheltered employment or make-work by a public em-
17 ployer;

18 (d) Persons categorized by a participating public employer as student
19 employees;

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

21 (f) Employees of foreign trade offices of the Oregon Business Development
22 Department who live and perform services in foreign countries under the
23 provisions of ORS 285A.075 (1)(g);

24 (g) An employee actively participating in an alternative retirement pro-
25 gram established under ORS 353.250 or an optional retirement plan estab-
26 lished under ORS 341.551;

27 (h) Employees of a public university listed in ORS 352.002 who are ac-
28 tively participating in an optional retirement plan offered under ORS 243.800;

29 (i) Any employee who belongs to a class of employees that was not eligi-
30 ble on August 28, 2003, for membership in the system under the provisions
31 of ORS chapter 238 or other law;

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

4 (k) Any person who is retired under ORS 238A.100 to 238A.250 or ORS
5 chapter 238 and who continues to receive retirement benefits while employed;
6 and

7 (L) Judges.

8 (5) "Firefighter" means:

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

11 (b) The State Fire Marshal, the chief deputy state fire marshal and deputy
12 state fire marshals; and

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

16 (6) "Fund" means the Public Employees Retirement Fund.

17 (7)(a) "Hour of service" means:

18 (A) An hour for which an eligible employee is directly or indirectly paid
19 or entitled to payment by a participating public employer for performance
20 of duties in a qualifying position; and

21 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military
22 duty or authorized leave during which an employee does not perform duties
23 but for which the employee is directly or indirectly paid or entitled to pay-
24 ment by a participating public employer for services in a qualifying position,
25 as long as the hour is within the number of hours regularly scheduled for
26 the performance of duties during the period of vacation, holiday, illness, in-
27 capacity, jury duty, military duty or authorized leave.

28 (b) "Hour of service" does not include any hour for which payment is
29 made or due under a plan maintained solely for the purpose of complying
30 with applicable workers' compensation laws or unemployment compensation
31 laws.

1 (8) "Inactive member" means a member of the pension program or the
2 individual account program of the Oregon Public Service Retirement Plan
3 whose membership has not been terminated, who is not a retired member and
4 who is not employed in a qualifying position.

5 (9) "Individual account program" means the defined contribution individ-
6 ual account program of the Oregon Public Service Retirement Plan estab-
7 lished under ORS 238A.025.

8 (10) "Institution of higher education" means a public university listed in
9 ORS 352.002, the Oregon Health and Science University or a community
10 college, as defined in ORS 341.005.

11 (11) "Member" means an eligible employee who has established member-
12 ship in the pension program or the individual account program of the Oregon
13 Public Service Retirement Plan and whose membership has not been termi-
14 nated under ORS 238A.110 or 238A.310.

15 (12) "Participating public employer" means a public employer as defined
16 in ORS 238.005 that provides retirement benefits for employees of the public
17 employer under the system.

18 (13) "Pension program" means the defined benefit pension program of the
19 Oregon Public Service Retirement Plan established under ORS 238A.025.

20 (14) "Police officer" means a police officer as described in ORS 238.005.

21 (15) "Qualifying position" means one or more jobs with one or more par-
22 ticipating public employers in which an eligible employee performs 600 or
23 more hours of service in a calendar year, excluding any service in a job for
24 which benefits are not provided under the Oregon Public Service Retirement
25 Plan pursuant to ORS 238A.070 (2).

26 (16) "Retired member" means a pension program member who is receiving
27 a pension as provided in ORS 238A.180 to 238A.195.

28 (17)(a) "Salary" means the remuneration paid to an active member in re-
29 turn for services to the participating public employer, including
30 remuneration in the form of living quarters, board or other items of value,
31 to the extent the remuneration is includable in the employee's taxable in-

1 come under Oregon law. “Salary” includes the additional amounts specified
2 in paragraph (b) of this subsection, but does not include the amounts speci-
3 fied in paragraph (c) of this subsection, regardless of whether those amounts
4 are includable in taxable income.

5 (b) “Salary” includes the following amounts:

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

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

10 (C) Any amount that is contributed to a cafeteria plan or qualified
11 transportation fringe benefit plan by the employer at the election of the
12 employee and that is not includable in the taxable income of the employee
13 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, [2015]
14 **2016.**

15 (D) Any amount that is contributed to a cash or deferred arrangement by
16 the employer at the election of the employee and that is not included in the
17 taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in effect
18 on December 31, [2015] **2016.**

19 (E) Retroactive payments described in ORS 238.008.

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

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

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

27 (c) “Salary” does not include the following amounts:

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

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

31 (C) Any lump sum payment for accumulated unused sick leave, vacation

1 leave or other paid leave.

2 (D) Any severance payment, accelerated payment of an employment con-
3 tract for a future period or advance against future wages.

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

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

9 (G) Payments for instructional services rendered to public universities
10 listed in ORS 352.002 or the Oregon Health and Science University when
11 those services are in excess of full-time employment subject to this chapter.
12 A person employed under a contract for less than 12 months is subject to this
13 subparagraph only for the months covered by the contract.

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

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

24 (18) "System" means the Public Employees Retirement System.

25 **SECTION 3.** ORS 238A.125, as amended by section 3, chapter 33, Oregon
26 Laws 2016, is amended to read:

27 238A.125. (1) Upon retiring at normal retirement age, a vested pension
28 program member shall be paid an annual pension for the life of the member
29 as follows:

30 (a) For service as a police officer or firefighter, 1.8 percent of final aver-
31 age salary multiplied by the number of years of retirement credit attributable

1 to service as a police officer or firefighter.

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

5 (2) Notwithstanding any provision of ORS 238A.100 to 238A.250, the an-
6 nual benefit payable to a member under the pension program and under any
7 other tax-qualified defined benefit plan maintained by the participating pub-
8 lic employer may not exceed the applicable limitations set forth in 26 U.S.C.
9 415(b), as in effect on December 31, [2015] **2016**. The Public Employees Re-
10 tirement Board shall adopt rules for the administration of this limitation,
11 including adjustments in the annual dollar limitation to reflect cost-of-living
12 adjustments authorized by the Internal Revenue Service.

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

16 **SECTION 4.** ORS 238A.150, as amended by section 4, chapter 33, Oregon
17 Laws 2016, is amended to read:

18 238A.150. (1) Notwithstanding any other provision of ORS 238A.100 to
19 238A.250, an eligible employee who leaves a qualifying position for the pur-
20 pose of performing service in the uniformed services, and who subsequently
21 returns to employment with a participating public employer with reemploy-
22 ment rights under federal law, is entitled to accrue retirement credit, credit
23 toward the probationary period required by ORS 238A.100 and credit toward
24 the vesting requirements of ORS 238A.115 under rules adopted by the Public
25 Employees Retirement Board pursuant to subsection (2) of this section.

26 (2) The board shall adopt rules establishing benefits and service credit for
27 any period of service in the uniformed services by an employee described in
28 subsection (1) of this section. For the purpose of adopting rules under this
29 subsection, the board shall consider and take into account all federal law
30 relating to benefits and service credit for any period of service in the uni-
31 formed services, including 26 U.S.C. 414(u), as in effect on December 31,

1 [2015] **2016.** Benefits and service credit under rules adopted by the board
2 pursuant to this subsection may not exceed benefits and service credit re-
3 quired under federal law for periods of service in the uniformed services.

4 **SECTION 5.** ORS 238A.170, as amended by section 5, chapter 33, Oregon
5 Laws 2016, is amended to read:

6 238A.170. (1) An active member of the pension program who is 70-1/2 years
7 of age or older must retire not later than April 1 of the calendar year fol-
8 lowing the calendar year in which the member terminates employment with
9 all participating public employers. An inactive member of the pension pro-
10 gram must retire not later than April 1 of the calendar year following the
11 calendar year in which the member attains 70-1/2 years of age.

12 (2) Notwithstanding any other provision of ORS 238A.100 to 238A.250, the
13 entire interest of a member of the pension program must be distributed over
14 a time period commencing no later than the required beginning date set forth
15 in subsection (1) of this section, and must be distributed in a manner that
16 satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9)
17 and regulations implementing that section, as in effect on December 31,
18 [2015] **2016.** The Public Employees Retirement Board shall adopt rules im-
19 plementing those minimum distribution requirements.

20 **SECTION 6.** ORS 238A.230, as amended by section 6, chapter 33, Oregon
21 Laws 2016, is amended to read:

22 238A.230. (1) If a member of the pension program who is vested dies before
23 the member's effective date of retirement, the Public Employees Retirement
24 Board shall pay the death benefit provided for in this section to:

25 (a) The spouse of the member to the extent not provided to a former
26 spouse in accordance with a judgment or order under ORS 238.465;

27 (b) The former spouse of the member as provided in a judgment or order
28 under ORS 238.465; or

29 (c) Any other person who is constitutionally required to be treated in the
30 same manner as a spouse for the purpose of retirement benefits.

31 (2)(a) The death benefit to be paid under this section shall be for the life

1 of the spouse, former spouse or other person who is constitutionally required
2 to be treated in the same manner as a spouse, and shall be the actuarial
3 equivalent of 50 percent of the pension that would otherwise have been paid
4 to the deceased member.

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

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

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

13 (3) The death benefit provided under this section is first effective on the
14 first day of the month following the date of death of the member. The sur-
15 viving spouse, former spouse or other person entitled to the death benefit
16 may elect to delay payment of the death benefit, but payment must commence
17 no later than December 31 of the calendar year in which the member would
18 have reached 70-1/2 years of age.

19 (4) Notwithstanding any other provision of ORS 238A.100 to 238A.250,
20 distributions of death benefits under the pension program must comply with
21 the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regu-
22 lations implementing that section, as in effect on December 31, [2015] **2016**.
23 The board shall adopt rules implementing those minimum distribution re-
24 quirements.

25 **SECTION 7.** ORS 238A.370, as amended by section 7, chapter 33, Oregon
26 Laws 2016, is amended to read:

27 238A.370. Notwithstanding any other provision of ORS 238A.300 to
28 238A.415, the annual addition to the employee and employer accounts of a
29 member of the individual account program for a calendar year, together with
30 the annual additions to the accounts of the member under any other defined
31 contribution plan maintained by the participating public employer for a cal-

1 endar year, may not exceed the lesser of \$40,000, or 100 percent of the
2 member's compensation for that calendar year. For purposes of this section,
3 "annual addition" has the meaning given that term in 26 U.S.C. 415(c)(2),
4 as in effect on December 31, [2015] **2016**, and "compensation" has the meaning
5 given the term "participant's compensation" in 26 U.S.C. 415(c)(3), as in ef-
6 fect on December 31, [2015] **2016**. The Public Employees Retirement Board
7 shall adopt rules for the administration of this limitation, including adjust-
8 ments in the annual dollar limitation to reflect cost-of-living adjustments
9 authorized by the Internal Revenue Service.

10 **SECTION 8.** ORS 238A.400, as amended by section 8, chapter 33, Oregon
11 Laws 2016, is amended to read:

12 238A.400. (1) Upon retirement on or after the earliest retirement date, as
13 described in ORS 238A.165, a member of the individual account program shall
14 receive in a lump sum the amounts in the member's employee account,
15 rollover account and employer account to the extent the member is vested
16 in those accounts under ORS 238A.320.

17 (2) In lieu of a lump sum payment under subsection (1) of this section, a
18 member of the individual account program may elect to receive the amounts
19 in the member's employee account and employer account, to the extent the
20 member is vested in those accounts under ORS 238A.320, in substantially
21 equal installments paid over a period of 5, 10, 15 or 20 years, or over a period
22 that is equal to the anticipated life span of the member as actuarially de-
23 termined by the Public Employees Retirement Board. Installments may be
24 made on a monthly, quarterly or annual basis. In no event may the period
25 selected by the member exceed the time allowed by the minimum distribution
26 requirements described in subsection (5) of this section. The board shall by
27 rule establish the manner in which installments will be adjusted to reflect
28 investment gains and losses on the unpaid balance during the payout period
29 elected by the member under this subsection. The board by rule may estab-
30 lish minimum monthly amounts payable under this subsection. The board
31 may require that a lump sum payment, or an installment schedule different

1 than the schedules provided for in this subsection, be used to pay the vested
2 amounts in the member's accounts if those amounts are not adequate to
3 generate the minimum monthly amounts specified by the rule.

4 (3) A member of the individual account program electing to receive in-
5 stallments under subsection (2) of this section must designate a beneficiary
6 or beneficiaries. In the event the member dies before all amounts in the
7 employee and vested employer accounts are paid, all remaining installment
8 payments shall be made to the beneficiary or beneficiaries designated by the
9 member. A beneficiary may elect to receive a lump sum distribution of the
10 remaining amounts.

11 (4) A member who is entitled to receive retirement benefits under ORS
12 chapter 238 may receive vested amounts in the member's employee account,
13 rollover account and employer account in the manner provided by this sec-
14 tion when the member retires for service under the provisions of ORS chap-
15 ter 238.

16 (5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the
17 entire interest of a member of the individual account program must be dis-
18 tributed over a time period commencing no later than the latest retirement
19 date set forth in ORS 238A.170, and must be distributed in a manner that
20 satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9)
21 and regulations implementing that section, as in effect on December 31,
22 [2015] 2016. The board shall adopt rules implementing those minimum dis-
23 tribution requirements.

24 **SECTION 9.** ORS 238A.410, as amended by section 9, chapter 33, Oregon
25 Laws 2016, is amended to read:

26 238A.410. (1) If a member of the individual account program dies before
27 retirement, the amounts in the member's employee account, rollover account
28 and employer account, to the extent the member is vested in those accounts
29 under ORS 238A.320, shall be paid in a lump sum to the beneficiary or ben-
30 eficiaries designated by the member for the purposes of this section.

31 (2) If a member of the individual account program is married at the time

1 of death, or there exists at the time of death any other person who is con-
2 stitutionally required to be treated in the same manner as a spouse for the
3 purpose of retirement benefits, the spouse or other person shall be the ben-
4 eficiary for purposes of the death benefit payable under this section unless
5 the spouse or other person consents to the designation of a different benefi-
6 ciary or beneficiaries before the designation has been made and the consent
7 has not been revoked by the spouse or other person as of the time of the
8 member's death. Consent and revocation of consent must be in writing, ac-
9 knowledged by a notary public, and submitted to the Public Employees Re-
10 tirement Board in accordance with rules adopted by the board. If the
11 member's spouse is designated as the member's beneficiary and the marriage
12 of the member and spouse is subsequently dissolved, the former spouse shall
13 be treated as predeceasing the member for purposes of this section, unless
14 the member expressly designates the former spouse as beneficiary after the
15 effective date of the dissolution or the former spouse is required to be des-
16 igned as a beneficiary under the provisions of ORS 238.465.

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

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

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

24 (c) The member's estate.

25 (4) The entire amount of a deceased member's vested accounts must be
26 distributed by December 31 of the fifth calendar year after the year in which
27 the member died. Notwithstanding any other provision of this chapter, dis-
28 tributions of death benefits under the individual account program must
29 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9)
30 and the regulations implementing that section, as in effect on December 31,
31 [2015] **2016**. The Public Employees Retirement Board shall adopt rules im-

1 plementing those minimum distribution requirements.

2 **SECTION 10.** ORS 238A.415, as amended by section 10, chapter 33,
3 Oregon Laws 2016, is amended to read:

4 238A.415. (1) Notwithstanding any other provision of ORS 238A.300 to
5 238A.415, 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 credit toward the probationary
9 period required by ORS 238A.300, credit toward the vesting requirements of
10 ORS 238A.320 and contributions under rules adopted by the Public Employ-
11 ees Retirement Board pursuant to subsection (2) of this section.

12 (2) The board shall adopt rules establishing contributions and service
13 credit for any period of service in the uniformed services by an employee
14 described in subsection (1) of this section. For the purpose of adopting rules
15 under this subsection, the board shall consider and take into account all
16 federal law relating to benefits and service credit for any period of service
17 in the uniformed services, including 26 U.S.C. 414(u), as in effect on Decem-
18 ber 31, [2015] **2016**. Contributions and service credit under rules adopted by
19 the board pursuant to this subsection may not exceed contributions and
20 service credit required under federal law for periods of service in the uni-
21 formed services.

22 **SECTION 11.** ORS 238A.430, as amended by section 11, chapter 33,
23 Oregon Laws 2016, is amended to read:

24 238A.430. (1) To the extent required by law, and except as otherwise pro-
25 vided by rules adopted by the Public Employees Retirement Board under
26 subsection (4) of this section, any portion of a distribution of benefits de-
27 scribed in subsection (2) of this section shall, at the election of and in lieu
28 of distribution to the distributee, be paid directly to an eligible retirement
29 plan specified by the distributee.

30 (2) The provisions of subsection (1) of this section apply to a distribution
31 of any benefit under the pension program or the individual account program

1 except:

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

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

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

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

25 (4) The board shall adopt rules implementing the direct rollover require-
26 ments of 26 U.S.C. 401(a)(31) and the regulations implementing that section,
27 and may adopt administrative exceptions to the direct rollover requirements
28 to the extent permitted by 26 U.S.C. 401(a)(31) and the regulations imple-
29 menting that section.

30 (5) All references in this section to federal laws and regulations are to
31 the laws and regulations in effect on December 31, [2015] **2016**.

1 (6) For purposes of this section:

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

4 (b) "Eligible retirement plan" means:

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

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

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

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

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

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

16 **SECTION 12.** ORS 238A.435 is amended to read:

17 238A.435. (1) If a benefit is payable under this chapter to a beneficiary
18 by reason of the death of a member of the system, the beneficiary may elect
19 to have all or part of the distribution of the death benefit paid in an eligible
20 rollover distribution to an individual retirement plan described in 26 U.S.C.
21 408(a), or an individual retirement annuity, other than an endowment con-
22 tract, described in 26 U.S.C. 408(b), if the plan or annuity is established for
23 the purpose of receiving the eligible rollover distribution on behalf of the
24 designated beneficiary.

25 (2) Subsection (1) of this section applies to an eligible rollover distrib-
26 ution of death benefits to a beneficiary who is not treated as the spouse of
27 the decedent for federal tax purposes and who is the decedent's designated
28 beneficiary for the purposes of the minimum required distribution require-
29 ments of 26 U.S.C. 401(a)(9). To the extent provided by rules of the Public
30 Employees Retirement Board, a trust maintained for the benefit of one or
31 more beneficiaries must be treated by the board in the same manner as a

1 trust that is designated as a beneficiary for the purposes of the minimum
2 required distribution requirements of 26 U.S.C. 401(a)(9).

3 (3) As used in this section, “eligible rollover distribution” has the mean-
4 ing given that term in 26 U.S.C. 402(c)(4), as in effect on [*January 1, 2008*]
5 **December 31, 2016.**

6 **SECTION 13.** ORS 305.230, as amended by section 12, chapter 33, Oregon
7 Laws 2016, is amended to read:

8 305.230. (1) Notwithstanding ORS 9.320:

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

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

22 (c) Any shareholder of an S corporation, as defined in section 1361 of the
23 Internal Revenue Code, as amended and in effect on December 31, [*2015*]
24 **2016**, may represent the corporation in any proceeding before a tax court
25 magistrate or the department in the same manner as if the shareholder were
26 a partner and the S corporation were a partnership. The S corporation must
27 designate in writing a tax matters shareholder authorized to represent the
28 S corporation.

29 (d) An individual who is licensed as a real estate broker or principal real
30 estate broker under ORS 696.022 or is a state certified appraiser or state li-
31 censed appraiser under ORS 674.310 or is a registered appraiser under ORS

1 308.010 may represent a taxpayer before a tax court magistrate or the de-
2 partment in any conference or proceeding with respect to the administration
3 of any ad valorem property tax.

4 (e) A general partner who has been designated by members of a partner-
5 ship as their tax matters partner under ORS 305.242 may represent those
6 partners in any conference or proceeding with respect to the administration
7 of any tax on or measured by net income.

8 (f) Any person authorized under rules adopted by the department may
9 represent a taxpayer before the department in any conference or proceeding
10 with respect to any tax. Rules adopted under this paragraph, to the extent
11 feasible, shall be consistent with federal law that governs representation
12 before the Internal Revenue Service, as federal law is amended and in effect
13 on December 31, [2015] **2016**.

14 (g) Any person authorized under rules adopted by the tax court may rep-
15 resent a taxpayer in a proceeding before a tax court magistrate.

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

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

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

31 **SECTION 14.** ORS 305.494, as amended by section 13, chapter 33, Oregon

1 Laws 2016, is amended to read:

2 305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation
3 as defined in section 1361 of the Internal Revenue Code, as amended and in
4 effect on December 31, [2015] **2016**, may represent the corporation in any
5 proceeding before the Oregon Tax Court in the same manner as if the
6 shareholder were a partner and the S corporation were a partnership.

7 **SECTION 15.** ORS 305.690, as amended by section 14, chapter 33, Oregon
8 Laws 2016, is amended to read:

9 305.690. As used in ORS 305.690 to 305.753, unless the context otherwise
10 requires:

11 (1) “Biennial years” means the two income tax years of individual tax-
12 payers that begin in the two calendar years immediately following the cal-
13 endar year in which a list is certified under ORS 305.715.

14 (2) “Commission” means the Oregon Charitable Checkoff Commission.

15 (3) “Department” means the Department of Revenue.

16 (4) “Eligibility roster” means a list, prepared under ORS 305.715 and
17 maintained by the commission in chronological order based on the date of
18 form listing or date of eligibility determination, whichever is later, of char-
19 itable and governmental entities seeking inclusion on the Oregon individual
20 income tax return forms.

21 (5) “Form listed” or “form listing” means being listed on the Oregon in-
22 dividual income tax return form.

23 (6) “Instruction listing” means being listed on the Department of Revenue
24 instructions for tax return checkoff contribution.

25 (7) “Internal Revenue Code” means the federal Internal Revenue Code as
26 amended and in effect on December 31, [2015] **2016**.

27 **SECTION 16.** ORS 305.842, as amended by section 15, chapter 33, Oregon
28 Laws 2016, is amended to read:

29 305.842. (1) As used in ORS 307.130, 307.147, 308A.450, 310.140 and 310.800,
30 “Internal Revenue Code” means the federal Internal Revenue Code as
31 amended and in effect on December 31, [2015] **2016**.

1 **(2) As used in ORS 311.666, “Internal Revenue Code” means the**
2 **federal Internal Revenue Code as amended and in effect on December**
3 **31, 2016, including amendments that take effect after that date.**

4 **SECTION 17.** ORS 311.666, as amended by section 16, chapter 33, Oregon
5 Laws 2016, is amended to read:

6 311.666. As used in ORS 311.666 to 311.701:

7 (1) “County median RMV” means the median real market value entered
8 on the last certified assessment and tax roll for all residential improved
9 properties in the county in which a homestead is located that are classified
10 as 1-0-1 pursuant to the rule adopted by the Department of Revenue under
11 ORS 308.215.

12 (2) “Homestead” means the owner occupied principal dwelling, either real
13 or personal property, owned by the taxpayer and the tax lot upon which it
14 is located. If the homestead is located in a multiunit building, the homestead
15 is the portion of the building actually used as the principal dwelling and its
16 percentage of the value of the common elements and of the value of the tax
17 lot upon which it is built. The percentage is the value of the unit consisting
18 of the homestead compared to the total value of the building exclusive of the
19 common elements, if any.

20 (3) “Household income” means the aggregate income of the taxpayer and
21 the spouse of the taxpayer who occupy the homestead, that was received
22 during the calendar year for which the claim is filed. “Household income”
23 includes payments received by the taxpayer or the spouse of the taxpayer
24 under the federal Social Security Act for the benefit of a minor child or
25 minor children who occupy the homestead.

26 (4) “Income” means “adjusted gross income” as defined in the federal
27 Internal Revenue Code, as [*amended and in effect on December 31, 2015, even*
28 *when the amendments take effect or become operative after that date*] **defined**
29 **in ORS 305.842**, relating to the measurement of taxable income of individ-
30 uals, estates and trusts, with the following modifications:

31 (a) There shall be added to adjusted gross income the following items of

1 otherwise exempt income:

2 (A) The gross amount of any otherwise exempt pension less return of in-
3 vestment, if any.

4 (B) Child support received by the taxpayer.

5 (C) Inheritances.

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

7 (E) Amounts received by a taxpayer or spouse of a taxpayer for support
8 from a parent who is not a member of the taxpayer's household.

9 (F) Life insurance proceeds.

10 (G) Accident and health insurance proceeds, except reimbursement of in-
11 curred medical expenses.

12 (H) Personal injury damages.

13 (I) Sick pay that is not included in federal adjusted gross income.

14 (J) Strike benefits excluded from federal gross income.

15 (K) Worker's compensation, except for reimbursement of medical expense.

16 (L) Military pay and benefits.

17 (M) Veteran's benefits.

18 (N) Payments received under the federal Social Security Act that are ex-
19 cluded from federal gross income.

20 (O) Welfare payments, except as follows:

21 (i) Payments for medical care, drugs and medical supplies, if the payments
22 are not made directly to the welfare recipient;

23 (ii) In-home services authorized and approved by the Department of Hu-
24 man Services; and

25 (iii) Direct or indirect reimbursement of expenses paid or incurred for
26 participation in work or training programs.

27 (P) Nontaxable dividends.

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

29 (R) Rental allowance paid to a minister that is excluded from federal
30 gross income.

31 (S) Income from sources without the United States that is excluded from

1 federal gross income.

2 (b) Adjusted gross income shall be increased due to the disallowance of
3 the following deductions:

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

6 (B) The amount of the net loss, in excess of \$1,000, from the operation of
7 a farm or farms.

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

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

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

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

17 (G) The amount added or subtracted, as required within the context of
18 this section, for adjustments made under ORS 316.680 (2)(d) and 316.707 to
19 316.737.

20 (c) "Income" does not include any of the following:

21 (A) Any governmental grant that must be used by the taxpayer for reha-
22 bilitation of the homestead of the taxpayer.

23 (B) The amount of any payments made pursuant to ORS 310.630 to 310.706.

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

26 (5)(a) "Net worth" means the sum of the current market value of all as-
27 sets, including real property, cash, savings accounts, bonds and other in-
28 vestments, after deducting outstanding liabilities.

29 (b) "Net worth" does not include the value of a homestead for which
30 deferral is claimed under ORS 311.666 to 311.701, the cash value of life in-
31 surance policies on the life of a taxpayer or tangible personal property

1 owned by a taxpayer.

2 (6) "Person with a disability" means an individual who has been deter-
3 mined to be eligible to receive or who is receiving federal Social Security
4 benefits due to disability or blindness, including an individual who is re-
5 ceiving Social Security survivor benefits in lieu of Social Security benefits
6 due to disability or blindness.

7 (7) "Tax-deferred property" means the property upon which taxes are de-
8 ferred under ORS 311.666 to 311.701.

9 (8) "Taxes" or "property taxes" means ad valorem taxes, assessments, fees
10 and charges entered on the assessment and tax roll.

11 (9) "Taxpayer" means an individual who has filed, as an individual or
12 jointly, a claim for deferral under ORS 311.666 to 311.701.

13 (10)(a) "Transferee" means, without limitation, an heir, legatee, devisee,
14 distributee of an estate of a deceased individual, the assignee or donee of an
15 insolvent individual or a person acting in a fiduciary capacity on behalf of
16 a transferee.

17 (b) "Transferee" does not mean a bona fide purchaser for value.

18 (11) "U.S. City Average Consumer Price Index" means the U.S. City Av-
19 erage Consumer Price Index for All Urban Consumers (All Items) as pub-
20 lished by the Bureau of Labor Statistics of the United States Department of
21 Labor.

22 **SECTION 18.** ORS 314.011, as amended by section 17, chapter 33, Oregon
23 Laws 2016, is amended to read:

24 314.011. (1) As used in this chapter, unless the context requires otherwise,
25 "department" means the Department of Revenue.

26 (2) As used in this chapter:

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

31 (b) Except where the Legislative Assembly has provided otherwise, a ref-

1 erence to the laws of the United States or to the Internal Revenue Code re-
2 fers to the laws of the United States or to the Internal Revenue Code as they
3 are amended and in effect:

4 (A) On December 31, [2015] **2016**; or

5 (B) If related to the definition of taxable income, as applicable to the tax
6 year of the taxpayer.

7 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying
8 expenditures), 314.260 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360,
9 314.362, 314.385, 314.402, 314.410, 314.412, 314.525, 314.742 (7), 314.750 and
10 314.752 and other provisions of this chapter, except those described in para-
11 graph (b) of this subsection, any reference to the laws of the United States
12 or to the Internal Revenue Code means the laws of the United States relating
13 to income taxes or the Internal Revenue Code as they are amended on or
14 before December 31, [2015] **2016**, even when the amendments take effect or
15 become operative after that date, except where the Legislative Assembly has
16 specifically provided otherwise.

17 (3) Insofar as is practicable in the administration of this chapter, the de-
18 partment shall apply and follow the administrative and judicial interpreta-
19 tions of the federal income tax law. When a provision of the federal income
20 tax law is the subject of conflicting opinions by two or more federal courts,
21 the department shall follow the rule observed by the United States Commis-
22 sioner of Internal Revenue until the conflict is resolved. Nothing contained
23 in this section limits the right or duty of the department to audit the return
24 of any taxpayer or to determine any fact relating to the tax liability of any
25 taxpayer.

26 (4) When portions of the Internal Revenue Code incorporated by reference
27 as provided in subsection (2) of this section refer to rules or regulations
28 prescribed by the Secretary of the Treasury, then such rules or regulations
29 shall be regarded as rules adopted by the department under and in accord-
30 ance with the provisions of this chapter, whenever they are prescribed or
31 amended.

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

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

17 **SECTION 19.** ORS 315.004, as amended by section 18, chapter 33, Oregon
18 Laws 2016, is amended to read:

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

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

28 (b) With respect to the tax credits contained in this chapter, any refer-
29 ence to the laws of the United States or to the Internal Revenue Code means
30 the laws of the United States relating to income taxes or the Internal Rev-
31 enue Code as they are amended on or before December 31, [2015] **2016**, even

1 when the amendments take effect or become operative after that date.

2 (3) Insofar as is practicable in the administration of this chapter, the
3 Department of Revenue shall apply and follow the administrative and judi-
4 cial interpretations of the federal income tax law. When a provision of the
5 federal income tax law is the subject of conflicting opinions by two or more
6 federal courts, the department shall follow the rule observed by the United
7 States Commissioner of Internal Revenue until the conflict is resolved.
8 Nothing contained in this section limits the right or duty of the department
9 to audit the return of any taxpayer or to determine any fact relating to the
10 tax liability of any taxpayer.

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

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

31 (b) As used in this subsection, "Act or Title" includes any subtitle, divi-

1 sion or other part of an Act or Title.

2 **SECTION 20.** ORS 316.012, as amended by section 19, chapter 33, Oregon
3 Laws 2016, is amended to read:

4 316.012. Any term used in this chapter has the same meaning as when
5 used in a comparable context in the laws of the United States relating to
6 federal income taxes, unless a different meaning is clearly required or the
7 term is specifically defined in this chapter. Except where the Legislative
8 Assembly has provided otherwise, any reference in this chapter to the laws
9 of the United States or to the Internal Revenue Code refers to the laws of
10 the United States or to the Internal Revenue Code as they are amended and
11 in effect:

12 (1) On December 31, [2015] **2016**; or

13 (2) If related to the definition of taxable income, as applicable to the tax
14 year of the taxpayer.

15 **SECTION 21.** ORS 316.147, as amended by section 21, chapter 33, Oregon
16 Laws 2016, is amended to read:

17 316.147. As used in ORS 316.147 to 316.149, unless the context requires
18 otherwise:

19 (1) "Eligible taxpayer" includes any individual who must pay taxes oth-
20 erwise imposed by this chapter and:

21 (a) Who pays or incurs expenses for the care of a qualified individual,
22 through a payment method determined by rule of the Department of Revenue;
23 and

24 (b) Who has a household income, for the taxable year, not to exceed the
25 maximum amount of household income allowed in ORS 310.640 (1989 Edition)
26 for a homeowner or renter refund.

27 (2) "Household income" means the aggregate income of the eligible tax-
28 payer and the spouse of the taxpayer who reside in the household, that was
29 received during a calendar year. "Household income" includes payments re-
30 ceived by the eligible taxpayer or the spouse of the taxpayer under the fed-
31 eral Social Security Act for the benefit of a minor child or minor children

1 who reside in the household.

2 (3) "Income" means "adjusted gross income" as defined in the federal
3 Internal Revenue Code, as amended and in effect on December 31, [2015]
4 **2016**, even when the amendments take effect or become operative after that
5 date, relating to the measurement of taxable income of individuals, estates
6 and trusts, with the following modifications:

7 (a) There shall be added to adjusted gross income the following items of
8 otherwise exempt income:

9 (A) The gross amount of any otherwise exempt pension less return of in-
10 vestment, if any.

11 (B) Child support received by the taxpayer.

12 (C) Inheritances.

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

14 (E) Amounts received by a taxpayer or spouse of a taxpayer for support
15 from a parent who is not a member of the taxpayer's household.

16 (F) Life insurance proceeds.

17 (G) Accident and health insurance proceeds, except reimbursement of in-
18 curred medical expenses.

19 (H) Personal injury damages.

20 (I) Sick pay that is not included in federal adjusted gross income.

21 (J) Strike benefits excluded from federal gross income.

22 (K) Worker's compensation, except for reimbursement of medical expense.

23 (L) Military pay and benefits.

24 (M) Veteran's benefits.

25 (N) Payments received under the federal Social Security Act that are ex-
26 cluded from federal gross income.

27 (O) Welfare payments, except as follows:

28 (i) Payments for medical care, drugs and medical supplies, if the payments
29 are not made directly to the welfare recipient;

30 (ii) In-home services authorized and approved by the Department of Hu-
31 man Services; and

1 (iii) Direct or indirect reimbursement of expenses paid or incurred for
2 participation in work or training programs.

3 (P) Nontaxable dividends.

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

5 (R) Rental allowance paid to a minister that is excluded from federal
6 gross income.

7 (S) Income from sources without the United States that is excluded from
8 federal gross income.

9 (b) Adjusted gross income shall be increased due to the disallowance of
10 the following deductions:

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

13 (B) The amount of the net loss, in excess of \$1,000, from the operation of
14 a farm or farms.

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

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

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

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

24 (G) The amount added or subtracted, as required within the context of
25 this section, for adjustments made under ORS 316.680 (2)(d) and 316.707 to
26 316.737.

27 (c) "Income" does not include any of the following:

28 (A) Any governmental grant that must be used by the taxpayer for reha-
29 bilitation of the homestead of the taxpayer.

30 (B) The amount of any payments made pursuant to ORS 310.630 to 310.706.

31 (C) Any refund of Oregon personal income taxes that were imposed under

1 this chapter.

2 (4) "Qualified individual" includes an individual at least 60 years of age
3 on the date that the expenses described in subsection (1)(a) of this section
4 are paid or incurred by the eligible taxpayer:

5 (a) Whose household income does not exceed \$7,500 for the calendar year
6 in which the taxable year of the taxpayer begins;

7 (b) Who is eligible for authorized services as defined in ORS 410.410 under
8 Oregon Project Independence;

9 (c) Who is certified by the Department of Human Services; and

10 (d) Whose care or any portion thereof is not paid for under ORS chapter
11 414.

12 **SECTION 22.** ORS 316.157, as amended by section 22, chapter 33, Oregon
13 Laws 2016, is amended to read:

14 316.157. (1) In the case of an eligible individual, there shall be allowed
15 as a credit against the taxes otherwise due under this chapter for the taxable
16 year an amount equal to the lesser of the tax liability of the taxpayer or nine
17 percent of net pension income.

18 (2) For purposes of this section:

19 (a) "Eligible individual" means any individual who is receiving pension
20 income and who has attained the following age before the close of the taxa-
21 ble year:

22 (A) For taxable years beginning on or after January 1, 1991, and before
23 January 1, 1993, the individual must attain 58 years of age before the close
24 of the taxable year.

25 (B) For taxable years beginning on or after January 1, 1993, and before
26 January 1, 1995, the individual must attain 59 years of age before the close
27 of the taxable year.

28 (C) For taxable years beginning on or after January 1, 1995, and before
29 January 1, 1997, the individual must attain 60 years of age before the close
30 of the taxable year.

31 (D) For taxable years beginning on or after January 1, 1997, and before

1 January 1, 1999, the individual must attain 61 years of age before the close
2 of the taxable year.

3 (E) For taxable years beginning on or after January 1, 1999, the individual
4 must attain 62 years of age before the close of the taxable year.

5 (b) "Household income" means the aggregate income of the taxpayer and
6 the spouse of the taxpayer who reside in the household, that was received
7 during the taxable year for which a credit is claimed, except that "household
8 income" does not include Social Security benefits received by the taxpayer
9 or the spouse of the taxpayer.

10 (c) "Income" means "adjusted gross income" as defined in the federal
11 Internal Revenue Code, as amended and in effect on December 31, [2015]
12 **2016**, even when the amendments take effect or become operative after that
13 date, relating to the measurement of taxable income of individuals, estates
14 and trusts, with the following modifications:

15 (A) There shall be added to adjusted gross income the following items of
16 otherwise exempt income:

17 (i) The gross amount of any otherwise exempt pension less return of in-
18 vestment, if any.

19 (ii) Child support received by the taxpayer.

20 (iii) Inheritances.

21 (iv) Gifts and grants, the sum of which are in excess of \$500 per year.

22 (v) Amounts received by a taxpayer or spouse of a taxpayer for support
23 from a parent who is not a member of the taxpayer's household.

24 (vi) Life insurance proceeds.

25 (vii) Accident and health insurance proceeds, except reimbursement of
26 incurred medical expenses.

27 (viii) Personal injury damages.

28 (ix) Sick pay that is not included in federal adjusted gross income.

29 (x) Strike benefits excluded from federal gross income.

30 (xi) Worker's compensation, except for reimbursement of medical expense.

31 (xii) Military pay and benefits.

- 1 (xiii) Veteran's benefits.
- 2 (xiv) Payments received under the federal Social Security Act that are
3 excluded from federal gross income.
- 4 (xv) Welfare payments, except as follows:
- 5 (I) Payments for medical care, drugs and medical supplies, if the payments
6 are not made directly to the welfare recipient;
- 7 (II) In-home services authorized and approved by the Department of Hu-
8 man Services; and
- 9 (III) Direct or indirect reimbursement of expenses paid or incurred for
10 participation in work or training programs.
- 11 (xvi) Nontaxable dividends.
- 12 (xvii) Nontaxable interest not included in federal adjusted gross income.
- 13 (xviii) Rental allowance paid to a minister that is excluded from federal
14 gross income.
- 15 (xix) Income from sources without the United States that is excluded from
16 federal gross income.
- 17 (B) Adjusted gross income shall be increased due to the disallowance of
18 the following deductions:
- 19 (i) The amount of the net loss, in excess of \$1,000, from all dispositions
20 of tangible or intangible properties.
- 21 (ii) The amount of the net loss, in excess of \$1,000, from the operation of
22 a farm or farms.
- 23 (iii) The amount of the net loss, in excess of \$1,000, from all operations
24 of a trade or business, profession or other activity entered into for the pro-
25 duction or collection of income.
- 26 (iv) The amount of the net loss, in excess of \$1,000, from tangible or in-
27 tangible property held for the production of rents, royalties or other income.
- 28 (v) The amount of any net operating loss carryovers or carrybacks in-
29 cluded in federal adjusted gross income.
- 30 (vi) The amount, in excess of \$5,000, of the combined deductions or other
31 allowances for depreciation, amortization or depletion.

1 (vii) The amount added or subtracted, as required within the context of
2 this section, for adjustments made under ORS 316.680 (2)(d) and 316.707 to
3 316.737.

4 (C) "Income" does not include any of the following:

5 (i) Any governmental grant that must be used by the taxpayer for reha-
6 bilitation of the homestead of the taxpayer.

7 (ii) The amount of any payments made pursuant to ORS 310.630 to 310.706.

8 (iii) Any refund of Oregon personal income taxes that were imposed under
9 this chapter.

10 (d) "Net pension income" means:

11 (A) For eligible individuals filing a joint return, the lesser of the pension
12 income of the eligible individuals received during the taxable year or the
13 excess, if any, of \$15,000 over the sum of the following amounts:

14 (i) Any Social Security benefits received by the eligible individual, or by
15 the spouse of the individual, during the taxable year; and

16 (ii) The excess, if any, of household income over \$30,000.

17 (B) For an eligible individual filing a return other than a joint return,
18 the lesser of the pension income of the eligible individual received during the
19 taxable year or the excess, if any, of \$7,500 over the sum of the following
20 amounts:

21 (i) Any Social Security benefits received by the eligible individual during
22 the taxable year; and

23 (ii) The excess, if any, of household income over \$15,000.

24 (e) "Pension income" means income included in Oregon taxable income
25 from:

26 (A) Distributions from or pursuant to an employee pension benefit plan,
27 as defined in section 3(2) of the Employee Retirement Income Security Act
28 of 1974, which satisfies the requirements of section 401 of the Internal Rev-
29 enue Code;

30 (B) Distributions from or pursuant to a public retirement system of this
31 state or a political subdivision of this state, or a public retirement system

1 created by an Act of this state or a political subdivision of this state, or the
2 public retirement system of any other state or local government;

3 (C) Distributions from or pursuant to a federal retirement system created
4 by the federal government for any officer or employee of the United States,
5 including any person retired from service in the United States Civil Service,
6 the Armed Forces of the United States or any agency or subdivision thereof;

7 (D) Distributions or withdrawals from or pursuant to an eligible deferred
8 compensation plan which satisfies the requirements of section 457 of the
9 Internal Revenue Code;

10 (E) Distributions or withdrawals from or pursuant to an individual re-
11 tirement account, annuity or trust or simplified employee pension which
12 satisfies the requirements of section 408 of the Internal Revenue Code; and

13 (F) Distributions or withdrawals from or pursuant to an employee annu-
14 ity, including custodial accounts treated as annuities, subject to section 403
15 (a) or (b) of the Internal Revenue Code.

16 (f) "Social Security benefits" means Social Security benefits, as defined
17 in section 86 of the Internal Revenue Code (Title II Social Security or tier
18 1 railroad retirement benefits).

19 (3) If a change in the taxable year of the eligible individual occurs as
20 described in ORS 314.085, or if the Department of Revenue terminates the tax
21 year of the eligible individual under ORS 314.440, the credit allowed by this
22 section shall be prorated or computed in a manner consistent with ORS
23 314.085.

24 (4) If a change in the status of the eligible individual from resident to
25 nonresident or from nonresident to resident occurs, the credit allowed by this
26 section shall be determined in a manner consistent with subsection (1) of this
27 section.

28 **SECTION 23.** ORS 317.010, as amended by section 20, chapter 33, Oregon
29 Laws 2016, is amended to read:

30 317.010. As used in this chapter, unless the context requires otherwise:

31 (1) "Centrally assessed corporation" means every corporation the property

1 of which is assessed by the Department of Revenue under ORS 308.505 to
2 308.681.

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

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

7 (b) "Consolidated state return" means the return required to be filed un-
8 der ORS 317.710 (5).

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

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

22 (6) "Financial institution" has the meaning given that term in ORS
23 314.610 except that it does not include a credit union as defined in ORS
24 723.006, an interstate credit union as defined in ORS 723.001 or a federal
25 credit union.

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

29 (a) On December 31, [2015] **2016**; or

30 (b) If related to the definition of taxable income, as applicable to the tax
31 year of the taxpayer.

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

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

7 (10) "Taxable income or loss" means the taxable income or loss deter-
8 mined, or in the case of a corporation for which no federal taxable income
9 or loss is determined, as would be determined, under chapter 1, Subtitle A
10 of the Internal Revenue Code and any other laws of the United States re-
11 lating to the determination of taxable income or loss of corporate taxpayers,
12 with the additions, subtractions, adjustments and other modifications as are
13 specifically prescribed by this chapter except that in determining taxable
14 income or loss for any year, no deduction under ORS 317.476 or 317.478 and
15 section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corpo-
16 ration is a corporation to which ORS 314.280 or 314.605 to 314.675 (requiring
17 or permitting apportionment of income from transactions or activities carried
18 on both within and without the state) applies, to derive taxable income or
19 loss, the following shall occur:

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

22 (b) Multiply the amount determined under paragraph (a) of this sub-
23 section by the Oregon apportionment percentage defined under ORS 314.280,
24 314.650 or 314.667, whichever is applicable. The resulting product shall be
25 Oregon apportioned income or loss.

26 (c) To the amount determined as Oregon apportioned income or loss under
27 paragraph (b) of this subsection, add nonbusiness income allocable entirely
28 to Oregon under ORS 314.280 or 314.625 to 314.645, or subtract nonbusiness
29 loss allocable entirely to Oregon under ORS 314.280 or 314.625 to 314.645.
30 The resulting figure is "taxable income or loss" for those corporations car-
31 rying on taxable transactions or activities both within and without Oregon.

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

9 **SECTION 24.** ORS 317.097, as amended by section 23, chapter 33, Oregon
10 Laws 2016, is amended to read:

11 317.097. (1) As used in this section:

12 (a) “Annual rate” means the yearly interest rate specified on the note,
13 and not the annual percentage rate, if any, disclosed to the applicant to
14 comply with the federal Truth in Lending Act.

15 (b) “Finance charge” means the total of all interest, loan fees, interest
16 on any loan fees financed by the lending institution, and other charges re-
17 lated to the cost of obtaining credit.

18 (c) “Lending institution” means any insured institution, as that term is
19 defined in ORS 706.008, any mortgage banking company that maintains an
20 office in this state or any community development corporation that is or-
21 ganized under the Oregon Nonprofit Corporation Law.

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

24 (e) “Nonprofit corporation” means a corporation that is exempt from in-
25 come taxes under section 501(c)(3) or (4) of the Internal Revenue Code as
26 amended and in effect on December 31, [2015] **2016**.

27 (f) “Preservation project” means housing that was previously developed
28 as affordable housing with a contract for rent assistance from the United
29 States Department of Housing and Urban Development or the United States
30 Department of Agriculture and that is being acquired by a sponsoring entity.

31 (g) “Qualified assignee” means any investor participating in the secondary

1 market for real estate loans.

2 (h) "Qualified borrower" means any borrower that is a sponsoring entity
3 that has a controlling interest in the real property that is financed by a
4 qualified loan. A controlling interest includes, but is not limited to, a con-
5 trolling interest in the general partner of a limited partnership that owns
6 the real property.

7 (i) "Qualified loan" means:

8 (A) A loan that meets the criteria stated in subsection (5) of this section
9 or that is made to refinance a loan that meets the criteria described in sub-
10 section (5) of this section; or

11 (B) The purchase by a lending institution of bonds, as defined in ORS
12 286A.001, issued on behalf of the Housing and Community Services Depart-
13 ment, the proceeds of which are used to finance or refinance a loan that
14 meets the criteria described in subsection (5) of this section.

15 (j) "Sponsoring entity" means a nonprofit corporation, nonprofit cooper-
16 ative, state governmental entity, local unit of government as defined in ORS
17 466.706, housing authority or any other person, provided that the person has
18 agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit
19 cooperative, state governmental entity, local unit of government or housing
20 authority.

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

26 (a) The amount of finance charge charged by the lending institution dur-
27 ing the taxable year at an annual rate less than the market rate for a qual-
28 ified loan that is made before January 1, 2020, that complies with the
29 requirements of this section; and

30 (b) The amount of finance charge that would have been charged during
31 the taxable year by the lending institution for the qualified loan for housing

1 construction, development, acquisition or rehabilitation measured at the an-
2 nual rate charged by the lending institution for nonsubsidized loans made
3 under like terms and conditions at the time the qualified loan for housing
4 construction, development, acquisition or rehabilitation is made.

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

9 (4) Any tax credit allowed under this section that is not used by the
10 taxpayer in a particular year may be carried forward and offset against the
11 taxpayer's tax liability for the next succeeding tax year. Any credit remain-
12 ing unused in the next succeeding tax year may be carried forward and used
13 in the second succeeding tax year, and likewise, any credit not used in that
14 second succeeding tax year may be carried forward and used in the third
15 succeeding tax year, and any credit not used in that third succeeding tax
16 year may be carried forward and used in the fourth succeeding tax year, and
17 any credit not used in that fourth succeeding tax year may be carried for-
18 ward and used in the fifth succeeding tax year, but may not be carried for-
19 ward for any tax year thereafter.

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

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

30 (b) A qualified borrower who:

31 (A) Uses the loan proceeds to finance construction, development, acqui-

1 sition or rehabilitation of housing; and

2 (B) Provides a written certification executed by the Housing and Com-
3 munity Services Department that the:

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

6 (ii) Full amount of savings from the reduced interest rate provided by the
7 lending institution is or will be passed on to the tenants in the form of re-
8 duced housing payments, regardless of other subsidies provided to the hous-
9 ing project;

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

11 (A) Uses the loan proceeds to finance construction, development, acqui-
12 sition or rehabilitation of housing consisting of a manufactured dwelling
13 park; and

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

18 (d) A qualified borrower who:

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

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

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

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

28 (6) A loan made to refinance a loan that meets the criteria stated in
29 subsection (5) of this section must be treated the same as a loan that meets
30 the criteria stated in subsection (5) of this section.

31 (7) For a qualified loan to be eligible for the tax credit allowable under

1 this section, the Housing and Community Services Department must execute
2 a written certification for the qualified loan that:

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

6 (b) States that the qualified loan is within the limitation imposed by
7 subsection (8) of this section.

8 (8) The Housing and Community Services Department may certify quali-
9 fied loans that are eligible under subsection (5) of this section if the total
10 credits attributable to all qualified loans eligible for credits under this sec-
11 tion and then outstanding do not exceed \$17 million for any fiscal year. In
12 making loan certifications under subsection (7) of this section, the Housing
13 and Community Services Department shall attempt to distribute the tax
14 credits statewide, but shall concentrate the tax credits in those areas of the
15 state that are determined by the Oregon Housing Stability Council to have
16 the greatest need for affordable housing.

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

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

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

24 (10) For a qualified loan defined in subsection (1)(i)(B) of this section fi-
25 nanced through the purchase of bonds, the interest of which is exempt from
26 federal taxation under section 103 of the Internal Revenue Code, the amount
27 of finance charge that would have been charged under subsection (2)(b) of
28 this section is determined by reference to the finance charge that would have
29 been charged if the federally tax exempt bonds had been issued and the tax
30 credit under this section did not apply.

31 (11) A lending institution may sell a qualified loan for which a certifica-

1 tion has been executed to a qualified assignee whether or not the lending
2 institution retains servicing of the qualified loan so long as a designated
3 lending institution maintains records, annually verified by a loan servicer,
4 that establish the amount of tax credit earned by the taxpayer throughout
5 each year of eligibility.

6 (12) Notwithstanding any other provision of law, a lending institution
7 that is a community development corporation organized under the Oregon
8 Nonprofit Corporation Law may transfer all or part of a tax credit allowed
9 under this section to one or more other lending institutions that are stock-
10 holders or members of the community development corporation or that oth-
11 erwise participate through the community development corporation in the
12 making of one or more qualified loans for which the tax credit under this
13 section is allowed.

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

18 (14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified
19 borrower on a loan to finance the construction, development, acquisition or
20 rehabilitation of a manufactured dwelling park under subsection (5)(c) of this
21 section must be a nonprofit corporation, manufactured dwelling park
22 nonprofit cooperative, state governmental entity, local unit of government
23 as defined in ORS 466.706 or housing authority.

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

26 **SECTION 25.** ORS 458.670, as amended by section 24, chapter 33, Oregon
27 Laws 2016, is amended to read:

28 458.670. As used in this section and ORS 458.675 to 458.700, unless the
29 context requires otherwise:

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

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

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

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

4 (2) "Fiduciary organization" means an organization selected under ORS
5 458.695 to administer state moneys directed to individual development ac-
6 counts and that is:

7 (a) A nonprofit, fund raising organization that is exempt from taxation
8 under section 501(c)(3) of the Internal Revenue Code as amended and in ef-
9 fect on December 31, [2015] **2016**; or

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

12 (3) "Financial institution" means:

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

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

17 (4) "Individual development account" means a contract between an ac-
18 count holder and a fiduciary organization, for the deposit of funds into a fi-
19 nancial institution by the account holder, and the deposit of matching funds
20 into the financial institution by the fiduciary organization, to allow the ac-
21 count holder to accumulate assets for use toward achieving a specific pur-
22 pose approved by the fiduciary organization.

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

25 (a) 80 percent of the median household income for the area as determined
26 by the Housing and Community Services Department. In making the deter-
27 mination, the department shall give consideration to any data on area
28 household income published by the United States Department of Housing and
29 Urban Development.

30 (b) 200 percent of the poverty guidelines as determined by the Housing
31 and Community Services Department. In making the determination, the de-

1 partment shall give consideration to poverty guidelines published by the
2 United States Department of Health and Human Services and may consider
3 other income data periodically published by other federal or Oregon agen-
4 cies.

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

7 **SECTION 26.** ORS 657.010, as amended by section 25, chapter 33, Oregon
8 Laws 2016, is amended to read:

9 657.010. As used in this chapter, unless the context requires otherwise:

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

12 (2) "Benefits" means the money allowances payable to unemployed per-
13 sons under this chapter.

14 (3) "Benefit year" means a period of 52 consecutive weeks commencing
15 with the first week with respect to which an individual files an initial valid
16 claim for benefits, and thereafter the 52 consecutive weeks period beginning
17 with the first week with respect to which the individual next files an initial
18 valid claim after the termination of the individual's last preceding benefit
19 year except that the benefit year shall be 53 weeks if the filing of an initial
20 valid claim would result in overlapping any quarter of the base year of a
21 previously filed initial valid claim.

22 (4) "Calendar quarter" means the period of three consecutive calendar
23 months ending on March 31, June 30, September 30 or December 31, or the
24 approximate equivalent thereof, as the Director of the Employment Depart-
25 ment may, by regulation, prescribe.

26 (5) "Contribution" or "contributions" means the taxes, as defined in sub-
27 section (13) of this section, that are the money payments required by this
28 chapter, or voluntary payments permitted, to be made to the Unemployment
29 Compensation Trust Fund.

30 (6) "Educational institution," including an institution of higher education
31 as defined in subsection (9) of this section, means an institution:

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

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

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

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

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

17 (8) "Hospital" means an organization that has been licensed, certified or
18 approved by the Oregon Health Authority as a hospital.

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

21 (a) Admits as regular students only individuals having a certificate of
22 graduation from a high school, or the recognized equivalent of such a cer-
23 tificate;

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

26 (c) Provides an educational program for which it awards a bachelor's or
27 higher degree, or provides a program that is acceptable for full credit toward
28 such a degree, a program of post-graduate or post-doctoral studies, or a pro-
29 gram of training to prepare students for gainful employment in a recognized
30 occupation; and

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

1 (10) “Internal Revenue Code” means the federal Internal Revenue Code,
2 as amended and in effect on December 31, [2015] **2016**.

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

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

12 (13) “Taxes” means the money payments to the Unemployment Compens-
13 ation Trust Fund required, or voluntary payments permitted, by this chap-
14 ter.

15 (14) “Valid claim” means any claim for benefits made in accordance with
16 ORS 657.260 if the individual meets the wages-paid-for-employment require-
17 ments of ORS 657.150.

18 (15) “Week” means any period of seven consecutive calendar days ending
19 at midnight, as the director may, by regulation, prescribe. The director may
20 by regulation prescribe that a “week” shall be “in,” “within,” or “during” the
21 calendar quarter that includes the greater part of such week.

22 **SECTION 27. (1) Except as provided in subsections (2) and (3) of this**
23 **section, the amendments to statutes by sections 1 to 26 of this 2017**
24 **Act apply to transactions or activities occurring on or after January**
25 **1, 2017, in tax years beginning on or after January 1, 2017.**

26 **(2) The effective and applicable dates, and the exceptions, special**
27 **rules and coordination with the Internal Revenue Code, as amended,**
28 **relative to those dates, contained in the Housing Opportunity Through**
29 **Modernization Act of 2016 (P.L. 114-201), the United States Appreci-**
30 **ation for Olympians and Paralympians Act of 2016 (P.L. 114-239) and**
31 **other federal law amending the Internal Revenue Code and enacted**

1 before January 1, 2017, apply for Oregon personal income and corpo-
2 rate excise and income tax purposes, to the extent they can be made
3 applicable, in the same manner as they are applied under the Internal
4 Revenue Code and related federal law.

5 (3)(a) If a deficiency is assessed against any taxpayer for a tax year
6 beginning before January 1, 2017, and the deficiency or any portion
7 thereof is attributable to any retroactive treatment under the amend-
8 ments to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 311.666, 314.011,
9 315.004, 316.012, 316.147, 316.157, 317.010 and 317.097 by sections 1 and 13
10 to 24 of this 2017 Act, then any interest or penalty assessed under ORS
11 chapter 305, 314, 315, 316, 317 or 318 with respect to the deficiency or
12 portion thereof shall be canceled.

13 (b) If a refund is due any taxpayer for a tax year beginning before
14 January 1, 2017, and the refund or any portion thereof is due the tax-
15 payer on account of any retroactive treatment under the amendments
16 to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 311.666, 314.011, 315.004,
17 316.012, 316.147, 316.157, 317.010 and 317.097 by sections 1 and 13 to 24 of
18 this 2017 Act, for a tax year beginning before January 1, 2017, then
19 notwithstanding ORS 305.270 or 314.415 or any other law, the refund
20 or portion thereof shall be paid without interest.

21 (c) Any changes required because of the amendments to ORS
22 178.300, 305.230, 305.494, 305.690, 305.842, 311.666, 314.011, 315.004, 316.012,
23 316.147, 316.157, 317.010 and 317.097 by sections 1 and 13 to 24 of this 2017
24 Act, for a tax year beginning before January 1, 2017, shall be made by
25 filing an amended return within the time prescribed by law.

26 (d) If a taxpayer fails to file an amended return under paragraph
27 (c) of this subsection, the Department of Revenue shall make any
28 changes under paragraph (c) of this subsection on the return to which
29 the changes relate within the period specified for issuing a notice of
30 deficiency or claiming a refund as otherwise provided by law with re-
31 spect to that return, or within one year after a return for a tax year

1 **beginning on or after January 1, 2017, and before January 1, 2018, is**
2 **filed, whichever period expires later.**

3 **SECTION 28. This 2017 Act takes effect on the 91st day after the**
4 **date on which the 2017 regular session of the Seventy-ninth Legislative**
5 **Assembly adjourns sine die.**

6
