

Senate Bill 63

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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

Relating to connection to federal tax law; creating new provisions; amending ORS 238A.005, 238A.125, 238A.150, 238A.170, 238A.230, 238A.370, 238A.400, 238A.410, 238A.415, 238A.430, 305.230, 305.494, 305.690, 314.011, 315.004, 316.012, 317.010, 317.097, 348.841, 458.670 and 657.010 and section 15, chapter 52, Oregon Laws 2014; and prescribing an effective date.

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

SECTION 1. ORS 238A.005, as amended by section 1, chapter 52, Oregon Laws 2014, and section 4, chapter 107, Oregon Laws 2014, is amended to read:

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

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

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

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

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

(a) Persons engaged as independent contractors;

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

(c) Persons provided sheltered employment or make-work by a public employer;

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

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

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

(g) An employee actively participating in an alternative retirement program established under ORS 353.250 or an optional retirement plan established under ORS 341.551;

(h) Employees of a public university listed in ORS 352.002 who are actively participating in an optional retirement plan offered under ORS 243.800;

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

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

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

5 (L) Judges.

6 (5) “Firefighter” means:

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

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

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

14 (6) “Fund” means the Public Employees Retirement Fund.

15 (7)(a) “Hour of service” means:

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

18 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave
 19 during which an employee does not perform duties but for which the employee is directly or indi-
 20 rectly paid or entitled to payment by a participating public employer for services in a qualifying
 21 position, as long as the hour is within the number of hours regularly scheduled for the performance
 22 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-
 23 thorized leave.

24 (b) “Hour of service” does not include any hour for which payment is made or due under a plan
 25 maintained solely for the purpose of complying with applicable workers’ compensation laws or un-
 26 employment compensation laws.

27 (8) “Inactive member” means a member of the pension program or the individual account pro-
 28 gram of the Oregon Public Service Retirement Plan whose membership has not been terminated, who
 29 is not a retired member and who is not employed in a qualifying position.

30 (9) “Individual account program” means the defined contribution individual account program of
 31 the Oregon Public Service Retirement Plan established under ORS 238A.025.

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

34 (11) “Member” means an eligible employee who has established membership in the pension pro-
 35 gram or the individual account program of the Oregon Public Service Retirement Plan and whose
 36 membership has not been terminated under ORS 238A.110 or 238A.310.

37 (12) “Participating public employer” means a public employer as defined in ORS 238.005 that
 38 provides retirement benefits for employees of the public employer under the system.

39 (13) “Pension program” means the defined benefit pension program of the Oregon Public Service
 40 Retirement Plan established under ORS 238A.025.

41 (14) “Police officer” means a police officer as described in ORS 238.005.

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

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

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

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

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

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

14 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit
15 plan by the employer at the election of the employee and that is not includable in the taxable in-
16 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, [2013]
17 **2014**.

18 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the
19 election of the employee and that is not included in the taxable income of the employee by reason
20 of 26 U.S.C. 402(e)(3), as in effect on December 31, [2013] **2014**.

21 (E) Retroactive payments described in ORS 238.008.

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

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

27 (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
28 652.190.

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

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

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

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

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

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

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

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

44 (H) The amount of an employee contribution to the individual account program that is paid by
45 the employer and is not deducted from the compensation of the employee, as provided under ORS

1 238A.335 (1) and (2)(b).

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

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

8 **SECTION 2.** ORS 238A.125, as amended by section 2, chapter 52, Oregon Laws 2014, is amended
9 to read:

10 238A.125. (1) Upon retiring at normal retirement age, a vested pension program member shall
11 be paid an annual pension for the life of the member as follows:

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

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

17 (2) Notwithstanding any provision of ORS 238A.100 to 238A.250, the annual benefit payable to
18 a member under the pension program and under any other tax-qualified defined benefit plan main-
19 tained by the participating public employer may not exceed the applicable limitations set forth in
20 26 U.S.C. 415(b), as in effect on December 31, [2013] **2014**. The Public Employees Retirement Board
21 shall adopt rules for the administration of this limitation, including adjustments in the annual dollar
22 limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

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

25 **SECTION 3.** ORS 238A.150, as amended by section 3, chapter 52, Oregon Laws 2014, is amended
26 to read:

27 238A.150. (1) Notwithstanding any other provision of ORS 238A.100 to 238A.250, an eligible em-
28 ployee who leaves a qualifying position for the purpose of performing service in the uniformed ser-
29 vices, and who subsequently returns to employment with a participating public employer with
30 reemployment rights under federal law, is entitled to accrue retirement credit, credit toward the
31 probationary period required by ORS 238A.100 and credit toward the vesting requirements of ORS
32 238A.115 under rules adopted by the Public Employees Retirement Board pursuant to subsection (2)
33 of this section.

34 (2) The board shall adopt rules establishing benefits and service credit for any period of service
35 in the uniformed services by an employee described in subsection (1) of this section. For the purpose
36 of adopting rules under this subsection, the board shall consider and take into account all federal
37 law relating to benefits and service credit for any period of service in the uniformed services, in-
38 cluding 26 U.S.C. 414(u), as in effect on December 31, [2013] **2014**. Benefits and service credit under
39 rules adopted by the board pursuant to this subsection may not exceed benefits and service credit
40 required under federal law for periods of service in the uniformed services.

41 **SECTION 4.** ORS 238A.170, as amended by section 4, chapter 52, Oregon Laws 2014, is amended
42 to read:

43 238A.170. (1) An active member of the pension program who is 70-1/2 years of age or older must
44 retire not later than April 1 of the calendar year following the calendar year in which the member
45 terminates employment with all participating public employers. An inactive member of the pension

1 program must retire not later than April 1 of the calendar year following the calendar year in which
2 the member attains 70-1/2 years of age.

3 (2) Notwithstanding any other provision of ORS 238A.100 to 238A.250, the entire interest of a
4 member of the pension program must be distributed over a time period commencing no later than
5 the required beginning date set forth in subsection (1) of this section, and must be distributed in a
6 manner that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regu-
7 lations implementing that section, as in effect on December 31, [2013] **2014**. The Public Employees
8 Retirement Board shall adopt rules implementing those minimum distribution requirements.

9 **SECTION 5.** ORS 238A.230, as amended by section 5, chapter 52, Oregon Laws 2014, is amended
10 to read:

11 238A.230. (1) If a member of the pension program who is vested dies before the member's effec-
12 tive date of retirement, the Public Employees Retirement Board shall pay the death benefit provided
13 for in this section to the spouse of the member or to any other person who is constitutionally re-
14 quired to be treated in the same manner as a spouse for the purpose of retirement benefits.

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

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

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

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

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

30 (4) Notwithstanding any other provision of ORS 238A.100 to 238A.250, distributions of death
31 benefits under the pension program must comply with the minimum distribution requirements of 26
32 U.S.C. 401(a)(9) and the regulations implementing that section, as in effect on December 31, [2013]
33 **2014**. The board shall adopt rules implementing those minimum distribution requirements.

34 **SECTION 6.** ORS 238A.370, as amended by section 6, chapter 52, Oregon Laws 2014, is amended
35 to read:

36 238A.370. Notwithstanding any other provision of ORS 238A.300 to 238A.415, the annual addition
37 to the employee and employer accounts of a member of the individual account program for a cal-
38 endar year, together with the annual additions to the accounts of the member under any other de-
39 fined contribution plan maintained by the participating public employer for a calendar year, may
40 not exceed the lesser of \$40,000, or 100 percent of the member's compensation for that calendar year.
41 For purposes of this section, "annual addition" has the meaning given that term in 26 U.S.C.
42 415(c)(2), as in effect on December 31, [2013] **2014**, and "compensation" has the meaning given the
43 term "participant's compensation" in 26 U.S.C. 415(c)(3), as in effect on December 31, [2013] **2014**.
44 The Public Employees Retirement Board shall adopt rules for the administration of this limitation,
45 including adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized

1 by the Internal Revenue Service.

2 **SECTION 7.** ORS 238A.400, as amended by section 7, chapter 52, Oregon Laws 2014, is amended
3 to read:

4 238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS
5 238A.165, a member of the individual account program shall receive in a lump sum the amounts in
6 the member's employee account, rollover account and employer account to the extent the member
7 is vested in those accounts under ORS 238A.320.

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

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

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

31 (5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest of a
32 member of the individual account program must be distributed over a time period commencing no
33 later than the latest retirement date set forth in ORS 238A.170, and must be distributed in a manner
34 that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations im-
35 plementing that section, as in effect on December 31, [2013] 2014. The board shall adopt rules im-
36 plementing those minimum distribution requirements.

37 **SECTION 8.** ORS 238A.410, as amended by section 8, chapter 52, Oregon Laws 2014, is amended
38 to read:

39 238A.410. (1) If a member of the individual account program dies before retirement, the amounts
40 in the member's employee account, rollover account and employer account, to the extent the member
41 is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the beneficiary or
42 beneficiaries designated by the member for the purposes of this section.

43 (2) If a member of the individual account program is married at the time of death, or there exists
44 at the time of death any other person who is constitutionally required to be treated in the same
45 manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the

1 beneficiary for purposes of the death benefit payable under this section unless the spouse or other
2 person consents to the designation of a different beneficiary or beneficiaries before the designation
3 has been made and the consent has not been revoked by the spouse or other person as of the time
4 of the member's death. Consent and revocation of consent must be in writing, acknowledged by a
5 notary public, and submitted to the Public Employees Retirement Board in accordance with rules
6 adopted by the board. If the member's spouse is designated as the member's beneficiary and the
7 marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated as
8 predeceasing the member for purposes of this section, unless the member expressly designates the
9 former spouse as beneficiary after the effective date of the dissolution or the former spouse is re-
10 quired to be designated as a beneficiary under the provisions of ORS 238.465.

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

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

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

17 (c) The member's estate.

18 (4) The entire amount of a deceased member's vested accounts must be distributed by December
19 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
20 provision of this chapter, distributions of death benefits under the individual account program must
21 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
22 plementing that section, as in effect on December 31, [2013] 2014. The Public Employees Retirement
23 Board shall adopt rules implementing those minimum distribution requirements.

24 **SECTION 9.** ORS 238A.415, as amended by section 9, chapter 52, Oregon Laws 2014, is amended
25 to read:

26 238A.415. (1) Notwithstanding any other provision of ORS 238A.300 to 238A.415, an eligible em-
27 ployee who leaves a qualifying position for the purpose of performing service in the uniformed ser-
28 vices, and who subsequently returns to employment with a participating public employer with
29 reemployment rights under federal law, is entitled to credit toward the probationary period required
30 by ORS 238A.300, credit toward the vesting requirements of ORS 238A.320 and contributions under
31 rules adopted by the Public Employees Retirement Board pursuant to subsection (2) of this section.

32 (2) The board shall adopt rules establishing contributions and service credit for any period of
33 service in the uniformed services by an employee described in subsection (1) of this section. For the
34 purpose of adopting rules under this subsection, the board shall consider and take into account all
35 federal law relating to benefits and service credit for any period of service in the uniformed ser-
36 vices, including 26 U.S.C. 414(u), as in effect on December 31, [2013] 2014. Contributions and service
37 credit under rules adopted by the board pursuant to this subsection may not exceed contributions
38 and service credit required under federal law for periods of service in the uniformed services.

39 **SECTION 10.** ORS 238A.430, as amended by section 10, chapter 52, Oregon Laws 2014, is
40 amended to read:

41 238A.430. (1) To the extent required by law, and except as otherwise provided by rules adopted
42 by the Public Employees Retirement Board under subsection (4) of this section, any portion of a
43 distribution of benefits described in subsection (2) of this section shall, at the election of and in lieu
44 of distribution to the distributee, be paid directly to an eligible retirement plan specified by the
45 distributee.

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

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

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

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

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

20 (4) The board shall adopt rules implementing the direct rollover requirements of 26 U.S.C.
21 401(a)(31) and the regulations implementing that section, and may adopt administrative exceptions
22 to the direct rollover requirements to the extent permitted by 26 U.S.C. 401(a)(31) and the regu-
23 lations implementing that section.

24 (5) All references in this section to federal laws and regulations are to the laws and regulations
25 in effect on December 31, [2013] **2014**.

26 (6) For purposes of this section:

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

29 (b) "Eligible retirement plan" means:

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

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

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

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

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

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

40 **SECTION 11.** ORS 305.230, as amended by section 11, chapter 52, Oregon Laws 2014, is
41 amended to read:

42 305.230. (1) Notwithstanding ORS 9.320:

43 (a) Any person who is qualified to practice law or public accountancy in this state, any person
44 who has been granted active enrollment to practice before the Internal Revenue Service and who
45 is qualified to prepare tax returns in this state or any person who is the authorized employee of a

1 taxpayer and is regularly employed by the taxpayer in tax matters may represent the taxpayer be-
2 fore a tax court magistrate or the Department of Revenue in any conference or proceeding with
3 respect to the administration of any tax.

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

8 (c) Any shareholder of an S corporation, as defined in section 1361 of the Internal Revenue
9 Code, as amended and in effect on December 31, [2013] 2014, may represent the corporation in any
10 proceeding before a tax court magistrate or the department in the same manner as if the share-
11 holder were a partner and the S corporation were a partnership. The S corporation must designate
12 in writing a tax matters shareholder authorized to represent the S corporation.

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

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

21 (f) Any person authorized under rules adopted by the department may represent a taxpayer be-
22 fore the department in any conference or proceeding with respect to any tax. Rules adopted under
23 this paragraph, to the extent feasible, shall be consistent with federal law that governs represen-
24 tation before the Internal Revenue Service, as federal law is amended and in effect on December 31,
25 [2013] 2014.

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

28 (2) A person may not be recognized as representing a taxpayer pursuant to this section unless
29 there is first filed with the magistrate or department a written authorization, or unless it appears
30 to the satisfaction of the magistrate or department that the representative does in fact have au-
31 thority to represent the taxpayer. A person recognized as an authorized representative under rules
32 or procedures adopted by the tax court shall be considered an authorized representative by the de-
33 partment.

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

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

40 **SECTION 12.** ORS 305.494, as amended by section 12, chapter 52, Oregon Laws 2014, is
41 amended to read:

42 305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation as defined in section
43 1361 of the Internal Revenue Code, as amended and in effect on December 31, [2013] 2014, may
44 represent the corporation in any proceeding before the Oregon Tax Court in the same manner as
45 if the shareholder were a partner and the S corporation were a partnership.

1 **SECTION 13.** ORS 305.690, as amended by section 13, chapter 52, Oregon Laws 2014, is
 2 amended to read:

3 305.690. As used in ORS 305.690 to 305.753, unless the context otherwise requires:

4 (1) “Biennial years” means the two income tax years of individual taxpayers that begin in the
 5 two calendar years immediately following the calendar year in which a list is certified under ORS
 6 305.715.

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

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

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

13 (5) “Form listed” or “form listing” means being listed on the Oregon individual income tax re-
 14 turn form.

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

17 (7) “Internal Revenue Code” means the federal Internal Revenue Code as amended and in effect
 18 on December 31, [2013] **2014**.

19 **SECTION 14.** ORS 314.011, as amended by section 22, chapter 52, Oregon Laws 2014, is
 20 amended to read:

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

23 (2) As used in this chapter:

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

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

30 (A) On December 31, [2013] **2014**; or

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

32 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260
 33 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412,
 34 314.525, 314.742 (7), 314.750 and 314.752 and other provisions of this chapter, except those described
 35 in paragraph (b) of this subsection, any reference to the laws of the United States or to the Internal
 36 Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue
 37 Code as they are amended on or before December 31, [2013] **2014**, even when the amendments take
 38 effect or become operative after that date, except where the Legislative Assembly has specifically
 39 provided otherwise.

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

1 ability of any taxpayer.

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

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

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

19 **SECTION 15.** ORS 315.004, as amended by section 23, chapter 52, Oregon Laws 2014, is
20 amended to read:

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

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

28 (b) With respect to the tax credits contained in this chapter, any reference to the laws of the
29 United States or to the Internal Revenue Code means the laws of the United States relating to in-
30 come taxes or the Internal Revenue Code as they are amended on or before December 31, [2013]
31 **2014**, even when the amendments take effect or become operative after that date.

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

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

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

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

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

11 **SECTION 16.** ORS 316.012, as amended by section 24, chapter 52, Oregon Laws 2014, is
 12 amended to read:

13 316.012. Any term used in this chapter has the same meaning as when used in a comparable
 14 context in the laws of the United States relating to federal income taxes, unless a different meaning
 15 is clearly required or the term is specifically defined in this chapter. Except where the Legislative
 16 Assembly has provided otherwise, any reference in this chapter to the laws of the United States or
 17 to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue
 18 Code as they are amended and in effect:

19 (1) On December 31, [2013] **2014**; or

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

21 **SECTION 17.** ORS 317.010, as amended by section 25, chapter 52, Oregon Laws 2014, is
 22 amended to read:

23 317.010. As used in this chapter, unless the context requires otherwise:

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

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

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

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

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

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

40 (6) "Financial institution" has the meaning given that term in ORS 314.610 except that it does
 41 not include a credit union as defined in ORS 723.006, an interstate credit union as defined in ORS
 42 723.001 or a federal credit union.

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

1 (a) On December 31, [2013] **2014**; or

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

3 (8) "Oregon taxable income" means taxable income, less the deduction allowed under ORS
4 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and
5 ORS 317.650 to 317.665.

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

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

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

20 (b) Multiply the amount determined under paragraph (a) of this subsection by the Oregon ap-
21 portionment percentage defined under ORS 314.280, 314.650 or 314.667, whichever is applicable. The
22 resulting product shall be Oregon apportioned income or loss.

23 (c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this
24 subsection, add nonbusiness income allocable entirely to Oregon under ORS 314.280 or 314.625 to
25 314.645, or subtract nonbusiness loss allocable entirely to Oregon under ORS 314.280 or 314.625 to
26 314.645. The resulting figure is "taxable income or loss" for those corporations carrying on taxable
27 transactions or activities both within and without Oregon.

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

34 **SECTION 18.** ORS 317.097, as amended by section 26, chapter 52, Oregon Laws 2014, is
35 amended to read:

36 317.097. (1) As used in this section:

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

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

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

44 (d) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

45 (e) "Nonprofit corporation" means a corporation that is exempt from income taxes under section

1 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, [2013]
2 **2014.**

3 (f) "Preservation project" means housing that was previously developed as affordable housing
4 with a contract for rent assistance from the United States Department of Housing and Urban De-
5 velopment or the United States Department of Agriculture and that is being acquired by a spon-
6 soring entity.

7 (g) "Qualified assignee" means any investor participating in the secondary market for real estate
8 loans.

9 (h) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling
10 interest in the real property that is financed by a qualified loan. A controlling interest includes, but
11 is not limited to, a controlling interest in the general partner of a limited partnership that owns the
12 real property.

13 (i) "Qualified loan" means:

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

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

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

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

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

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

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

38 (4) Any tax credit allowed under this section that is not used by the taxpayer in a particular
39 year may be carried forward and offset against the taxpayer's tax liability for the next succeeding
40 tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and
41 used in the second succeeding tax year, and likewise, any credit not used in that second succeeding
42 tax year may be carried forward and used in the third succeeding tax year, and any credit not used
43 in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year,
44 and any credit not used in that fourth succeeding tax year may be carried forward and used in the
45 fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

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

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

8 (b) A qualified borrower who:

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

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

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

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

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

19 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation
 20 of housing consisting of a manufactured dwelling park; and

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

24 (d) A qualified borrower who:

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

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

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

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

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

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

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

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

43 (8) The Housing and Community Services Department may certify qualified loans that are eligi-
 44 ble under subsection (5) of this section if the total credits attributable to all qualified loans eligible
 45 for credits under this section and then outstanding do not exceed \$17 million for any fiscal year. In

1 making loan certifications under subsection (7) of this section, the Housing and Community Services
 2 Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax
 3 credits in those areas of the state that are determined by the State Housing Council to have the
 4 greatest need for affordable housing.

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

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

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

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

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

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

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

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

34 (15) The Housing and Community Services Department and the Department of Revenue may
 35 adopt rules to carry out the provisions of this section.

36 **SECTION 19.** ORS 348.841, as amended by section 27, chapter 52, Oregon Laws 2014, is
 37 amended to read:

38 348.841. As used in ORS 348.841 to 348.873:

39 (1) "Account" means an individual account established in accordance with ORS 348.841 to
 40 348.873.

41 (2) "Account owner" means the person who has the right to withdraw funds from the account.
 42 The account owner may also be the designated beneficiary of the account.

43 (3) "Board" means the Oregon 529 College Savings Board established under ORS 348.849.

44 (4) "Designated beneficiary" means, except as provided in ORS 348.867, the individual designated
 45 at the time the account is opened as having the right to receive a qualified withdrawal for the

1 payment of qualified higher education expenses, or if the designated beneficiary is replaced in ac-
2 cordance with ORS 348.867, the replacement.

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

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

8 (7) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect
9 on December 31, [2013] **2014**.

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

12 (9) "Network" means the Oregon 529 College Savings Network established under ORS 348.841
13 to 348.873.

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

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

19 (12) "Qualified withdrawal" means a withdrawal made as prescribed under ORS 348.870 and
20 made:

21 (a) From an account to pay the qualified higher education expenses of the designated benefi-
22 cary;

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

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

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

28 **SECTION 20.** ORS 458.670, as amended by section 28, chapter 52, Oregon Laws 2014, is
29 amended to read:

30 458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires other-
31 wise:

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

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

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

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

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

38 (a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3)
39 of the Internal Revenue Code as amended and in effect on December 31, [2013] **2014**; or

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

42 (3) "Financial institution" means:

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

44 (b) In the case of individual development accounts established for the purpose described in ORS
45 458.685 (1)(c), a financial institution as defined in ORS 348.841.

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

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

8 (a) 80 percent of the median household income for the area as determined by the Housing and
 9 Community Services Department. In making the determination, the department shall give consider-
 10 ation to any data on area household income published by the United States Department of Housing
 11 and Urban Development.

12 (b) 200 percent of the poverty guidelines as determined by the Housing and Community Services
 13 Department. In making the determination, the department shall give consideration to poverty
 14 guidelines published by the United States Department of Health and Human Services and may con-
 15 sider other income data periodically published by other federal or Oregon agencies.

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

17 **SECTION 21.** ORS 657.010, as amended by section 29, chapter 52, Oregon Laws 2014, is
 18 amended to read:

19 657.010. As used in this chapter, unless the context requires otherwise:

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

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

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

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

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

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

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

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

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

45 (d) In which the course or courses of study or training are offered on a regular and continuing

1 basis.

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

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

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

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

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

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

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

15 (10) "Internal Revenue Code" means the federal Internal Revenue Code, as amended and in ef-
16 fect on December 31, [2013] 2014.

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

20 (12) "State" includes, in addition to the states of the United States of America, the District of
21 Columbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be
22 considered a state on and after the day on which the United States Secretary of Labor first approves
23 the Virgin Islands' law under section 3304(a) of the Federal Unemployment Tax Act as amended by
24 Public Law 94-566.

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

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

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

32 **SECTION 22.** Section 15, chapter 52, Oregon Laws 2014, is amended to read:

33 **Sec. 15.** As used in ORS 307.130, 307.147, 308A.450, 310.140, 310.630 and 310.800, "Internal Re-
34 venue Code" means the federal Internal Revenue Code as amended and in effect on December 31,
35 [2013] 2014.

36 **SECTION 23.** (1) **Except as provided in subsections (2) and (3) of this section, the**
37 **amendments to statutes by sections 1 to 22 of this 2015 Act apply to transactions or activities**
38 **occurring on or after January 1, 2015, in tax years beginning on or after January 1, 2015.**

39 (2) **The effective and applicable dates, and the exceptions, special rules and coordination**
40 **with the Internal Revenue Code, as amended, relative to those dates, contained in the**
41 **Philippines Charitable Giving Assistance Act (P.L. 113-92) and the Tribal General Welfare**
42 **Exclusion Act of 2014 (P.L. 113-168) and other federal law amending the Internal Revenue**
43 **Code and enacted before January 1, 2015, apply for Oregon personal income and corporate**
44 **excise and income tax purposes, to the extent they can be made applicable, in the same**
45 **manner as they are applied under the Internal Revenue Code and related federal law.**

1 **(3)(a) If a deficiency is assessed against any taxpayer for a tax year beginning before**
2 **January 1, 2015, and the deficiency or any portion thereof is attributable to any retroactive**
3 **treatment under the amendments to ORS 305.230, 305.494, 305.690, 314.011, 315.004, 316.012,**
4 **317.010, 317.097 and 348.841 and section 15, chapter 52, Oregon Laws 2014, by sections 11 to**
5 **19 and 22 of this 2015 Act, then any interest or penalty assessed under ORS chapter 305, 314,**
6 **315, 316, 317 or 318 with respect to the deficiency or portion thereof shall be canceled.**

7 **(b) If a refund is due any taxpayer for a tax year beginning before January 1, 2015, and**
8 **the refund or any portion thereof is due the taxpayer on account of any retroactive treat-**
9 **ment under the amendments to ORS 305.230, 305.494, 305.690, 314.011, 315.004, 316.012, 317.010,**
10 **317.097 and 348.841 and section 15, chapter 52, Oregon Laws 2014, by sections 11 to 19 and 22**
11 **of this 2015 Act, then notwithstanding ORS 305.270 or 314.415 or other law, the refund or**
12 **portion thereof shall be paid without interest.**

13 **(c) Any changes required because of the amendments to ORS 305.230, 305.494, 305.690,**
14 **314.011, 315.004, 316.012, 317.010, 317.097 and 348.841 and section 15, chapter 52, Oregon Laws**
15 **2014, by sections 11 to 19 and 22 of this 2015 Act for a tax year beginning before January 1,**
16 **2015, shall be made by filing an amended return within the time prescribed by law.**

17 **(d) If a taxpayer fails to file an amended return under paragraph (c) of this subsection,**
18 **the Department of Revenue shall make any changes under paragraph (c) of this subsection**
19 **on the return to which the changes relate within the period specified for issuing a notice of**
20 **deficiency or claiming a refund as otherwise provided by law with respect to that return, or**
21 **within one year after a return for a tax year beginning on or after January 1, 2015, and be-**
22 **fore January 1, 2016, is filed, whichever period expires later.**

23 **SECTION 24. This 2015 Act takes effect on the 91st day after the date on which the 2015**
24 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

25