

D R A F T

SUMMARY

Reduces personal income tax rates.

Applies to tax years beginning on or after January 1, 2018.

Imposes corporate activities tax, applicable to all persons other than excluded persons, to be measured by gross receipts. Imposes financial institutions tax as percentage of gross receipts. Provides that, for taxpayer with gross receipts not exceeding calendar year threshold, tax is imposed as flat tax in amount of \$250. Defines excluded persons exempt from tax. Enacts administrative provisions for corporate activities tax. Repeals corporate excise and income taxes. Includes provision for situsing of gross receipts to state. Defines terms. Applies to calendar years and calendar quarters beginning on or after January 1, 2018, and to tax years beginning on or after January 1, 2018.

Requires person who engages in business in this state to register with Department of Revenue.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

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Relating to state finance; creating new provisions; amending ORS 63.810, 128.760, 184.484, 267.370, 267.385, 268.505, 279B.045, 279B.110, 305.265, 305.270, 305.280, 305.380, 305.565, 305.645, 305.850, 305.992, 308A.071, 311.473, 314.011, 314.135, 314.256, 314.260, 314.265, 314.276, 314.287, 314.300, 314.302, 314.364, 314.385, 314.400, 314.403, 314.430, 314.466, 314.520, 314.610, 314.671, 314.673, 314.690, 314.712, 314.714, 314.716, 314.722, 314.727, 314.730, 314.732, 314.734, 314.736, 314.738, 314.744, 314.749, 314.752, 314.781, 314.784, 315.052, 315.054, 315.068, 315.113, 315.163, 315.271, 316.037, 316.127, 316.267, 316.277, 316.695, 316.749, 317.131, 344.755, 401.690, 461.560, 469.685, 469.687, 526.450, 526.455, 526.465, 526.475, 701.106, 723.586, 731.840 and 743B.012; repealing ORS 314.280, 314.505, 314.515, 314.525, 314.615, 314.620, 314.647,

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.

1 314.650, 314.655, 314.660, 314.665, 314.667, 314.668, 314.669, 314.675, 314.695,
2 316.043, 316.044, 316.279, 317.005, 317.010, 317.013, 317.018, 317.019, 317.025,
3 317.030, 317.035, 317.038, 317.063, 317.067, 317.070, 317.080, 317.090, 317.122,
4 317.129, 317.151, 317.154, 317.259, 317.267, 317.273, 317.283, 317.286, 317.301,
5 317.303, 317.304, 317.307, 317.309, 317.310, 317.311, 317.312, 317.314, 317.319,
6 317.322, 317.327, 317.329, 317.344, 317.349, 317.351, 317.356, 317.362, 317.374,
7 317.379, 317.386, 317.388, 317.391, 317.394, 317.398, 317.401, 317.476, 317.478,
8 317.479, 317.485, 317.488, 317.491, 317.625, 317.635, 317.650, 317.655, 317.660,
9 317.665, 317.667, 317.705, 317.710, 317.713, 317.715, 317.716, 317.717, 317.720,
10 317.725, 317.850, 317.853, 317.920, 317.950, 317.991, 318.010, 318.020, 318.031,
11 318.040, 318.060, 318.070, 318.074, 318.106 and 318.130; prescribing an effec-
12 tive date; and providing for revenue raising that requires approval by a
13 three-fifths majority.

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

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16 **DECREASE IN PERSONAL INCOME TAX RATES**

17

18 **SECTION 1.** ORS 316.037 is amended to read:

19 316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable
20 income of every resident of this state. The amount of the tax shall be de-
21 termined in accordance with the following table:

22

23 If taxable income is:	The tax is:
25 Not over \$2,000	26 [5%] 4.5% of 27 taxable 28 income
29 Over \$2,000 but not 30 over \$5,000	31 [\$100] \$90 plus [7%] 6.5% of the excess

1		over \$2,000
2		
3	Over \$5,000 but not	
4	over \$125,000	[\$310] \$285 plus [9%] 8.5%
5		of the excess
6		over \$5,000
7		
8	Over \$125,000	[\$11,110] \$10,485 plus 9.9%
9		of the excess
10		over \$125,000

11 _____

12 (b) For tax years beginning in each calendar year, the Department of
13 Revenue shall adopt a table that shall apply in lieu of the table contained
14 in paragraph (a) of this subsection, as follows:

15 (A) Except as provided in subparagraph (D) of this paragraph, the mini-
16 mum and maximum dollar amounts for each bracket for which a tax is im-
17 posed shall be increased by the cost-of-living adjustment for the calendar
18 year.

19 (B) The rate applicable to any rate bracket as adjusted under subpara-
20 graph (A) of this paragraph shall not be changed.

21 (C) The amounts setting forth the tax, to the extent necessary to reflect
22 the adjustments in the rate brackets, shall be adjusted.

23 (D) The rate brackets applicable to taxable income in excess of \$125,000
24 may not be adjusted.

25 (c) For purposes of paragraph (b) of this subsection, the cost-of-living ad-
26 justment for any calendar year is the percentage (if any) by which the
27 monthly averaged U.S. City Average Consumer Price Index for the 12 con-
28 secutive months ending August 31 of the prior calendar year exceeds the
29 monthly averaged index for the second quarter of the calendar year 1992.

30 (d) As used in this subsection, "U.S. City Average Consumer Price
31 Index" means the U.S. City Average Consumer Price Index for All Urban

1 Consumers (All Items) as published by the Bureau of Labor Statistics of the
2 United States Department of Labor.

3 (e) If any increase determined under paragraph (b) of this subsection is
4 not a multiple of \$50, the increase shall be rounded to the next lower mul-
5 tiple of \$50.

6 (2) A tax is imposed for each taxable year upon the entire taxable income
7 of every part-year resident of this state. The amount of the tax shall be
8 computed under subsection (1) of this section as if the part-year resident
9 were a full-year resident and shall be multiplied by the ratio provided under
10 ORS 316.117 to determine the tax on income derived from sources within this
11 state.

12 (3) A tax is imposed for each taxable year on the taxable income of every
13 full-year nonresident that is derived from sources within this state. The
14 amount of the tax shall be determined in accordance with the table set forth
15 in subsection (1) of this section.

16 **SECTION 2. The amendments to ORS 316.037 by section 1 of this**
17 **2017 Act apply to tax years beginning on or after January 1, 2018.**

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19

CORPORATE ACTIVITIES TAX

20

21 **SECTION 3. Definitions. As used in sections 3 to 33 of this 2017 Act:**

22 (1) **“Doing business” means engaging in any activity, whether legal**
23 **or illegal, that is conducted for, or results in, gain, profit or income,**
24 **at any time during a calendar year.**

25 (2) **“Excluded person” means any of the following:**

26 (a) **Organizations described in sections 501(c) and 501(j) of the**
27 **Internal Revenue Code, unless the exemption is denied under sub-**
28 **section (h), (i) or (m) of section 501 or under section 502, 503 or 505 of**
29 **the Internal Revenue Code.**

30 (b) **Organizations described in section 501(d) of the Internal Revenue**
31 **Code, unless the exemption is denied under section 502 or 503 of the**

1 **Internal Revenue Code.**

2 **(c) Organizations described in section 501(e) of the Internal Revenue**
3 **Code.**

4 **(d) Organizations described in section 501(f) of the Internal Revenue**
5 **Code.**

6 **(e) Charitable risk pools described in section 501(n) of the Internal**
7 **Revenue Code.**

8 **(f) Organizations described in section 521 of the Internal Revenue**
9 **Code.**

10 **(g) Qualified state tuition programs described in section 529 of the**
11 **Internal Revenue Code.**

12 **(h) Foreign or alien insurance companies, but only with respect to**
13 **the underwriting profit derived from writing wet marine and trans-**
14 **portation insurance subject to tax under ORS 731.824 and 731.828.**

15 **(i) Corporations, organized and operated primarily for the purpose**
16 **of furnishing permanent residential, recreational and social facilities**
17 **primarily for elderly persons, that:**

18 **(A) Are corporations not for profit, authorized to transact business**
19 **in this state pursuant to ORS chapter 65 or any statute repealed by**
20 **chapter 580, Oregon Laws 1959;**

21 **(B) Receive not less than 95 percent of their operating gross income**
22 **(excluding any investment income) solely from payments for living,**
23 **medical, recreational and social services and facilities, paid by or on**
24 **behalf of the elderly persons using the facilities of the corporation;**

25 **(C) Permit no part of their net earnings to inure to the benefit of**
26 **any private stockholder or individual; and**

27 **(D) Provide in their articles or other governing instrument that,**
28 **upon dissolution, the assets remaining after satisfying all lawful debts**
29 **and liabilities shall be distributed to one or more corporations exempt**
30 **from taxation under sections 3 to 33 of this 2017 Act as corporations**
31 **organized and operated exclusively for religious, charitable, scientific,**

1 **literary or educational purposes.**

2 **(j) People’s utility districts established under ORS chapter 261.**

3 **(3)(a) “Gross receipts” means the total amount realized by a person,**
4 **without deduction for the cost of goods sold or other expenses in-**
5 **curring, that contributes to the production of gross income of the per-**
6 **son, including the fair market value of any property and any services**
7 **received, and any debt transferred or forgiven as consideration.**

8 **(b) “Gross receipts” does not include:**

9 **(A) Interest income except interest on credit sales;**

10 **(B) Receipts from the sale, exchange or other disposition of an asset**
11 **described in section 1221 or 1231 of the Internal Revenue Code, without**
12 **regard to the length of time the person held the asset;**

13 **(C) Proceeds received attributable to the repayment, maturity or**
14 **redemption of the principal of a loan, bond, mutual fund, certificate**
15 **of deposit or marketable instrument;**

16 **(D) The principal amount received under a repurchase agreement**
17 **or on account of any transaction properly characterized as a loan to**
18 **the person;**

19 **(E) Contributions received by a trust, plan or other arrangement,**
20 **any of which is described in section 501(a) of the Internal Revenue**
21 **Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the**
22 **Internal Revenue Code applies;**

23 **(F) Compensation, whether current or deferred, and whether in**
24 **cash or in kind, received or to be received by an employee, a former**
25 **employee or the employee’s legal successor for services rendered to**
26 **or for an employer, including reimbursements received by or for an**
27 **individual for medical or education expenses, health insurance premi-**
28 **ums or employee expenses, or on account of a dependent care spending**
29 **account, legal services plan, any cafeteria plan described in section 125**
30 **of the Internal Revenue Code or any similar employee reimbursement;**

31 **(G) Proceeds received from the issuance of the taxpayer’s own**

1 **stock, options, warrants, puts or calls, or from the sale of the**
2 **taxpayer's treasury stock;**

3 **(H) Proceeds received on the account of payments from insurance**
4 **policies, except those proceeds received for the loss of business reve-**
5 **nue;**

6 **(I) Gifts or charitable contributions received, membership dues re-**
7 **ceived by trade, professional, homeowners' or condominium associ-**
8 **ations, payments received for educational courses, meetings or meals,**
9 **or similar payments to a trade, professional or other similar associ-**
10 **ation, and fundraising receipts received by any person when any excess**
11 **receipts are donated or used exclusively for charitable purposes;**

12 **(J) Damages received as the result of litigation in excess of**
13 **amounts that, if received without litigation, would be gross receipts;**

14 **(K) Property, money and other amounts received or acquired by an**
15 **agent on behalf of another in excess of the agent's commission, fee**
16 **or other remuneration;**

17 **(L) Tax refunds, other tax benefit recoveries and reimbursements**
18 **for the tax imposed under sections 3 to 33 of this 2017 Act made by**
19 **entities that are part of the same unitary group, and reimbursements**
20 **made by entities that are not members of a unitary group that are**
21 **required to be made for economic parity among multiple owners of an**
22 **entity whose tax obligation under sections 3 to 33 of this 2017 Act is**
23 **required to be reported and paid entirely by one owner, pursuant to**
24 **the requirements of section 5 of this 2017 Act;**

25 **(M) Pension reversions;**

26 **(N) Contributions to capital;**

27 **(O) Sales or use taxes collected as a vendor or an out-of-state seller**
28 **on behalf of the taxing jurisdiction from a consumer or other taxes**
29 **the taxpayer is required by law to collect directly from a purchaser**
30 **and remit to a local, state or federal tax authority;**

31 **(P) In the case of receipts from the sale of cigarettes or tobacco**

1 **products by a wholesale dealer, retail dealer, distributor, manufacturer**
2 **or seller, an amount equal to the federal and state excise taxes paid**
3 **by any person on or for such cigarettes or tobacco products under**
4 **subtitle E of the Internal Revenue Code or ORS chapter 323;**

5 **(Q) In the case of receipts from the sale, transfer, exchange or**
6 **other disposition of motor vehicle fuel as defined in ORS 319.010, an**
7 **amount equal to the value of the motor fuel, including federal and**
8 **state motor fuel excise taxes and receipts from billing or invoicing the**
9 **tax imposed under section ORS 319.020 to another person;**

10 **(R) In the case of receipts from the sale of malt beverages or dis-**
11 **tilled liquor, as defined in ORS 471.001, by a person holding a license**
12 **issued under ORS chapter 471, an amount equal to federal and state**
13 **excise taxes paid by any person on or for such beer or intoxicating li-**
14 **quor under subtitle E of the Internal Revenue Code or ORS chapter**
15 **471;**

16 **(S) Receipts realized by a vehicle dealer certified under ORS 822.020**
17 **from the sale or other transfer of a motor vehicle, as defined in ORS**
18 **801.360, to another vehicle dealer for the purpose of resale by the**
19 **transferee vehicle dealer, but only if the sale or other transfer was**
20 **based upon the transferee's need to meet a specific customer's pref-**
21 **erence for a motor vehicle;**

22 **(T) Receipts from a financial institution for services provided to the**
23 **financial institution in connection with the issuance, processing, ser-**
24 **vicings and management of loans or credit accounts, if the financial**
25 **institution and the recipient of the receipts have at least 50 percent**
26 **of their ownership interests owned or controlled, directly or con-**
27 **structively through related interests, by common owners;**

28 **(U) Receipts realized from administering anti-neoplastic drugs and**
29 **other cancer chemotherapy, biologicals, therapeutic agents and sup-**
30 **portive drugs in a physician's office to patients with cancer;**

31 **(V) Funds received or used by a mortgage broker that is not a**

1 dealer in intangibles, other than fees or other consideration, pursuant
2 to a table-funding mortgage loan or warehouse-lending mortgage loan;

3 (W) Property, moneys and other amounts received by a professional
4 employer organization from a client employer in excess of the admin-
5 istrative fee charged by the professional employer organization to the
6 client employer;

7 (X) In the case of amounts retained as commissions by a holder of
8 a license under ORS chapter 462, an amount equal to the amounts
9 specified under ORS chapter 462 that must be paid to or collected by
10 the Department of Revenue as a tax and the amounts specified under
11 ORS chapter 462 to be used as purse money;

12 (Y) Qualifying distribution center receipts;

13 (Z) Net revenue of hospitals subject to assessment under section 2,
14 chapter 736, Oregon Laws 2003;

15 (AA) Receipts from transactions among members of a unitary
16 group; or

17 (BB) Proceeds of transactions involving governmental entities.

18 (4) "Person" includes individuals, combinations of individuals of any
19 form, receivers, assignees, trustees in bankruptcy, firms, companies,
20 joint-stock companies, business trusts, estates, partnerships, limited
21 liability partnerships, limited liability companies, associations, joint
22 ventures, clubs, societies, for-profit corporations, S corporations,
23 qualified subchapter S subsidiaries, qualified subchapter S trusts,
24 trusts, entities that are disregarded for federal income tax purposes
25 and any other entities.

26 (5) "Taxable gross receipts" means gross receipts situated to this
27 state under section 10 of this 2017 Act.

28 (6)(a) "Taxpayer" means any person, or any group of persons in the
29 case of a unitary group treated as one taxpayer, required to register
30 or pay tax under sections 3 to 33 of this 2017 Act.

31 (b) "Taxpayer" does not include excluded persons.

1 **(7)(a) “Unitary business” means a business enterprise in which**
2 **there exists directly or indirectly between the members or parts of the**
3 **enterprise a sharing or exchange of value as demonstrated by:**

4 **(A) Centralized management or a common executive force;**

5 **(B) Centralized administrative services or functions resulting in**
6 **economies of scale; or**

7 **(C) Flow of goods, capital resources or services demonstrating**
8 **functional integration.**

9 **(b) “Unitary business” may include a business enterprise the activ-**
10 **ities of which:**

11 **(A) Are in the same general line of business, such as manufactur-**
12 **ing, wholesaling or retailing; or**

13 **(B) Constitute steps in a vertically integrated process, such as the**
14 **steps involved in the production of natural resources, which might**
15 **include exploration, mining, refining and marketing.**

16 **(8) “Unitary group” means a corporation or group of corporations**
17 **engaged in business activities that constitute a unitary business.**

18 **SECTION 4. Accounting methods.** **A taxpayer’s method of account-**
19 **ing for gross receipts for a tax period shall be the same as the**
20 **taxpayer’s method of accounting for federal income tax purposes for**
21 **the taxpayer’s federal taxable year that includes the tax period. If a**
22 **taxpayer’s method of accounting for federal income tax purposes**
23 **changes, the taxpayer’s method of accounting for gross receipts under**
24 **sections 3 to 33 of this 2017 Act shall be changed accordingly.**

25 **SECTION 5. Determination of unitary business.** **Whether two or**
26 **more corporations that are included in the same consolidated federal**
27 **return are engaged in a unitary business may be determined by mak-**
28 **ing reference to corporations that are doing business in the United**
29 **States and are subject to federal income taxation, whether or not**
30 **those corporations are includable in the consolidated return. No other**
31 **corporations may be taken into consideration in making such a de-**

1 termination, except in a case in which the transactions or relation-
2 ships between such corporations are made in an attempt to evade or
3 avoid taxation.

4 SECTION 6. Taxation of property transferred into state. (1) Except
5 as provided in subsection (2) of this section:

6 (a) A person shall include as taxable gross receipts the value of
7 property the person transfers into this state for the person's own use
8 within one year after the person receives the property outside this
9 state; and

10 (b) In the case of a unitary group, the taxpayer shall include as
11 taxable gross receipts the value of property that any of the taxpayer's
12 members transfer into this state for the use of any of the taxpayer's
13 members within one year after the taxpayer receives the property
14 outside this state.

15 (2) Property brought into this state within one year after it is re-
16 ceived outside this state by a person or group described in subsection
17 (1)(a) or (b) of this section may not be included as taxable gross re-
18 cepts as required under subsection (1) of this section if the Depart-
19 ment of Revenue ascertains that the property's receipt outside this
20 state by the person or group followed by its transfer into this state
21 within one year was not intended in whole or in part to avoid in whole
22 or in part the tax imposed under sections 3 to 33 of this 2017 Act.

23 (3) The department may adopt rules necessary to administer this
24 section.

25 SECTION 7. Joint and several liability. All members of a unitary
26 group during the tax period or periods for which additional tax, pen-
27 alty or interest is owed are jointly and severally liable for such
28 amounts. Although the reporting person will be assessed for the li-
29 ability, amounts due may be collected by assessment against any
30 member of the group or pursued against any member of the group.

31 SECTION 8. Corporate activities tax imposed on gross receipts. (1)

1 A corporate activities tax is imposed on each person with taxable gross
2 receipts for the privilege of doing business in this state. Persons on
3 which the corporate activities tax is imposed include, but are not
4 limited to, persons with substantial nexus with this state. The tax
5 imposed under this section is not a transactional tax and is not subject
6 to the Interstate Income Act of 1959 (P.L. 86-272). The tax imposed
7 under this section is in addition to any other taxes or fees imposed
8 under the tax laws of the state. The tax imposed under this section is
9 imposed on the person receiving the gross receipts and is not a tax
10 imposed directly on a purchaser. The tax imposed by this section is
11 an annual privilege tax for the calendar year that, in the case of cal-
12 endar year taxpayers, is the annual tax period and, in the case of
13 calendar quarter taxpayers, contains all quarterly tax periods in the
14 calendar year. A taxpayer is subject to the annual privilege tax for
15 doing business during any portion of such calendar year.

16 (2) The tax imposed by this section is a tax on the taxpayer and
17 may not be billed or invoiced to another person.

18 SECTION 9. Rate of taxation. (1) Except as provided in subsection
19 (2) of this section, the tax imposed under section 8 of this 2017 Act for
20 each tax period shall be the product of a percentage multiplied by the
21 taxpayer's taxable gross receipts for the tax period, as follows:

22 (a) If the taxpayer is doing business in a service sector, _____ per-
23 cent.

24 (b) For a taxpayer other than a taxpayer described in paragraph (a)
25 of this subsection, including a taxpayer doing business in a manufac-
26 turing or retail sector, _____ percent.

27 (2) If the taxpayer's gross receipts for the calendar year do not ex-
28 ceed \$_____, the tax imposed under this section is \$250 for the calendar
29 year.

30 SECTION 10. Situs of gross receipts. (1) For purposes of sections 3
31 to 33 of this 2017 Act, gross receipts shall be situated to this state as

1 follows:

2 (a) Gross rents and royalties from real property located in this state
3 shall be situated to this state.

4 (b) Gross rents and royalties from tangible personal property shall
5 be situated to this state to the extent the tangible personal property is
6 located or used in this state.

7 (c) Gross receipts from the sale of real property located in this state
8 shall be situated to this state.

9 (d) Gross receipts from the sale of tangible personal property shall
10 be situated to this state if the property is received in this state by the
11 purchaser.

12 (e) Gross receipts from the sale, exchange, disposition or other
13 grant of the right to use trademarks, trade names, patents, copyrights
14 and similar intellectual property shall be situated to this state to the
15 extent that the receipts are based on the amount of use of the property
16 in this state. If the receipts are not based on the amount of use of the
17 property, but rather on the right to use the property, and the payer
18 has the right to use the property in this state, then the receipts from
19 the sale, exchange, disposition or other grant of the right to use the
20 property shall be situated to this state to the extent the receipts are
21 based on the right to use the property in this state.

22 (f) Gross receipts from the sale of transportation services by a mo-
23 tor carrier shall be situated to this state in proportion to the mileage
24 traveled by the carrier during the tax period on roadways, waterways
25 and railways in this state to the mileage traveled by the carrier during
26 the tax period on roadways, waterways and railways everywhere. With
27 prior written approval of the Department of Revenue, a motor carrier
28 may use an alternative situsing procedure for transportation services.

29 (g) Gross receipts from the sale of all other services, and all other
30 gross receipts not otherwise situated under this subsection, shall be
31 situated to this state in the proportion that the purchaser's benefit in

1 this state with respect to what was purchased bears to the purchaser's
2 benefit everywhere with respect to what was purchased. The physical
3 location where the purchaser ultimately uses or receives the benefit
4 of what was purchased shall be paramount in determining the pro-
5 portion of the benefit in this state to the benefit everywhere. If a
6 taxpayer's records do not allow the taxpayer to determine that lo-
7 cation, the taxpayer may use an alternative method to situs gross re-
8 cepts under this subsection if the alternative method is reasonable,
9 is consistently and uniformly applied and is supported by the
10 taxpayer's records as the records exist when the service is provided
11 or within a reasonable period of time thereafter.

12 (2) If the situsing provisions of subsection (1) of this section do not
13 fairly represent the extent of a person's activity in this state, the
14 person may request, or the department may require or permit, an al-
15 ternative method. A request under this subsection by a person must
16 be made within the applicable statute of limitations set forth in
17 sections 3 to 33 of this 2017 Act.

18 (3) The department may adopt rules to provide additional guidance
19 to the application of this section, and provide alternative methods of
20 situsing gross receipts that apply to all persons, or a subset of persons,
21 that are engaged in similar business or trade activities.

22 (4) As used in this section, "motor carrier" has the meaning given
23 that term in ORS 825.005.

24

25

REGISTRATION PROCEDURES

26

27 **SECTION 11. Registration.** (1) Any person who engages in business
28 in this state shall register with the Department of Revenue as provided
29 in and subject to sections 11 to 17 of this 2017 Act.

30 (2) Each person described in subsection (1) of this section shall ap-
31 ply for and obtain from the department a certificate of registration for

1 the principal or main place of business of the person and a separate
2 certificate of registration for any other business location of the person
3 in this state.

4 (3) The application shall contain the names of the persons who have
5 an interest in the business, their addresses, the address of the princi-
6 pal or main place of business and of any other business location and
7 other information as reasonably required by the department.

8 (4) No fee need accompany the application.

9 SECTION 12. Certificate of registration. (1) The Department of
10 Revenue shall examine an application submitted under section 11 of
11 this 2017 Act and, if the information contained in the application is
12 complete and accurate, shall issue an original registration certificate
13 for the principal or main place of business and a branch registration
14 certificate for each additional business location.

15 (2)(a) Each registration certificate issued must be numbered and
16 must show the name, residence, place and character of business of the
17 person, the business location for which it is issued and any other in-
18 formation required by the department. The registration certificate is-
19 sued for a business location must be displayed at the location in a
20 conspicuous place.

21 (b) A registration certificate is personal and not assignable or
22 transferable.

23 (c) The department may not charge a fee for issuance of a regis-
24 tration certificate.

25 (3) If the principal or main place of business is outside this state,
26 the department shall issue the original registration certificate for that
27 location. The department shall issue a branch registration certificate
28 for each business location within this state.

29 (4) The department may, but need not, consider as a separate
30 business location or place of business any store, mercantile, market,
31 outlet, shop, emporium, mart, establishment, office, studio, stand,

1 booth, stall, site, vending machine or other location.

2 **SECTION 13. Duration, suspension, revocation.** (1) A registration
3 under section 11 of this 2017 Act remains valid and in effect for the
4 period during which the person registered engages in business at the
5 place indicated by the registration certificate and pays the corporate
6 activities tax or until the registration is suspended, revoked or can-
7 celed.

8 (2)(a) Except in a case of loss, theft, destruction or damage or as
9 otherwise provided by rule, if the person registered or a business lo-
10 cation changes, the registration certificate must be returned to the
11 Department of Revenue and, if applicable, an application made for a
12 new or replacement certificate.

13 (b) Except as provided in paragraph (c) of this subsection, a change
14 in the person registered occurs if the business is sold, transferred or
15 dissolved, a change in ownership occurs or the department otherwise
16 determines that the person registered has changed.

17 (c) A change in the person registered does not occur:

18 (A) Upon transfer of assets to an assignee for the benefit of credi-
19 tors or upon the appointment of a receiver or trustee in bankruptcy.

20 (B) Upon the death of a sole proprietor in those cases where there
21 is a continuous operation of the business by the personal represen-
22 tative or trustee.

23 (C) Upon any other transfer described by rule adopted by the de-
24 partment.

25 (3) The department may suspend or revoke the registration of any
26 person that fails to pay the corporate activities tax or that fails to
27 comply with any provision of sections 3 to 33 of this 2017 Act. The de-
28 partment may not issue a new registration certificate to the person
29 unless the department is satisfied that the person will comply with
30 sections 3 to 33 of this 2017 Act and any rules of the department
31 adopted thereunder. If the department suspends or revokes the regis-

1 **tration, the registrant may appeal to the tax court.**

2 **(4) Notwithstanding ORS 305.280 or section 22 of this 2017 Act, an**
3 **appeal of a decision of the department under subsection (1) of this**
4 **section may be made to the magistrate division of the tax court within**
5 **30 days of the decision in the manner provided in ORS 305.404 to**
6 **305.560.**

7 **SECTION 14. Temporary certificate. A temporary registration cer-**
8 **tificate may be issued to any person that engages in business in this**
9 **state under rules adopted by the Department of Revenue.**

10 **SECTION 15. Inactivity. The Department of Revenue may cancel a**
11 **registration if the person has not incurred any liability or obligation**
12 **under the corporate activities tax for at least two years or for any**
13 **other reason that has been determined by the department by rule to**
14 **be an appropriate reason. Rules adopted by the department shall afford**
15 **an opportunity to the person to demonstrate that registration should**
16 **continue or resume.**

17 **SECTION 16. Resale certificates, validity. (1) A person may engage**
18 **in business in this state only if the person and the location of the**
19 **business are registered with the Department of Revenue.**

20 **(2) For purposes of proper administration of sections 3 to 33 of this**
21 **2017 Act and to prevent evasion, it is presumed that the entire gross**
22 **receipts from sales or sales price is the measure of the tax until the**
23 **contrary is established. The burden of proving that a sale is not a sale**
24 **at retail is upon the person that makes the sale unless the person**
25 **takes from the purchaser a resale certificate to the effect that the**
26 **property or service is purchased for resale.**

27 **(3) The resale certificate of a person that is engaged in the business**
28 **of selling tangible personal property or services at retail in this state**
29 **is valid only if the person is registered with the department and the**
30 **registration has not been suspended, revoked or canceled.**

31 **(4) The department shall prescribe by rule the contents and proper**

1 format for a resale certificate.

2 **SECTION 17. Records.** Every person engaging in business in this
3 state shall keep records, receipts, invoices and other pertinent papers
4 related to the corporate activities tax imposed under section 8 of this
5 2017 Act in a form required by the Department of Revenue.

6
7 **RETURNS AND PAYMENTS**

8
9 **SECTION 18. Returns, payment.** (1) The corporate activities tax
10 imposed under section 8 of this 2017 Act is due and payable to the
11 Department of Revenue as follows:

12 (a) If the tax due is \$250 as provided in section 9 (2) of this 2017 Act,
13 the tax is due and payable to the department not later than the last
14 day of the calendar month next following the calendar year.

15 (b) Except as provided in paragraph (a) of this subsection, the tax
16 is due and payable to the department monthly as set forth in section
17 19 of this 2017 Act.

18 (2) The corporate activities tax is due and payable as provided in
19 this section without regard to any extension of time for filing a return.

20 **SECTION 19. Returns, filing.** (1) Not later than the last day of the
21 calendar month next following the applicable tax period described in
22 section 18 of this 2017 Act, a return for the preceding tax period must
23 be filed with the Department of Revenue in a form prescribed by the
24 department.

25 (2)(a) For purposes of the corporate activities tax imposed under
26 section 8 of this 2017 Act, every person engaged in business in this
27 state shall file a return.

28 (b) Notwithstanding paragraph (a) of this subsection, if a taxpayer's
29 gross receipts in this state for the calendar year are less than \$150,000,
30 the taxpayer is not required to file a return under this section.

31 (3) Returns must be signed by the person required to file the return,

1 or by a duly authorized agent, subject to penalties for false swearing.

2 (4) The department for good cause may extend for a period not to
3 exceed one month the time for making any return. If the time for
4 filing a return is extended at the request of a taxpayer, interest on any
5 unpaid tax at the rate established under ORS 305.220, for each month
6 or fraction of a month from the time the return was originally re-
7 quired to be filed to the time of payment, shall be added and paid.

8 SECTION 20. Accounting, installment payment. (1) Subject to rules
9 adopted by the Department of Revenue, the corporate activities tax
10 imposed under section 8 of this 2017 Act becomes payable in accord-
11 ance with the system of accounting regularly employed by the retailer.

12 (2) In the case of a lease, contract, sale or arrangement described
13 in section 4216(c) of the Internal Revenue Code, rules similar to the
14 rules of section 4217(e)(2) of the Internal Revenue Code shall apply for
15 purposes of the corporate activities tax.

16 (3) A person is entitled to a credit or refund for taxes previously
17 paid on debts that are deductible as worthless for federal income tax
18 purposes.

19
20 **COLLECTION**

21
22 SECTION 21. (1) The corporate activities tax imposed under section
23 8 of this 2017 Act is a revenue or tax law of this state and shall be
24 administered by the Department of Revenue.

25 (2) For purposes of determining whether and to whom information
26 contained on a return of corporate activities tax may be made known,
27 ORS 314.835 and 314.840 shall apply.

28 SECTION 22. (1) Except where the context requires otherwise, the
29 provisions of ORS chapters 305 and 314 as to the audit and examination
30 of returns, determination of deficiencies, assessments, claims for re-
31 fund, refunds, conferences and appeals to the Oregon Tax Court, and

1 the procedures relating thereto, shall apply to the determination of
2 corporate activities tax imposed under section 8 of this 2017 Act, in-
3 terest and penalties.

4 (2) The corporate activities tax, interest and penalties are a per-
5 sonal debt due and owing from the taxpayer to the State of Oregon
6 from the time that liability for the tax is incurred. The lien and col-
7 lection provisions of ORS chapters 305 and 314, including but not lim-
8 ited to the warrant authority under ORS 314.430, the jeopardy
9 provisions of ORS 314.440 and the collection agency provisions of ORS
10 305.850, apply to the corporate activities tax.

11 SECTION 23. Rules, administration. (1) The Department of Revenue
12 is authorized to and shall adopt rules requiring uniformity in applica-
13 tion, reporting and collection and otherwise carrying out the purposes
14 of sections 3 to 33 of this 2017 Act.

15 (2) The department shall provide by rule for the effective adminis-
16 tration of the corporate activities tax.

17 SECTION 24. Quitting business, successor. (1) For purposes of
18 sections 3 to 33 of this 2017 Act, “successor” means any person to
19 whom another person quitting, selling out, exchanging or disposing
20 of a business sells or otherwise conveys, directly or indirectly, in bulk
21 and not in the ordinary course of business, a major part of the mate-
22 rials, supplies, merchandise, inventory, fixtures or equipment of the
23 person. Any person obligated to fulfill the terms of a contract shall
24 be considered a successor to any contractor defaulting in the per-
25 formance of any contract as to which the person is a surety or
26 guarantor.

27 (2) If any person quits business or sells out, exchanges or otherwise
28 disposes of a business or stock of goods, any corporate activities tax
29 imposed under section 8 of this 2017 Act shall become immediately due
30 and payable. The person shall, within 10 days after the sale, exchange
31 or disposition, make a return and pay the tax due.

1 **(3) The successor is liable for the full amount of the tax and may**
2 **withhold from the purchase price a sum sufficient to pay any tax due**
3 **until a receipt or evidence from the Department of Revenue showing**
4 **payment in full of any tax due is presented to the successor. If a re-**
5 **ceipt or other evidence is not presented to the successor within 10**
6 **days, the successor may pay the tax and the amount paid shall, to the**
7 **extent paid, be considered a payment of the purchase price. If the tax**
8 **paid by the successor is greater than the purchase price, the amount**
9 **of the difference is a debt due to the successor from the seller or**
10 **transferor.**

11 **(4) A successor is not liable for any tax due from the person from**
12 **whom the successor has acquired a business or stock of goods if the**
13 **successor gives written notice to the department of the acquisition and**
14 **the department does not assess a deficiency against the seller or**
15 **transferor within six months of receipt of the notice of acquisition and**
16 **mail or deliver a copy of the assessment to the successor.**

17

18

DISPOSITION OF PROCEEDS

19

20 **SECTION 25. Payments to department.** For purposes of sections 3
21 to 33 of this 2017 Act, and except as otherwise provided by law, all
22 taxes, interest and penalties imposed and all amounts of corporate
23 activities tax and financial institutions tax collected or required to be
24 paid to the state shall be paid to the Department of Revenue and upon
25 receipt by the department shall be turned over to the State Treasurer,
26 to be disbursed as provided in section 26 of this 2017 Act.

27 **SECTION 26. Suspense account, other disposition.** (1) Except as
28 otherwise provided by law, all moneys received by the Department of
29 Revenue under sections 3 to 33 of this 2017 Act shall be deposited in
30 the State Treasury and credited to a suspense account established
31 under ORS 293.445 separate and distinct from the General Fund. Re-

1 funds, including refunds of erroneous overpayments or refunds of
2 other moneys received in which the department has no legal interest,
3 shall be paid out of the suspense account. After payment of refunds,
4 the net revenue shall be transferred to the State School Fund estab-
5 lished in ORS 327.008. A working balance of unreceipted revenue from
6 the tax imposed by sections 3 to 33 of this 2017 Act may be retained
7 by the department for the payment of refunds, but such working bal-
8 ance may not at the close of any fiscal year exceed the sum of \$500,000.

9 (2) There are continuously appropriated to the department amounts
10 necessary to pay the administrative expenses of the department in
11 administering, collecting and enforcing the corporate activities tax.

12
13 **PENALTIES**
14

15 **SECTION 27.** (1) Any person required under sections 3 to 33 of this
16 2017 Act to make, render, furnish, sign or verify any corporate activ-
17 ities tax return that makes any false or fraudulent or supplementary
18 return, with intent to defeat or evade the determination of an amount
19 of tax due, is subject to the penalty and shall be punished as provided
20 under ORS 314.991 (1).

21 (2) Any person that fails or refuses to file any corporate activities
22 tax return or supplementary return, or to furnish any information
23 required by the Department of Revenue, shall be punished, upon con-
24 viction, as provided under ORS 305.990 (4).

25 (3) Violation of any provision contained in sections 3 to 33 of this
26 2017 Act, or any rule adopted thereunder, shall be punished, upon
27 conviction, as provided under ORS 305.990 (4).

28 **SECTION 28. Unauthorized engaging in business.** (1) Any person
29 that engages in business within this state without having registered
30 with the Department of Revenue under section 11 of this 2017 Act is
31 punishable, upon conviction, as provided in ORS 305.990 (4).

1 (2) Any person that engages in business in this state after having
2 registered with the department and having had the registration re-
3 voked under section 13 of this 2017 Act is guilty of a Class C felony.

4 **SECTION 29. Fraudulent resale certificate.** Any person that
5 willfully tenders a resale certificate under section 16 of this 2017 Act
6 that is false, fraudulent or invalid to a seller or that, under false or
7 knowingly misleading circumstances, tenders a resale certificate to a
8 seller, is punishable, upon conviction, as provided under ORS 305.990
9 (4).

10 **SECTION 30. Corporations.** For purposes of sections 27 to 29 of this
11 2017 Act, “person” includes an officer or employee of a corporation or
12 a member or employee of a partnership.

13 **SECTION 31. Penalties additional to all other penalties.** Any of the
14 penalties provided in sections 27 to 29 of this 2017 Act are in addition
15 to all other penalties applicable to sections 3 to 33 of this 2017 Act.

16
17 **FINANCIAL INSTITUTIONS TAX**
18

19 **SECTION 32. Financial institutions tax.** (1) As used in this section:

20 (a) “Financial institution” has the meaning given that term in ORS
21 314.610.

22 (b) “Gross receipts” has the meaning given that term by the De-
23 partment of Revenue by rule.

24 (2) There is imposed a tax on each financial institution for the
25 privilege of doing business in this state. A financial institution is
26 subject to the tax imposed under sections 3 to 33 of this 2017 Act for
27 each calendar year that the financial institution conducts business as
28 a financial institution in this state or otherwise has nexus in or with
29 this state under the Constitution of the United States on the first day
30 of January of that calendar year.

31 (3) The amount of tax a financial institution is required to pay un-

1 der this section shall calculated at a rate of _____ percent of gross
2 receipts in the tax year.

3
4 **DISALLOWANCE OF CREDITS AGAINST CORPORATE TAX**

5
6 **SECTION 33.** (1) Notwithstanding ORS 285C.309, 285C.406, 285C.503,
7 285C.506, 315.004, 315.052, 315.053, 315.054, 315.068, 315.104, 315.113, 315.119,
8 315.138, 315.141, 315.144, 315.156, 315.163, 315.164, 315.169, 315.174, 315.204,
9 315.208, 315.213, 315.237, 315.271, 315.304, 315.326, 315.331, 315.336, 315.341,
10 315.354, 315.507, 315.514, 315.517, 315.521, 315.533, 315.536, 315.610, 315.675,
11 317.097, 317.111 or 469.720, and except as provided in subsection (2) of
12 this section, a credit against the taxes otherwise due under ORS
13 chapter 317 or 318 may not be allowed for any tax year that begins on
14 or after January 1, 2018.

15 (2)(a) A tax credit that is first allowed for a tax year beginning be-
16 fore January 1, 2018, and that is intended to be claimed over multiple
17 years or that includes a carryforward provision may be claimed
18 against the commercial activities tax imposed in sections 3 to 33 of
19 this 2017 Act.

20 (b) In no event may any credit be claimed for any tax year begin-
21 ning on or after January 1, 2022.

22
23 **CONFORMING AMENDMENTS**

24
25 **SECTION 34.** ORS 63.810 is amended to read:

26 63.810. For purposes of ORS 320.005 to 320.150 and ORS chapters 305, 306,
27 307, 308, 308A, 309, 310, 311, 312, 314, 315, 316, [317, 318,] 319, 321, 323 and
28 324, a limited liability company formed under this chapter or qualified to do
29 business in this state as a foreign limited liability company shall be classi-
30 fied in the same manner as it is classified for federal income tax purposes.
31 For purposes of ORS 320.005 to 320.150 and ORS chapters 305, 306, 307, 308,

1 308A, 309, 310, 311, 312, 314, 315, 316, [317, 318,] 319, 321, 323 and 324, a
2 member or an assignee of a member of a limited liability company formed
3 under this chapter or qualified to do business in this state as a foreign lim-
4 ited liability company shall have the same status as the member or assignee
5 of a member has for federal income tax purposes.

6 **SECTION 35.** ORS 128.760 is amended to read:

7 128.760. (1) The Attorney General may issue an order disqualifying a
8 charitable organization from receiving contributions that are deductible as
9 charitable donations for the purpose of Oregon income tax [*and corporate*
10 *excise tax*] if the Attorney General finds that the organization has failed to
11 expend at least 30 percent of the organization's total annual functional ex-
12 penses on program services when those expenses are averaged over the most
13 recent three fiscal years for which the Attorney General has reports con-
14 taining expense information. The calculation of program services expenses
15 and total functional expenses shall be based on the amounts of program
16 services expenses and total functional expenses identified by the organization
17 in the organization's Internal Revenue Service Form 990 return or other
18 Internal Revenue Service return required to be filed as part of the
19 organization's report to the Attorney General.

20 (2) A charitable organization may request a contested case hearing within
21 60 days after notification from the Attorney General that the Attorney
22 General proposes to issue a disqualification order under this section. Not-
23 withstanding a finding that the charitable organization's program services
24 expenses fall below the minimum percentage specified in subsection (1) of
25 this section, the Attorney General may decline to issue a disqualification
26 order if the organization establishes:

27 (a) That the organization made payments to affiliates that should be
28 considered in calculating the organization's program services expenses;

29 (b) That the organization is accumulating revenue for a specific program
30 purpose consistent with representations in solicitations; or

31 (c) Such other mitigating circumstances as may be identified by the At-

1 torney General by rule.

2 (3) A disqualification order under this section remains in effect until such
3 time as the charitable organization submits sufficient information to the
4 Attorney General to demonstrate that the organization's program services
5 expenses meet the minimum percentage specified in subsection (1) of this
6 section. A charitable organization may submit information under this sub-
7 section no earlier than one year after the disqualification order becomes
8 final, and may not submit information under this subsection more than once
9 each year after the initial submission is made. The information submitted
10 under this subsection must include all Internal Revenue Service Form 990
11 returns, or equivalent Internal Revenue Service returns, filed by the organ-
12 ization after the disqualification order became final.

13 (4) A disqualification order under this section may not be issued to:

14 (a) A private foundation as defined in section 509 of the Internal Revenue
15 Code, as in effect on October 7, 2013;

16 (b) A community trust or foundation operating as described in 26 C.F.R.
17 1.170A-9(f)(10) and (11), as in effect on October 7, 2013;

18 (c) A qualified charitable remainder trust described in section 664 of the
19 Internal Revenue Code, as in effect on October 7, 2013;

20 (d) An organization that does not qualify to receive tax deductible con-
21 tributions;

22 (e) An organization that is not required to file annual reports with the
23 Attorney General;

24 (f) An organization that is not required to file an Internal Revenue Ser-
25 vice Form 990 return or an equivalent Internal Revenue Service return;

26 (g) An organization that receives less than 50 percent of the
27 organization's total annual revenues from contributions or grants identified
28 in accordance with Internal Revenue Service Form 990 or an equivalent form;
29 and

30 (h) An organization that has been in existence for less than four years.

31 (5) When a disqualification order is issued under this section, the chari-

1 table organization that is the subject of the order does not qualify for and
2 may not claim exemption from taxation under ORS 307.130 for the tax year
3 following the tax year in which the order went into effect and subsequent
4 tax years in which the order remains in effect.

5 **SECTION 36.** ORS 184.484, as amended by section 8, chapter 112, Oregon
6 Laws 2016, is amended to read:

7 184.484. (1) For each statute that authorizes a tax expenditure with a
8 purpose connected to economic development and that is listed in subsection
9 (2) of this section, the state agency charged with certifying or otherwise
10 administering the tax expenditure shall submit a report to the State Chief
11 Information Officer. If a statute does not exist to authorize a state agency
12 to certify or otherwise administer the tax expenditure, or if a statute does
13 not provide for certification or administration of the tax expenditure, the
14 Department of Revenue shall submit the report.

15 (2) This section applies to:

16 (a) ORS 285C.175, 285C.309, 285C.362, 307.123, 307.455, 315.141, 315.331,
17 315.336, 315.341, 315.507, 315.514, 315.533, 316.698, 316.778[,] **and** 317.124[,
18 *317.391 and 317.394*] and sections 1 to 5, chapter 112, Oregon Laws 2016.

19 (b) Grants awarded under ORS 469B.256 in any tax year in which certified
20 renewable energy contributions are received as provided in ORS 315.326.

21 (c) ORS 315.354 except as applicable in ORS 469B.145 (2)(a)(L) or (N).

22 (d) ORS 316.116, if the allowed credit exceeds \$2,000.

23 (3) The following information, if the information is already available in
24 an existing database the state agency maintains, must be included in the
25 report required under this section:

26 (a) The name of each taxpayer or applicant approved for the allowance
27 of a tax expenditure or a grant award under ORS 469B.256.

28 (b) The address of each taxpayer or applicant.

29 (c) The total amount of credit against tax liability, reduction in taxable
30 income or exemption from property taxation granted to each taxpayer or
31 applicant.

1 (d) Specific outcomes or results required by the tax expenditure program
2 and information about whether the taxpayer or applicant meets those re-
3 quirements. This information must be based on data the state agency has
4 already collected and analyzed in the course of administering the tax ex-
5 penditure. Statistics must be accompanied by a description of the methodol-
6 ogy employed in the statistics.

7 (e) An explanation of the state agency's certification decision for each
8 taxpayer or applicant, if applicable.

9 (f) Any additional information that the taxpayer or applicant submits and
10 that the state agency relies on in certifying the determination.

11 (g) Any other information that state agency personnel deem valuable as
12 providing context for the information described in this subsection.

13 (4) The information reported under subsection (3) of this section may not
14 include proprietary information or information that is exempt from disclo-
15 sure under ORS 192.410 to 192.505 or 314.835.

16 (5) No later than September 30 of each year, a state agency described in
17 subsection (1) of this section shall submit to the State Chief Information
18 Officer the information required under subsection (3) of this section as ap-
19 plicable to applications for allowance of tax expenditures the state agency
20 approved during the agency fiscal year ending during the current calendar
21 year. The information must then be posted on the Oregon transparency
22 website described in ORS 184.483 no later than December 31 of the same year.

23 (6)(a) In addition to the information described in subsection (3) of this
24 section, the State Chief Information Officer shall post on the Oregon trans-
25 parency website:

26 (A) Copies of all reports that the State Chief Information Officer, the
27 Department of Revenue or the Oregon Business Development Department
28 receives from counties and other local governments relating to properties in
29 enterprise zones that have received tax exemptions under ORS 285C.170,
30 285C.175 or 285C.409, or that are eligible for tax exemptions under ORS
31 285C.309, 315.507 or 317.124 by reason of being in an enterprise zone; and

1 (B) Copies of any annual reports that agencies described in subsection (1)
2 of this section are required by law to produce regarding the administration
3 of statutes listed in subsection (2) of this section.

4 (b) The reports must be submitted to the State Chief Information Officer
5 in a manner and format that the State Chief Information Officer prescribes.

6 (7) The information described in this section that is available on the
7 Oregon transparency website must be accessible in the format and manner
8 required by the State Chief Information Officer.

9 (8) The information described in this section must be provided to the
10 Oregon transparency website by posting reports and providing links to ex-
11 isting information systems applications in accordance with standards estab-
12 lished by the State Chief Information Officer.

13 **SECTION 37.** ORS 267.385 is amended to read:

14 267.385. (1) To carry out the powers granted by ORS 267.010 to 267.390, a
15 district may by ordinance impose an excise tax on every employer equal to
16 not more than eight-tenths of one percent of the wages paid with respect to
17 the employment of individuals. For the same purposes, a district may by
18 ordinance impose a tax on each individual equal to not more than eight-
19 tenths of one percent of the individual's net earnings from self-employment.

20 (2) No employer shall make a deduction from the wages of an employee
21 to pay all or any portion of a tax imposed under this section.

22 (3) The provisions of ORS 305.620 are applicable to collection, enforce-
23 ment, administration and distribution of a tax imposed under this section.

24 (4) At any time an employer or individual fails to remit the amount of
25 taxes when due under an ordinance of the district board imposing a tax un-
26 der this section, the Department of Revenue may enforce collection by the
27 issuance of a distraint warrant for the collection of the delinquent amount
28 and all penalties, interest and collection charges accrued thereon. Such
29 warrant shall be issued and may be enforced in the same manner and have
30 the same force and effect as prescribed with respect to warrants for the
31 collection of delinquent state income taxes.

1 (5) Any ordinance adopted under subsection (1) of this section shall re-
2 quire an individual having net earnings from self-employment from activity
3 both within and without the district taxable by the State of Oregon to allo-
4 cate and apportion such net earnings to the district [*in the manner required*
5 *for allocation and apportionment of income under ORS 314.280 and 314.605 to*
6 *314.675*] **on a fair and equitable basis**. Such ordinance shall give the indi-
7 vidual the option of apportioning income based on a single factor designated
8 by the ordinance.

9 (6) Any ordinance adopted under subsection (1) of this section with re-
10 spect to net earnings from self-employment may impose a tax for a taxable
11 year measured by each individual's net earnings from self-employment for the
12 prior taxable year, whether such prior taxable year begins before or after
13 November 1, 1981, or such ordinance.

14 (7) Any ordinance imposing a tax authorized by subsection (1) of this
15 section shall not apply to any business, trade, occupation or profession upon
16 which a tax is imposed under ORS 267.360.

17 (8) The district board may not adopt an ordinance increasing a tax au-
18 thorized by subsection (1) of this section unless the board makes a finding
19 that the economy in the district has recovered to an extent sufficient to
20 warrant the increase in tax. In making the finding, the board shall consider
21 regional employment and income growth.

22 **SECTION 38.** ORS 267.370 is amended to read:

23 267.370. (1) To carry out any of the powers granted by ORS 267.010 to
24 267.390, a district may by ordinance impose a tax:

25 (a) Upon the entire taxable income of every resident of the district subject
26 to tax under ORS chapter 316 and upon the taxable income of every nonres-
27 ident that is derived from sources within the district which income is subject
28 to tax under ORS chapter 316; and

29 (b) On or measured by the net income of a mercantile, manufacturing,
30 business, financial, centrally assessed, investment, insurance or other corpo-
31 ration or entity taxable as a corporation doing business, located, or having

1 a place of business or office within or having income derived from sources
2 within the district which income is subject to tax under [*ORS chapter 317*
3 *or 318*] **section 11 of the Internal Revenue Code.**

4 (2) The rate of the tax imposed by ordinance adopted under authority of
5 subsection (1) of this section [*shall*] **may** not exceed one percent. The tax
6 may be imposed and collected as a surtax upon the state income or excise
7 tax.

8 (3) Any ordinance adopted pursuant to subsection (1) of this section shall
9 require a nonresident, corporation or other entity taxable as a corporation
10 having income from activity both within and without the district taxable by
11 the State of Oregon to allocate and apportion such net income to the district
12 [*in the manner required for allocation and apportionment of income under*
13 *ORS 314.280 and 314.605 to 314.675*] **on a fair and equitable basis.**

14 (4) The district shall allow a credit against the tax imposed pursuant to
15 this section, in an amount equal to the employer's payroll tax paid to the
16 district by the taxpayer.

17 (5) If a district adopts an ordinance under this section, the ordinance
18 shall be consistent with any state law relating to the same subject, and with
19 rules and regulations of the Department of Revenue prescribed under ORS
20 305.620.

21 (6) An ordinance adopted under this section shall not declare an emer-
22 gency.

23 **SECTION 39.** ORS 268.505 is amended to read:

24 268.505. (1) Subject to the provisions of a district charter, to carry out the
25 purposes of this chapter, a district may by ordinance impose a tax:

26 (a) Upon the entire taxable income of every resident of the district subject
27 to tax under ORS chapter 316 and upon the taxable income of every nonres-
28 ident that is derived from sources within the district which income is subject
29 to tax under ORS chapter 316; and

30 (b) On or measured by the net income of a mercantile, manufacturing,
31 business, financial, centrally assessed, investment, insurance or other corpo-

1 ration or entity taxable as a corporation doing business, located, or having
2 a place of business or office within or having income derived from sources
3 within the district which income is subject to tax under [*ORS chapter 317*
4 *or 318*] **section 11 of the Internal Revenue Code.**

5 (2) The rate of the tax imposed by ordinance adopted under authority of
6 subsection (1) of this section shall not exceed one percent. The tax may be
7 imposed and collected as a surtax upon the state income or excise tax.

8 (3) Any ordinance adopted pursuant to subsection (1) of this section may
9 require a nonresident, corporation or other entity taxable as a corporation
10 having income from activity both within and without the district taxable by
11 the State of Oregon to allocate and apportion such net income to the district
12 in the manner required for allocation and apportionment of income [*under*
13 *ORS 314.280 and 314.605 to 314.675*] **on a fair and equitable basis.**

14 (4) If a district adopts an ordinance under this section, the ordinance
15 shall be consistent with any state law relating to the same subject, and with
16 rules and regulations of the Department of Revenue prescribed under ORS
17 305.620.

18 (5) Any ordinance adopted by the district under subsection (1) of this
19 section shall receive the approval of the electors of the district before taking
20 effect.

21 **SECTION 40.** ORS 279B.045 is amended to read:

22 279B.045. Every public contract that is subject to this chapter must in-
23 clude a representation and warranty from the contractor that the contractor
24 has complied with the tax laws of this state or a political subdivision of this
25 state, including but not limited to ORS 305.620 and ORS chapters 316[,] **and**
26 317 [*and 318*]. The public contract must also require a covenant from the
27 contractor to continue to comply with the tax laws of this state or a political
28 subdivision of this state during the term of the public contract and provide
29 that a contractor's failure to comply with the tax laws of this state or a
30 political subdivision of this state before the contractor executed the public
31 contract or during the term of the public contract is a default for which a

1 contracting agency may terminate the public contract and seek damages and
2 other relief available under the terms of the public contract or under appli-
3 cable law.

4 **SECTION 41.** ORS 279B.110 is amended to read:

5 279B.110. (1) As part of a contracting agency's evaluation of a bid or
6 proposal, the contracting agency shall determine whether the bidder or
7 proposer is responsible in accordance with the standards of responsibility set
8 forth in subsection (2) of this section. If the contracting agency determines
9 that a bidder or proposer is not responsible, the contracting agency shall
10 provide the bidder or proposer with written notice of the contracting
11 agency's determination.

12 (2) In order for a contracting agency to determine that a bidder or
13 proposer is responsible, the bidder or proposer must demonstrate to the
14 contracting agency that the bidder or proposer:

15 (a) Has available the appropriate financial, material, equipment, facility
16 and personnel resources and expertise, or has the ability to obtain the re-
17 sources and expertise, necessary to meet all contractual responsibilities.

18 (b) Completed previous contracts of a similar nature with a satisfactory
19 record of performance. For purposes of this paragraph, a satisfactory record
20 of performance means that to the extent that the costs associated with and
21 time available to perform a previous contract remained within the bidder's
22 or proposer's control, the bidder or proposer stayed within the time and
23 budget allotted for the procurement and otherwise performed the contract in
24 a satisfactory manner. The contracting agency shall document the bidder's
25 or proposer's record of performance if the contracting agency finds under
26 this paragraph that the bidder or proposer is not responsible.

27 (c) Has a satisfactory record of integrity. The contracting agency in
28 evaluating the bidder's or proposer's record of integrity may consider, among
29 other things, whether the bidder or proposer has previous criminal con-
30 victions for offenses related to obtaining or attempting to obtain a contract
31 or subcontract or in connection with the bidder's or proposer's performance

1 of a contract or subcontract. The contracting agency shall document the
2 bidder's or proposer's record of integrity if the contracting agency finds un-
3 der this paragraph that the bidder or proposer is not responsible.

4 (d) Is legally qualified to contract with the contracting agency.

5 (e) Complied with the tax laws of the state or a political subdivision of
6 the state, including ORS 305.620 and ORS chapters 316[,] **and** 317 [*and* 318].
7 The bidder or proposer shall demonstrate compliance by attesting to the
8 bidder's or proposer's compliance in any way the contracting agency deems
9 credible and convenient.

10 (f) Possesses an unexpired certificate that the Oregon Department of Ad-
11 ministrative Services issued under ORS 279A.167 if the bidder or proposer
12 employs 50 or more full-time workers and submitted a bid or proposal for a
13 procurement with an estimated contract price that exceeds \$500,000 in re-
14 sponse to an advertisement or solicitation from a state contracting agency.

15 (g) Supplied all necessary information in connection with the inquiry
16 concerning responsibility. If a bidder or proposer fails to promptly supply
17 information concerning responsibility that the contracting agency requests,
18 the contracting agency shall determine the bidder's or proposer's responsi-
19 bility based on available information or may find that the bidder or proposer
20 is not responsible.

21 (h) Was not debarred by the contracting agency under ORS 279B.130.

22 (3) A contracting agency may refuse to disclose outside of the contracting
23 agency confidential information furnished by a bidder or proposer under this
24 section when the bidder or proposer has clearly identified in writing the in-
25 formation the bidder or proposer seeks to have treated as confidential and
26 the contracting agency has authority under ORS 192.410 to 192.505 to with-
27 hold the identified information from disclosure.

28 **SECTION 42.** ORS 305.265 is amended to read:

29 305.265. (1) Except as provided in ORS 305.305, the provisions of this sec-
30 tion apply to all reports or returns of tax or tax liability filed with the De-
31 partment of Revenue under the revenue and tax laws administered by it,

1 except those filed under ORS 320.005 to 320.150.

2 (2) As soon as practicable after a report or return is filed, the department
3 shall examine or audit it, if required by law or the department deems such
4 examination or audit practicable. If the department discovers from an exam-
5 ination or an audit of a report or return or otherwise that a deficiency ex-
6 ists, it shall compute the tax and give notice to the person filing the return
7 of the deficiency and of the department's intention to assess the deficiency,
8 plus interest and any appropriate penalty. Except as provided in subsection
9 (3) of this section, the notice shall:

10 (a) State the reason for each adjustment;

11 (b) Give a reference to the statute, regulation or department ruling upon
12 which the adjustment is based; and

13 (c) Be certified by the department that the adjustments are made in good
14 faith and not for the purpose of extending the period of assessment.

15 (3) When the notice of deficiency described in subsection (2) of this sec-
16 tion results from the correction of a mathematical or clerical error and
17 states what would have been the correct tax but for the mathematical or
18 clerical error, such notice need state only the reason for each adjustment to
19 the report or return.

20 (4) With respect to any tax return filed under ORS chapter 314, 316, 317
21 or 318 **or sections 3 to 33 of this 2017 Act**, deficiencies shall include but
22 not be limited to the assertion of additional tax arising from:

23 (a) The failure to report properly items or amounts of income subject to
24 or which are the measure of the tax;

25 (b) The deduction of items or amounts not permitted by law;

26 (c) Mathematical errors in the return or the amount of tax shown due in
27 the records of the department; or

28 (d) Improper credits or offsets against the tax claimed in the return.

29 (5)(a) The notice of deficiency shall be accompanied by a statement ex-
30 plaining the person's right to make written objections, the person's right to
31 request a conference and the procedure for requesting a conference. The

1 statement, and an accompanying form, shall also explain that conference
2 determinations are routinely transmitted via regular mail and that a person
3 desiring to have conference determinations transmitted by certified mail may
4 do so by indicating on the form the person's preference for certified mail and
5 by returning the form with the person's written objections as described in
6 paragraph (b) of this subsection.

7 (b) Within 30 days from the date of the notice of deficiency, the person
8 given notice shall pay the deficiency with interest computed to the date of
9 payment and any penalty proposed. Or within that time the person shall ad-
10 vise the department in writing of objections to the deficiency, and may re-
11 quest a conference with the department, which shall be held prior to the
12 expiration of the one-year period set forth in subsection (7) of this section.

13 (6) If a request for a conference is made, the department shall notify the
14 person of a time and place for conference and appoint a conference officer
15 to meet with the person for an informal discussion of the matter. After the
16 conference, the conference officer shall send the determination of the issues
17 to the person. The determination letter shall be sent by regular mail, or by
18 certified mail if the person given notice has indicated a preference for
19 transmission of the determination by certified mail. The department shall
20 assess any deficiency in the manner set forth in subsection (7) of this section.
21 If no conference is requested and written objections are received, the de-
22 partment shall make a determination of the issues considering such ob-
23 jections, and shall assess any deficiency in the manner provided in
24 subsection (7) of this section. The failure to request or have a conference
25 shall not affect the rights of appeal otherwise provided by law.

26 (7) If neither payment nor written objection to the deficiency is received
27 by the department within 30 days after the notice of deficiency has been
28 mailed, the department shall assess the deficiency, plus interest and penal-
29 ties, if any, and shall send the person a notice of assessment, stating the
30 amount so assessed, and interest and penalties. The notice of assessment
31 shall be mailed within one year from the date of the notice of deficiency

1 unless an extension of time is agreed upon as described in subsection (8) of
2 this section. The notice shall advise the person of the rights of appeal.

3 (8) If, prior to the expiration of any period of time prescribed in sub-
4 section (7) of this section for giving of notice of assessment, the department
5 and the person consent in writing to the deficiency being assessed after the
6 expiration of such prescribed period, such deficiency may be assessed at any
7 time prior to the expiration of the period agreed upon. The period so agreed
8 upon may be extended by subsequent agreements in writing made before the
9 expiration of the period agreed upon.

10 (9) The failure to hold a requested conference within the one-year period
11 prescribed in subsection (5) of this section shall not invalidate any assess-
12 ment of deficiency made within the one-year period pursuant to subsection
13 (7) of this section or within any extension of time made pursuant to sub-
14 section (8) of this section, but shall invalidate any assessment of interest or
15 penalties attributable to the deficiency. After an assessment has been made,
16 the department and the person assessed may still hold a conference within
17 90 days from the date of assessment. If a conference is held, the 90-day period
18 under ORS 305.280 (2) shall run from the date of the conference officer's
19 written determination of the issues.

20 (10)(a) In the case of a failure to file a report or return on the date pre-
21 scribed therefor (determined with regard to any extension for filing), the
22 department shall determine the tax according to the best of its information
23 and belief, assess the tax plus appropriate penalty and interest, and give
24 written notice of the failure to file the report or return and of the determi-
25 nation and assessment to the person required to make the filing. The amount
26 of tax shall be reduced by the amount of any part of the tax which is paid
27 on or before the date prescribed for payment of the tax and by the amount
28 of any credit against the tax which may be lawfully claimed upon the return.

29 (b) Notwithstanding subsection (14) of this section and ORS 305.280, and
30 only to the extent allowed by rules adopted by the department, the depart-
31 ment may accept the filing of a report or return submitted by a person who

1 has been assessed a tax under paragraph (a) of this subsection.

2 (c) The department may reject a report or return:

3 (A) That is not verified as required by ORS 305.810;

4 (B) That the department determines is not true and correct as to every
5 material matter as required by ORS 305.815; or

6 (C) If the department may impose a penalty under ORS 316.992 (1) with
7 respect to the report or return.

8 (d) If the department rejects a report or return of a person assessed a tax
9 under paragraph (a) of this subsection, the department shall issue a notice
10 of rejection to the person. The person may appeal the rejection to the
11 magistrate division of the Oregon Tax Court only if:

12 (A) The report or return was filed within 90 days of the date the
13 department's assessment under paragraph (a) of this subsection was issued;
14 and

15 (B) The appeal is filed within 90 days of the date shown on the notice of
16 rejection.

17 (e) If the person assessed under paragraph (a) of this subsection submits
18 a report or return to the department and appeals the assessment to the tax
19 court, the department may request a stay of action from the court pending
20 review of the report or return. If the department:

21 (A) Accepts the filing of the report or return, the appeal shall be dis-
22 missed as moot.

23 (B) Rejects the report or return, the stay of action on the appeal shall
24 be lifted.

25 (f) If the department accepts the filing of a report or return, the depart-
26 ment may reduce the assessment issued under paragraph (a) of this sub-
27 section. A report or return filed under this subsection that is accepted by the
28 department, whether or not the assessment has been reduced, shall be con-
29 sidered a report or return described in subsection (1) of this section and shall
30 be subject to the provisions of this section, including but not limited to ex-
31 amination and adjustment pursuant to subsection (2) of this section.

1 (g) The department may refund payments made with respect to a report
2 or return filed and accepted pursuant to this subsection. If the report or
3 return is filed within three years of the due date for filing the report or re-
4 turn, excluding extensions, the refund shall be made as provided by ORS
5 305.270 and 314.415. If the report or return is not filed within three years of
6 the due date for filing the report or return, excluding extensions, the refund
7 shall be limited to payments received within the two-year period ending on
8 the date the report or return is received by the department and payments
9 received after the date the report or return is received by the department.
10 Interest shall be paid at the rate established under ORS 305.220 for each
11 month or fraction of a month from the date the report or return is received
12 by the department to the time the refund is made.

13 (11) Mailing of notice to the person at the person's last-known address
14 shall constitute the giving of notice as prescribed in this section.

15 (12) If a return is filed with the department accompanied by payment of
16 less than the amount of tax shown on or from the information on the return
17 as due, the difference between the tax and the amount submitted is consid-
18 ered as assessed on the due date of the report or return (determined with
19 regard to any extension of time granted for the filing of the return) or the
20 date the report or return is filed, whichever is later. For purposes of this
21 subsection, the amount of tax shown on or from the information on the re-
22 turn as due shall be reduced by the amount of any part of the tax that is
23 paid on or before the due date prescribed for payment of the tax, and by any
24 credits against the tax that are claimed on the return. If the amount required
25 to be shown as tax on a return is less than the amount shown as tax on the
26 return, this subsection shall be applied by substituting the lesser amount.

27 (13) Every deficiency shall bear interest at the rate established under ORS
28 305.220 for each month or fraction of a month computed from the due date
29 of the return to date of payment. If the return was falsely prepared and filed
30 with intent to evade the tax, a penalty equal to 100 percent of the deficiency
31 shall be assessed and collected. All payments received shall be credited first

1 to penalty, then to interest accrued, and then to tax due.

2 (14) If the deficiency is paid in full before a notice of assessment is issued,
3 the department is not required to send a notice of assessment, and the tax
4 shall be considered as assessed as of the date which is 30 days from the date
5 of the notice of deficiency or the date the deficiency is paid, whichever is
6 the later. A partial payment of the deficiency shall constitute only a credit
7 to the account of the person assessed. Assessments and billings of taxes shall
8 be final after the expiration of the appeal period specified in ORS 305.280,
9 except to the extent that an appeal is allowed under ORS 305.280 (3) follow-
10 ing payment of the tax.

11 (15) Appeal may be taken to the tax court from any notice of assessment.
12 The provisions of this chapter with respect to appeals to the tax court apply
13 to any deficiency, penalty or interest assessed.

14 **SECTION 43.** ORS 305.270 is amended to read:

15 305.270. (1) If the amount of the tax shown as due on a report or return
16 originally filed with the Department of Revenue with respect to a tax im-
17 posed under ORS chapter 118, 308, 308A, 310, 314, 316, 317, 318 or 321 **or**
18 **sections 3 to 33 of this 2017 Act**, or collected pursuant to ORS 305.620, or
19 as corrected by the department, is less than the amount theretofore paid, or
20 if a person files a claim for refund of any tax paid to the department under
21 such laws within the period specified in subsection (2) of this section, any
22 excess tax paid shall be refunded by the department with interest as provided
23 in this section and ORS 314.415.

24 (2) The claim shall be made on a form prescribed by the department, ex-
25 cept that an amended report or return showing a refund due and filed within
26 the time allowed by this subsection for the filing of a claim for refund, shall
27 constitute a claim for refund. The claim shall be filed within the period
28 specified in ORS 314.415 (2) for taxes imposed under ORS chapters 310, 314,
29 316, 317 and 318, **and sections 3 to 33 of this 2017 Act** or collected pursuant
30 to ORS 305.620 (except where any applicable ordinance specifies another pe-
31 riod), within the period specified in ORS 118.100 (2) for taxes imposed under

1 ORS chapter 118 and within two years of the payment of any tax under ORS
2 chapter 308, 308A or 321.

3 (3) Upon receipt of a claim for refund, or original report or return
4 claiming a refund, the department shall either refund the amount requested
5 or send to the claimant a notice of any proposed adjustment to the refund
6 claim, stating the basis upon which the adjustment is made. A proposed ad-
7 justment may either increase or decrease the amount of the refund claim or
8 result in the finding of a deficiency. If the proposed adjustment results in a
9 determination by the department that some amount is refundable, the de-
10 partment may send the claimant the adjusted amount with the notice.

11 (4)(a) The notice of proposed adjustment shall be accompanied by a
12 statement explaining the claimant's right to make written objections to the
13 refund adjustment, the claimant's right to request a conference and the pro-
14 cedure for requesting a conference. The statement, and an accompanying
15 form, shall also explain that conference determinations are routinely trans-
16 mitted via regular mail and that a claimant desiring to have conference de-
17 terminations transmitted by certified mail may do so by indicating on the
18 form the claimant's preference for certified mail and by returning the form
19 with the claimant's written objections as described in paragraph (b) of this
20 subsection.

21 (b) The claimant may, within 30 days of the date of the notice of proposed
22 adjustment, advise the department in writing of objections to the refund ad-
23 justment and may request a conference with the department, which shall be
24 held within one year of the date of the notice. The department shall notify
25 the claimant of a time and place for the conference, and appoint a conference
26 officer to meet with the claimant for an informal discussion of the claim.
27 After the conference, the conference officer shall send a determination of the
28 matter to the claimant. The determination letter shall be sent by regular
29 mail, or by certified mail if the claimant has indicated a preference for
30 transmission of the determination by certified mail. The department shall
31 issue either a notice of refund denial or payment of any amount found to be

1 refundable, together with any applicable interest provided by this section. If
2 the conference officer determines that a deficiency exists, the department
3 shall issue a notice of assessment.

4 (5) If no conference is requested, and the adjustments have not resulted
5 in the finding of a deficiency, the following shall apply:

6 (a) If written objections have been made by the claimant, the department
7 shall consider the objections, determine any issues raised and send the
8 claimant a notice of refund denial or payment of any amount found to be
9 refundable, together with any interest provided by this section.

10 (b) If no written objections are made, the notice of any proposed adjust-
11 ment shall be final after the period for requesting a conference or filing
12 written objections has expired.

13 (6) If no conference is requested, and the notice of proposed adjustment
14 has asserted a deficiency, the department shall consider any objections made
15 by the person denied the refund, make a determination of any issues raised,
16 pay any refunds found due, with applicable interest, or assess any deficiency
17 and mail a notice thereof within one year from the date of the notice of de-
18 ficiency, unless an extension of time is agreed upon as described in sub-
19 section (7) of this section.

20 (7) If, prior to the expiration of any period of time prescribed in sub-
21 section (6) of this section for giving of notice of assessment, the department
22 and the person consent in writing to the deficiency being assessed after the
23 expiration of such prescribed period, such deficiency may be assessed at any
24 time prior to the expiration of the period agreed upon. The period so agreed
25 upon may be extended by subsequent agreements in writing made before the
26 expiration of the period agreed upon.

27 (8) If the department refunds the amount requested as provided in sub-
28 section (3) of this section, without examination or audit of the refund claim,
29 the department shall give notice of this to the claimant at the time of mak-
30 ing the refund. Thereafter, the department shall have one year in which to
31 examine or audit the refund claim, and send the notice of proposed adjust-

1 ment provided for in subsection (3) of this section, in addition to any time
2 permitted in ORS 314.410 or 314.415.

3 (9) The failure to hold a requested conference within the one-year period
4 prescribed in subsection (4) of this section shall not invalidate any assess-
5 ment of deficiency made within the one-year period pursuant to subsection
6 (8) of this section or within any extension of time made pursuant to sub-
7 section (7) of this section, but shall invalidate any assessment of interest or
8 penalties attributable to the deficiency. After an assessment has been made,
9 the department and the person assessed may still hold a conference within
10 90 days from the date of assessment. If a conference is held, the 90-day period
11 under ORS 305.280 (2) shall run from the date of the conference officer's
12 written determination of the issues.

13 (10) The claimant may appeal any notice of proposed adjustment, refund
14 denial or notice of assessment in the manner provided in ORS 305.404 to
15 305.560. The failure to file written objections or to request or have a con-
16 ference shall not affect the rights of appeal so provided. All notices and de-
17 terminations shall set forth rights of appeal.

18 **SECTION 44.** ORS 305.280 is amended to read:

19 305.280. (1) Except as otherwise provided in this section, an appeal under
20 ORS 305.275 (1) or (2) shall be filed within 90 days after the act, omission,
21 order or determination becomes actually known to the person, but in no
22 event later than one year after the act or omission has occurred, or the order
23 or determination has been made. An appeal under ORS 308.505 to 308.681
24 shall be filed within 90 days after the date the order is issued under ORS
25 308.584 (3). An appeal from a supervisory order or other order or determi-
26 nation of the Department of Revenue shall be filed within 90 days after the
27 date a copy of the order or determination or notice of the order or determi-
28 nation has been served upon the appealing party by mail as provided in ORS
29 306.805.

30 (2) An appeal under ORS 323.416 or 323.623 or from any notice of assess-
31 ment or refund denial issued by the Department of Revenue with respect to

1 a tax imposed under ORS chapter 118, 308, 308A, 310, 314, 316, 317, 318, 321
2 or this chapter **or sections 3 to 33 of this 2017 Act**, or collected pursuant
3 to ORS 305.620, shall be filed within 90 days after the date of the notice. An
4 appeal from a proposed adjustment under ORS 305.270 shall be filed within
5 90 days after the date the notice of adjustment is final.

6 (3) Notwithstanding subsection (2) of this section, an appeal from a notice
7 of assessment of taxes imposed under ORS chapter 314, 316, 317 or 318 **or**
8 **sections 3 to 33 of this 2017 Act** may be filed within two years after the
9 date the amount of tax, as shown on the notice and including appropriate
10 penalties and interest, is paid.

11 (4) Except as provided in subsection (2) of this section or as specifically
12 provided in ORS chapter 321, an appeal to the tax court under ORS chapter
13 321 or from an order of a county board of property tax appeals shall be filed
14 within 30 days after the date of the notice of the determination made by the
15 department or date of mailing of the order, date of publication of notice of
16 the order, date the order is personally delivered to the taxpayer or date of
17 mailing of the notice of the order to the taxpayer, whichever is applicable.

18 (5) If the tax court denies an appeal made pursuant to this section on the
19 grounds that it does not meet the requirements of this section or ORS 305.275
20 or 305.560, the tax court shall issue a written decision rejecting the petition
21 and shall set forth in the decision the reasons the tax court considered the
22 appeal to be defective.

23 **SECTION 45.** ORS 305.380 is amended to read:

24 305.380. As used in ORS 305.385:

25 (1) "Agency" means any department, board, commission, division or au-
26 thority of the State of Oregon, or any political subdivision of this state
27 which imposes a local tax administered by the Department of Revenue under
28 ORS 305.620.

29 (2) "License" means any written authority required by law or ordinance
30 as a prerequisite to the conduct of a business, trade or profession.

31 (3) "Provider" means any person who contracts to supply goods, services

1 or real estate space to an agency.

2 (4) "Tax" means a state tax imposed by ORS 320.005 to 320.150 and 403.200
3 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and local
4 taxes administered by the Department of Revenue under ORS 305.620.

5 **SECTION 46.** ORS 305.565 is amended to read:

6 305.565. (1) Except as provided in subsection (2) of this section, pro-
7 ceedings for the collection of any taxes, interest or penalties resulting from
8 an assessment of additional taxes imposed by ORS chapter 118, 310, 314, 316,
9 317, 318, 321 or this chapter **or sections 3 to 33 of this 2017 Act** shall be
10 stayed by the taking or pendency of any appeal to the tax court.

11 (2) Notwithstanding subsection (1) of this section, the Department of
12 Revenue may proceed to collect any taxes, interest or penalties described in
13 subsection (1) of this section if the department determines that collection
14 will be jeopardized if collection is delayed or that the taxpayer has taken a
15 frivolous position in the appeal. For purposes of this subsection:

16 (a) Collection of taxes, interest or penalties will be jeopardized if the
17 taxpayer designs quickly to depart from the state or to remove the taxpayer's
18 property from the state, or to do any other act tending to prejudice or to
19 render wholly or partially ineffectual proceedings to collect the tax.

20 (b) A taxpayer's position in an appeal is frivolous if that position is of
21 the kind described in ORS 316.992 (5).

22 (3) No proceeding for the apportionment, levy or collection of taxes on
23 any property shall be stayed by the taking or pendency of any appeal to the
24 tax court, or from an order of the county board of property tax appeals or
25 the Oregon Tax Court, unless the assessor or tax collector either as a party
26 to the suit or an intervenor, requests a stay and it appears to the satisfaction
27 of the court that a substantial public interest requires the issuance of a stay.

28 (4) The tax court may, as a condition of a stay, require the posting of a
29 bond sufficient to guarantee payment of the tax. Payment of taxes while
30 appeal is pending shall not operate as a waiver of the appeal or of a right
31 to refund of taxes found to be excessively charged or assessed.

1 **SECTION 47.** ORS 305.645 is amended to read:

2 305.645. If a political subdivision of this state imposes a tax on or meas-
3 ured by income as determined under ORS chapter 316, 317 or 318 **or section**
4 **11 of the Internal Revenue Code**, the Department of Revenue shall provide
5 to the political subdivision, at the request of the political subdivision, col-
6 lection, enforcement, administration and distribution services for the tax in
7 the manner provided in ORS 305.620.

8 **SECTION 48.** ORS 305.850 is amended to read:

9 305.850. (1) Notwithstanding any provision to the contrary in ORS 9.320
10 and 305.610, the Director of the Department of Revenue may engage the ser-
11 vices of a collection agency to collect any taxes, interest and penalties re-
12 sulting from an assessment of taxes or additional taxes imposed by ORS
13 chapter 118, 310, 314, 316, 317, 318, 321 or 323 or ORS 320.005 to 320.150 **or**
14 **sections 3 to 33 of this 2017 Act** and any other tax laws administered by
15 the Department of Revenue. The director may engage the services of a col-
16 lection agency by entering into an agreement to pay reasonable charges on
17 a contingent fee or other basis.

18 (2) The director shall cause to be collected, in the same manner as pro-
19 vided in subsection (1) of this section, assessments, taxes and penalties due
20 under ORS chapter 656. All amounts collected pursuant to this subsection
21 shall be credited as provided in ORS 293.250.

22 (3) The director may assign to the collection agency, for collection pur-
23 poses only, any of the taxes, penalties, interest and moneys due the state.

24 (4) The collection agency may bring such action or take such proceedings,
25 including but not limited to attachment and garnishment proceedings, as may
26 be necessary.

27 **SECTION 49.** ORS 305.992 is amended to read:

28 305.992. (1) If any returns required to be filed under ORS 475B.700 to
29 475B.760 or ORS chapter 118, 314, 316, 317, 318, 321 or 323 **or sections 3 to**
30 **33 of this 2017 Act** or under a local tax administered by the Department of
31 Revenue under ORS 305.620 are not filed for three consecutive years by the

1 due date (including extensions) of the return required for the third consec-
2 utive year, there shall be a penalty for each year of 100 percent of the tax
3 liability determined after credits and prepayments for each such year.

4 (2) The penalty imposed under this section is in addition to any other
5 penalty imposed by law. However, the total amount of penalties imposed for
6 any taxable year under this section, ORS 305.265 (13), 314.400, 323.403, 323.585
7 or 475B.755 may not exceed 100 percent of the tax liability.

8 **SECTION 50.** ORS 308A.071 is amended to read:

9 308A.071. (1) For purposes of ORS 308A.050 to 308A.128, farmland or a
10 farm parcel that is not within an area zoned for exclusive farm use is not
11 used exclusively for farm use unless all of the prerequisites of subsections
12 (2) to (5) of this section are met.

13 (2)(a) Except as provided in subsection (6) of this section, in three out of
14 the five full calendar years immediately preceding the assessment date, the
15 farmland or farm parcel was operated as a part of a farm unit that has
16 produced a gross income from farm uses in the following amount for a cal-
17 endar year:

18 (A) If the farm unit consists of 6-1/2 acres or less, the gross income from
19 farm use shall be at least \$650.

20 (B) If the farm unit consists of more than 6-1/2 acres but less than 30
21 acres, the gross income from farm use shall be at least equal to the product
22 of \$100 times the number of acres and any fraction of an acre of land in-
23 cluded.

24 (C) If the farm unit consists of 30 acres or more, the gross income from
25 farm use shall be at least \$3,000.

26 (b) For purposes of determining the number of acres to be considered
27 under paragraph (a) of this subsection, the land described in ORS 308A.056
28 (3) and the land, not exceeding one acre, used as a homestead shall not be
29 included.

30 (c) If a farm parcel is operated as part of a farm unit and the farmland
31 of the farm unit is not all under the same ownership, the gross income re-

1 requirements applicable to the farm parcel shall be as provided under para-
2 graph (a) of this subsection. In addition, the gross income from farm use of
3 a farm parcel described under this paragraph must be at least:

4 (A) One-half of the gross income requirements described under paragraph
5 (a) of this subsection that would be required if the farm parcel were the only
6 farmland of the farm unit; or

7 (B) A cash or net share crop rental of one-quarter of the gross income
8 requirements described under paragraph (a) of this subsection that would be
9 required if the farm parcel were the only farmland of the farm unit. For
10 purposes of this subparagraph, “net share crop rental” means the value of
11 any crop received by the owner of the farm parcel less any costs borne by
12 the owner of the farm parcel.

13 (3) Excise, [or] income **or corporate activities** tax returns are filed with
14 the Department of Revenue for purposes of ORS chapter 316, 317 or 318 **or**
15 **sections 3 to 33 of this 2017 Act** by the farmland owner or the operator of
16 the farm unit that include a Schedule F and, if applicable, by the owner of
17 a farm parcel that include a schedule or schedules showing rental income
18 received by the owner of the farm parcel, during the years to which the in-
19 come requirements of this section apply.

20 (4) Upon request, a copy of the returns or the schedules of the returns
21 showing the gross income received from farm use is furnished by the tax-
22 payer to the county assessor.

23 (5) The burden of proving the gross income of the farm unit for the years
24 described in subsection (2) of this section is upon the person claiming special
25 assessment for the land.

26 (6) The failure of a farm unit to produce the amount of gross income re-
27 quired by subsection (2) of this section shall not prevent the farm unit from
28 meeting the qualifications of this section if:

29 (a) The failure is because:

30 (A) The effect of flooding substantially precludes normal and reasonable
31 farming during the year; or

1 (B) Severe drought conditions are declared under ORS 536.700 to 536.780;
2 and

3 (b) The farm unit produces the required amount of gross income in three
4 out of the last five nonflood or nondrought years.

5 (7) As used in this section:

6 (a) "Farm parcel" means the contiguous land under the same ownership,
7 whether assessed as one or more than one tax lot.

8 (b) "Gross income" includes the value of any crop or livestock that is used
9 by the owner personally or in the farming operation of the owner, but does
10 not include:

11 (A) The value of any crop or livestock so used unless records accurately
12 reflecting both value and use of the crop or livestock are kept by the owner
13 in a manner consistent with generally accepted accounting principles; and

14 (B) The purchase cost of livestock.

15 (c) "Owner" or "ownership" means any person described under ORS
16 308A.077 (2)(b)(A), (B), (D) or (E) and spouse or other person who is also an
17 owner as tenant in common or other joint ownership interest.

18 **SECTION 51.** ORS 311.473 is amended to read:

19 311.473. (1) **As used in this section:**

20 (a) **"Financial institution" means a person, corporation or other**
21 **business entity that is any of the following:**

22 (A) **A bank holding company under the laws of this state or under**
23 **the federal Bank Holding Company Act of 1956, 12 U.S.C. 1841 et seq.,**
24 **as amended.**

25 (B) **A savings and loan holding company under the National Hous-**
26 **ing Act, 12 U.S.C. 1701 et seq., as amended.**

27 (C) **A national bank organized and existing as a national bank as-**
28 **sociation under the National Bank Act, 12 U.S.C. 21 et seq., as**
29 **amended.**

30 (D) **A savings association, as defined in 12 U.S.C. 1813(b)(1), as**
31 **amended.**

1 **(E) A bank or thrift institution incorporated or organized under the**
2 **laws of any state.**

3 **(F) An entity organized under the provisions of 12 U.S.C. 611 to 631,**
4 **as amended.**

5 **(G) An agency or branch of a foreign bank, as defined in 12 U.S.C.**
6 **3101, as amended.**

7 **(H) A state credit union with loan assets that exceed \$50,000,000 as**
8 **of the first day of the taxable year of the state credit union.**

9 **(I) A production credit association subject to 12 U.S.C. 2071 et seq.,**
10 **as amended.**

11 **(J) A corporation, more than 50 percent of the voting stock of**
12 **which is owned, directly or indirectly, by a person, corporation or**
13 **other business entity described in subparagraphs (A) to (I) of this**
14 **paragraph.**

15 **(K) An entity that is not otherwise described in this subsection and**
16 **that derives more than 50 percent of its gross income from activities**
17 **that a person, corporation or entity described in subparagraph (C), (D),**
18 **(E), (F), (G), (H), (I) or (L) of this paragraph is authorized to conduct,**
19 **not taking into account any income derived from nonrecurring ex-**
20 **traordinary sources.**

21 **(L) A person that derives at least 50 percent of the person's annual**
22 **average gross income, for financial accounting purposes for the cur-**
23 **rent tax year and the two preceding tax years, from finance leases,**
24 **excluding any gross income from incidental or occasional transactions.**
25 **For purposes of this subparagraph, "finance lease" means:**

26 **(i) A lease transaction that is the functional equivalent of an ex-**
27 **tension of credit and that transfers substantially all of the benefits and**
28 **risks of the ownership of the leased property;**

29 **(ii) A direct financing lease or a leverage lease that meets the cri-**
30 **teria of Financial Accounting Standards Board Statement No. 13; or**

31 **(iii) Any other lease that is accounted for as a financing by a lessor**

1 **under generally accepted accounting principles.**

2 **(b) “Financial institution” does not include a credit union as de-**
3 **fin ed in ORS 723.006, an interstate credit union as defined in ORS**
4 **723.001 or a federal credit union.**

5 [(1)] (2) Any financial institution[, *as defined in ORS 317.010,*] or agent
6 or representative of a financial institution, that, in the process of foreclosing
7 any security interest or other lien on taxable personal property, including
8 property classified as real property machinery and equipment, or after the
9 lien is foreclosed, causes the property to be removed, or is knowledgeable
10 that the property will be removed by another after the foreclosure sale, from
11 the county in which the property is assessed or seized, shall notify the tax
12 collector of that county prior to the removal. The notice shall be mailed to
13 the tax collector, return receipt requested, and shall contain a description
14 of the property that is the subject of the foreclosure, together with the name
15 and address of the owner or owners of the property.

16 [(2)] (3) Failure to give the notice required under subsection [(1)] (2) of
17 this section shall not affect the foreclosure, but the tax collector shall have
18 recourse against the financial institution on behalf of the taxing units for
19 any damages sustained on account of failure to mail the notice.

20 **SECTION 52.** ORS 314.011, as amended by section 17, chapter 33, Oregon
21 Laws 2016, is amended to read:

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

24 (2) As used in this chapter:

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

29 (b) Except where the Legislative Assembly has provided otherwise, a ref-
30 erence to the laws of the United States or to the Internal Revenue Code re-
31 fers to the laws of the United States or to the Internal Revenue Code as they

1 are amended and in effect:

2 (A) On December 31, 2015; or

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

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

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

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

30 (5)(a) When portions of the Internal Revenue Code incorporated by refer-
31 ence as provided in subsection (2) of this section are later corrected by an

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

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

15 **SECTION 53.** ORS 314.135 is amended to read:

16 314.135. (1)(a) In computing the amount of an adjustment under ORS
17 314.105 to 314.135 there shall first be ascertained the tax previously deter-
18 mined for the taxable year with respect to which the error was made. The
19 amount of the tax previously determined shall be the excess of:

20 (A) The sum of the amount shown as the tax by the taxpayer on the re-
21 turn of the taxpayer, if a return was made by the taxpayer and an amount
22 was shown as the tax by the taxpayer thereon, plus the amounts previously
23 assessed (or collected without assessment) as a deficiency, over

24 (B) The amount of refunds (as defined in ORS 314.415) made.

25 (b) There shall then be ascertained the increase or decrease in tax previ-
26 ously determined which results solely from the correct treatment of the item
27 in the computation of gross income, taxable income, and other matters under
28 ORS 316.317 or [ORS chapter 317 or 318] **sections 3 to 33 of this 2017 Act.**
29 A similar computation shall be made for any other taxable year affected, or
30 treated as affected, by an Oregon net loss for prior years [(as provided by
31 ORS 317.476 or 317.478 and section 45b, chapter 293, Oregon Laws 1987)], by

1 a net operating loss deduction (as defined in the federal Internal Revenue
2 Code) or by a capital loss carryback or carryover (as defined in the federal
3 Internal Revenue Code) determined with reference to the taxable year with
4 respect to which the error was made. The amount so ascertained (together
5 with any amounts wrongfully collected as additions to the tax or interest,
6 as a result of such error) for each taxable year shall be the amount of the
7 adjustment for that taxable year.

8 (2) The adjustment authorized in ORS 314.115 (1) shall be made by as-
9 sessing and collecting, or refunding or crediting, the amount thereof in the
10 same manner as if it were a deficiency determined by the Department of
11 Revenue with respect to the taxpayer as to whom the error was made or an
12 overpayment claimed by such taxpayer, as the case may be, for the taxable
13 year or years with respect to which an amount is ascertained under sub-
14 section (1) of this section and as if on the date of the determination one year
15 remained before the expiration of the periods of limitation upon assessment
16 or filing claim for refund for such taxable year or years. If, as a result of a
17 determination described in ORS 314.105 (1)(d), an adjustment has been made
18 by the assessment and collection of a deficiency of the refund or credit of
19 an overpayment, and subsequently such determination is altered or revoked,
20 the amount of the adjustment ascertained under subsection (1) of this section
21 shall be redetermined on the basis of such alteration or revocation and any
22 overpayment or deficiency resulting from such redetermination shall be re-
23 funded or credited, or assessed and collected, as the case may be, as an ad-
24 justment under this part. In the case of an adjustment resulting from an
25 increase or decrease in a net operating loss or net capital loss which is
26 carried back to the year of adjustment, interest shall not be collected or paid
27 for any period prior to the close of the taxable year in which the net oper-
28 ating loss or net capital loss arises.

29 (3) The amount to be assessed and collected in the same manner as a de-
30 ficiency, or to be refunded or credited in the same manner as an overpay-
31 ment, under ORS 314.105 to 314.135, shall not be diminished by any credit

1 or setoff based upon any item other than the one which was the subject of
2 the adjustment. The amount of the adjustment under ORS 314.105 to 314.135,
3 if paid, shall not be recovered by a claim or suit for refund or suit for er-
4 roneous refund based upon any item other than the one which was the sub-
5 ject of the adjustment.

6 **SECTION 54.** ORS 314.256 is amended to read:

7 314.256. (1) If a tax is imposed upon an organization under section 6033(e)
8 of the Internal Revenue Code (proxy tax on lobbying expenditures) for any
9 tax year, a like tax is imposed for the tax year upon the same amount as
10 taxed for federal tax purposes, as allocated or apportioned to Oregon. The
11 rate of the tax shall be the rate specified in [*ORS 317.061*] **section 8 of this**
12 **2017 Act**. The tax shall be assessed and collected under the applicable pro-
13 visions of this chapter and ORS chapter 305.

14 (2) Any organization that is required to include on a federal return the
15 information described in section 6033(e)(1) of the Internal Revenue Code
16 shall file a copy of the federal return containing the information with the
17 Department of Revenue.

18 (3) The department may determine by rule the method by which the tax
19 described in subsection (1) of this section is allocated and apportioned to
20 Oregon.

21 (4) If section 6033(e) of the Internal Revenue Code (relating to the proxy
22 tax on lobbying expenditures) is repealed or otherwise eliminated by Act of
23 the United States, this section is repealed as of the applicable date of the
24 repeal or elimination of the proxy tax under section 6033(e) of the Internal
25 Revenue Code.

26 **SECTION 55.** ORS 314.260 is amended to read:

27 314.260. (1)(a) An entity described in section 860D of the Internal Revenue
28 Code (a real estate mortgage investment conduit or REMIC) is not subject
29 to a tax under ORS chapter 316[, 317 or 318] (and may not be treated as a
30 corporation, partnership or trust for purposes of ORS chapter 316[, 317 or
31 318] **or sections 3 to 33 of this 2017 Act**).

1 (b) If a REMIC engages in a prohibited transaction as defined in section
2 860F(a)(2) of the Internal Revenue Code, the REMIC shall be subject to a tax
3 equal to six and six-tenths percent of the net income derived from the pro-
4 hibited transaction. The tax imposed under this paragraph shall be assessed
5 and collected under this chapter and ORS chapter 305 and shall be credited
6 to the General Fund to be made available for general governmental expenses.

7 (2) The income of any REMIC shall be taxable to the holders of the in-
8 terests in the REMIC under ORS chapter 316[, 317 or 318,] **or sections 3 to**
9 **33 of this 2017 Act**, whichever is applicable.

10 (3) Taxable income or loss with respect to income received as the holder
11 of any interest in a REMIC shall be determined under sections 860A to 860G
12 of the Internal Revenue Code.

13 (4) To determine the portion of the income of a REMIC that is taxable
14 to a nonresident holder of an interest in the REMIC, there shall be included
15 only that part derived from or connected with sources in this state, as such
16 part is determined under rules adopted by the Department of Revenue in
17 accordance with the general rules in ORS 316.352 (1987 Replacement Part).

18 **SECTION 56.** ORS 314.265 is amended to read:

19 314.265. (1)(a) An entity described in section 860L of the Internal Revenue
20 Code (a financial asset securitization investment trust, or FASIT) shall not
21 be subject to a tax under ORS chapter 316[, 317 or 318] (and shall not be
22 treated as a corporation, partnership, trust or mortgage pool for purposes
23 of ORS chapter 316[, 317 or 318]).

24 (b) If a FASIT engages in a prohibited transaction as defined in section
25 860L(e)(2) of the Internal Revenue Code, the FASIT shall be subject to a tax
26 equal to 6.6 percent of the net income derived from the prohibited trans-
27 action. The tax shall be paid by the holder of the ownership interest in the
28 FASIT. The tax imposed under this paragraph shall be assessed and collected
29 under the applicable provisions of this chapter and ORS chapter 305 and
30 shall be credited to the General Fund to be made available for general gov-
31 ernmental expenses.

1 (2) The income of any FASIT shall be taxable to the holders of the own-
2 ership interests in the FASIT under ORS chapter 316[, 317 or 318], whichever
3 is applicable.

4 (3) Taxable income or loss, with respect to income received as the holder
5 of any interest in a FASIT, shall be determined under sections 860H to 860L
6 of the Internal Revenue Code, as defined in ORS 316.012 or [317.010 and
7 317.018] **sections 3 to 33 of this 2017 Act**, and section 1621(e) of the Small
8 Business Job Protection Act of 1996 (P.L. 104-188), as otherwise determined
9 and modified under ORS chapter 316[, 317 or 318], whichever is applicable,
10 to the FASIT interest holder.

11 (4) To determine the portion of the income of a FASIT that is taxable to
12 a nonresident holder of an interest in the FASIT, there shall be included
13 only that part derived from or connected with sources in this state.

14 **SECTION 57.** ORS 314.276 is amended to read:

15 314.276. (1) The method of accounting of a partnership, REMIC (real es-
16 tate mortgage investment conduit), FASIT (financial asset securitization in-
17 vestment trust) or taxpayer shall be the same as the method of accounting
18 which the partnership, REMIC, FASIT or taxpayer uses for federal income
19 tax purposes for the taxable year.

20 (2) Notwithstanding subsection (1) of this section, if the method of ac-
21 counting used by the partnership, REMIC, FASIT or taxpayer does not
22 clearly reflect income, the computation of taxable income shall be made un-
23 der such method as the Department of Revenue may prescribe.

24 (3) If the method of accounting is changed for federal income tax pur-
25 poses, the partnership, REMIC, FASIT or taxpayer shall adopt the same
26 method of accounting for purposes of ORS chapter 316[, 317 or 318] **or**
27 **sections 3 to 33 of this 2017 Act** and shall use that method beginning with
28 the return filed which corresponds to the first federal return filed which is
29 required to use the new method. Any adjustments required to prevent
30 amounts from being duplicated or omitted shall be taken into account for
31 state tax purposes in the same manner as for federal tax purposes.

1 (4) Subsections (1) and (3) of this section [*shall*] **do** not apply with respect
2 to methods of accounting which are disallowed for purposes of ORS chapter
3 316[, 317 or 318] **or sections 3 to 33 of this 2017 Act.**

4 **SECTION 58.** ORS 314.287 is amended to read:

5 314.287. (1) In the computation of state taxable income, costs allocable to
6 inventory shall be the same as those allocable to inventory under section
7 263A of the Internal Revenue Code as of the close of the tax year for which
8 a return is filed and shall not be adjusted for any addition, subtraction,
9 modification or other adjustment contained in this chapter or ORS chapter
10 316[, 317 or 318] or other law governing the imposition of state taxes imposed
11 upon or measured by net income.

12 (2) If any provision of ORS chapter 316[, 317 or 318] appears to require
13 an adjustment to inventory costs contrary to the provisions of this section,
14 that adjustment shall not be made.

15 (3) The additions, subtractions, modifications or other adjustments to
16 federal taxable income required in determining Oregon taxable income under
17 ORS chapter 316[, 317 or 318] shall be made to federal taxable income not-
18 withstanding that such adjustments are properly attributable to costs
19 allocable to inventory.

20 **SECTION 59.** ORS 314.300 is amended to read:

21 314.300. For purposes of applying section 469 of the Internal Revenue
22 Code to the laws of this state imposing taxes upon or measured by income:

23 (1) Passive activity loss shall be determined with respect to the activities
24 of the taxpayer under section 469 of the Internal Revenue Code and related
25 federal law and then shall be adjusted by the additions, subtractions, mod-
26 ifications and other adjustments as allocated to passive activity loss under
27 subsection (2) of this section.

28 (2) Those additions, subtractions, modifications and other adjustments
29 required to be made to federal taxable income under this chapter or ORS
30 **chapter 316** [*chapters 316, 317 and 318*], or other law governing the imposi-
31 tion of state taxes imposed upon or measured by income, shall be allocated

1 to passive activity loss as provided by rule of the Department of Revenue.

2 (3) Passive activity loss, as determined under subsections (1) and (2) of
3 this section, shall not be allowed for the taxable year of the taxpayer. Pas-
4 sive activity loss shall be treated as a deduction allocable to passive activity
5 in the next succeeding year, and except as otherwise adjusted under sub-
6 section (1) of this section, shall be treated in the same manner as passive
7 activity loss is treated under section 469 of the Internal Revenue Code, and
8 related sections.

9 (4) For state personal income tax purposes, in the case of a nonresident,
10 passive activity loss attributable to Oregon sources shall be treated in the
11 same manner as described under subsections (1) to (3) of this section.

12 **SECTION 60.** ORS 314.302 is amended to read:

13 314.302. (1) Subject to subsections (2) to (4) of this section, if interest on
14 deferred tax liability with respect to an installment obligation is required to
15 be paid for federal income tax purposes under section 453A of the Internal
16 Revenue Code, then interest on that same deferred tax liability shall be paid
17 in the same manner (including the pledging rules under section 453A(d) of
18 the Internal Revenue Code) for state tax purposes and shall, in the amount
19 added, increase the tax imposed under ORS chapter 316[, 317 or 318, *whic-*
20 *ever is appropriate*].

21 (2) Interest added to tax pursuant to subsection (1) of this section shall
22 be determined in the same manner as interest is determined under section
23 453A(c) of the Internal Revenue Code except that in determining the interest
24 to be added using section 453A(c) of the Internal Revenue Code:

25 (a) The interest rate in effect under ORS 305.220 for deficiencies for the
26 month with or within which the taxable year of the taxpayer ends shall be
27 substituted for the underpayment rate referred to in section 453A(c)(2)(B);
28 and

29 (b) The maximum rate of tax in effect under ORS chapter 316[, 317 or 318,
30 *whichever is appropriate,*] shall be substituted for the federal rates of tax
31 referred to in section 453A(c)(3)(B).

1 (3) The Department of Revenue shall adopt rules consistent with those
2 adopted under section 453A of the Internal Revenue Code and with laws of
3 this state as may be necessary to carry out the provisions of this section,
4 including rules providing for the application of this subsection in the case
5 of contingent payments, short taxable years, pass-through entities and deri-
6 vation, attribution or apportionment of installment obligations or income
7 from installment obligations.

8 (4) In the case of a nonresident subject to taxation under ORS chapter
9 316, in determining whether or not interest is to be added to tax under this
10 section, and the amount of interest to be added, only those installment obli-
11 gations that arise from dispositions of property in this state shall be taken
12 into consideration.

13 (5) For purposes of determining interest under ORS 314.395 or penalties
14 under ORS 314.400 or other law, and for purposes of refund, estimated and
15 other prepayments of tax, credits and all other purposes, the interest added
16 under this section shall be considered as any other increase in the tax im-
17 posed under ORS chapter 316[, 317 or 318, *whichever is appropriate*].

18 (6) The interest added to tax imposed under this section shall be assessed
19 and collected under the applicable provisions of this chapter and ORS chap-
20 ters 305[,] **and** 316[, 317 and 318] and shall be paid over to the State Treas-
21 urer and held in the General Fund as miscellaneous receipts available
22 generally to meet any expense or obligation of the State of Oregon lawfully
23 incurred.

24 **SECTION 61.** ORS 314.364 is amended to read:

25 314.364. (1) As used in this section:

26 (a) “Electronic means” includes computer-generated electronic or mag-
27 netic media, Internet-based applications or similar computer-based methods
28 or applications.

29 (b) “Paid tax preparer” means a person who prepares a tax return for
30 another or advises or assists in the preparation of a tax return for another,
31 or who employs or authorizes another to do the same, for valuable consid-

1 eration.

2 (c) "Tax return" means a return filed under ORS chapter 314[,] or 316[,
3 317 or 318] or sections 3 to 33 of this 2017 Act.

4 (2) The Department of Revenue may by rule require a paid tax preparer
5 to file tax returns by electronic means if the paid tax preparer is required
6 to file federal tax returns by electronic means.

7 (3) The department may by rule require a corporation to file tax returns
8 by electronic means if the corporation is required to file federal tax returns
9 by electronic means.

10 (4) The department may by rule establish exceptions to the electronic
11 filing requirements of this section.

12 **SECTION 62.** ORS 314.385, as amended by section 17a, chapter 33, Oregon
13 Laws 2016, is amended to read:

14 314.385. (1)(a) For purposes of ORS chapter 316, returns shall be filed with
15 the Department of Revenue on or before the due date of the corresponding
16 federal return for the tax year as prescribed under the Internal Revenue
17 Code and the regulations adopted pursuant thereto.

18 *[(b) For purposes of ORS chapters 317 and 318, returns shall be filed with*
19 *the department on or before the 15th day of the month following the due date*
20 *of the corresponding federal return for the tax year, as prescribed under the*
21 *Internal Revenue Code and the regulations adopted pursuant thereto.]*

22 [(c)] (b) The department may allow further time for filing returns equal
23 in length to the extension periods allowed under the Internal Revenue Code
24 and its regulations.

25 [(d)] (c) If no return is required to be filed for federal income tax pur-
26 poses, the due date or extension period for a return shall be the same as the
27 due date, or extension period, would have been if the taxpayer had been re-
28 quired to file a return for federal income tax purposes for the tax year.
29 *[However, the due date for returns filed for purposes of ORS chapter 317 or*
30 *318 shall be on or before the 15th day of the month following what would have*
31 *been the federal return due date for the tax year.]*

1 (2) There shall be annexed to the return a statement verified as provided
2 under ORS 305.810 by a declaration of the taxpayer making the return to the
3 effect that the statements contained therein are true.

4 (3) Returns shall be in the form the department may, from time to time,
5 prescribe. The department shall prepare blank forms for the returns and
6 distribute them throughout the state. The forms shall be furnished the tax-
7 payer upon request, but failure to receive or secure a form does not relieve
8 the taxpayer from the obligation of making any return required by law.

9 (4)(a) The department may by rule authorize the filing of a return in al-
10 ternative formats to those described in subsection (3) of this section and may
11 prescribe the conditions, requirements and technical standards for a filing
12 under this subsection.

13 (b) Notwithstanding subsections (1) to (3) of this section, the department
14 may by rule prescribe a different due date for a return filed in an alternative
15 format.

16 (c) The policy of the Legislative Assembly in granting the department
17 rulemaking authority under paragraph (b) of this subsection is to have the
18 department prescribe due dates that mirror the due dates that apply to fed-
19 eral returns filed in alternative formats for federal tax purposes.

20 **SECTION 63.** ORS 314.400 is amended to read:

21 314.400. (1) If a taxpayer fails to file a report or return or fails to pay a
22 tax by the date on which the filing or payment is due, the Department of
23 Revenue shall add to the amount required to be shown as tax on the report
24 or return a delinquency penalty of five percent of the amount of the unpaid
25 tax.

26 (2) In the case of a report or return that is required to be filed annually
27 or for a one-year period, if the failure to file the report or return continues
28 for a period in excess of three months after the due date:

29 (a) There shall be added to the amount of tax required to be shown on
30 the report or return a failure to file penalty of 20 percent of the amount of
31 the tax; and

1 (b) Thereafter the department may send a notice and demand to the per-
2 son to file a report or return within 30 days of the mailing of the notice. If
3 after the notice and demand no report or return is filed within the 30 days,
4 the department may determine the tax according to the best of its informa-
5 tion and belief, assess the tax with appropriate penalty and interest plus an
6 additional penalty of 25 percent of the tax deficiency determined by the de-
7 partment and give written notice of the determination and assessment to the
8 person required to make the filing.

9 (3) In the case of a report or return that is required to be filed more
10 frequently than annually and the failure to file the report or return contin-
11 ues for a period in excess of one month after the due date:

12 (a) There shall be added to the amount of tax required to be shown on
13 the report or return a failure to file penalty of 20 percent of the amount of
14 the tax; and

15 (b) Thereafter the department may send a notice and demand to the per-
16 son to file a report or return within 30 days of the mailing of the notice. If
17 after the notice and demand no report or return is filed within the 30 days,
18 the department may determine the tax according to the best of its informa-
19 tion and belief, assess the tax with appropriate penalty and interest plus an
20 additional penalty of 25 percent of the tax deficiency determined by the de-
21 partment and give written notice of the determination and assessment to the
22 person required to make the filing.

23 (4) Notwithstanding subsections (2) and (3) of this section, if a taxpayer
24 is required to file a federal income tax return for a period of less than 12
25 months under section 443 of the Internal Revenue Code, the Oregon personal
26 income or corporate excise or income tax return required to be filed for that
27 period shall be subject to subsection (2) of this section.

28 (5) If a report or return that is subject to a failure to file penalty de-
29 scribed in subsection (2) or (3) of this section is filed before a notice of de-
30 termination and assessment is issued by the department, the failure to file
31 penalty referred to in subsection (2)(a) or (3)(a) of this section shall be added

1 to the amount of tax shown on the report or return.

2 (6) A penalty equal to 100 percent of any deficiency determined by the
3 department shall be assessed and collected if:

4 (a) There is a failure to file a report or return with intent to evade the
5 tax; or

6 (b) A report or return was falsely prepared and filed with intent to evade
7 the tax.

8 (7) Interest shall be collected on the unpaid tax at the rate established
9 under ORS 305.220 for each month or fraction of a month, computed from the
10 time the tax became due, during which the tax remains unpaid.

11 (8) Each penalty imposed under this section is in addition to any other
12 penalty imposed under this section. However, the total amount of penalty
13 imposed under this section and ORS 305.265 (13) with respect to any defi-
14 ciency shall not exceed 100 percent of the deficiency.

15 (9) For purposes of subsections (1) to (3) of this section, the amount of tax
16 required to be shown or that is shown on the report or return shall be re-
17 duced by the amount that is paid on or before the date prescribed for pay-
18 ment of the tax and by the amount of any credit against the tax that is
19 claimed on the report or return. If the amount required to be shown as tax
20 on the report or return is less than the amount that is actually shown as tax
21 on the report or return, this subsection shall be applied by substituting the
22 lower amount.

23 (10) Notwithstanding subsection (1) of this section, the five percent pen-
24 alty for failure to file a report or return or pay a tax at the time the tax
25 becomes due may not be imposed if:

26 (a) The taxpayer pays the full amount of the tax plus accrued interest
27 within 30 days of the date shown on the department's notice sent to the
28 taxpayer; and

29 (b)(A) The taxpayer had filed an amended individual tax return or an
30 amended [*corporate return of income or excise tax*] **corporate activities tax**
31 **return** accompanied by less than full payment of the tax shown on the re-

1 turn plus accrued interest; or

2 (B) The department issues a notice of tax deficiency to the taxpayer under
3 ORS 305.265.

4 **SECTION 64.** ORS 314.403 is amended to read:

5 314.403. (1) If a taxpayer has a listed transaction understatement for a tax
6 year, there shall be added to the tax liability of the taxpayer for the tax year
7 a penalty equal to 60 percent of the amount of the understatement.

8 (2) The penalty imposed under this section applies to listed transaction
9 understatements discovered or reported on or after January 1, 2008, and is
10 in addition to and not in lieu of any other penalty.

11 (3) As used in this section, “listed transaction understatement” means the
12 sum of:

13 (a) The amount determined by multiplying the highest rate of tax imposed
14 on the taxpayer under ORS chapter 316 [*or, if the taxpayer is a corporation,*
15 *under ORS chapter 317 or 318,*] by any net increase in taxable income that
16 results from a difference between the proper tax treatment of a listed trans-
17 action and the treatment of the transaction on the return of the taxpayer;
18 and

19 (b) The amount of any decrease in the aggregate amount of credits de-
20 termined for purposes of ORS chapter 316 [*or, if the taxpayer is a corporation,*
21 *for purposes of ORS chapter 317 or 318,*] that results from the taxpayer’s
22 treatment of a listed transaction and the proper tax treatment of that
23 transaction.

24 (4) The Department of Revenue may by rule further define “listed trans-
25 action understatement” consistent with ORS 314.307 and subsection (3) of
26 this section.

27 **SECTION 65.** ORS 314.430 is amended to read:

28 314.430. (1) If any tax imposed under ORS chapter 118[,] **or** 316[, 317 *or*
29 *318*] **or sections 3 to 33 of this 2017 Act** or any portion of the tax is not
30 paid within 30 days after the date that the written notice and demand for
31 payment required under ORS 305.895 is mailed (or within five days after the

1 tax becomes due, in the case of the termination of the tax year by the De-
2 partment of Revenue under the provisions of ORS 314.440), or any amount
3 payable by a transferee under ORS 311.695 is not paid as required under ORS
4 311.686, and no provision is made to secure the payment thereof by bond,
5 deposit or otherwise, pursuant to regulations promulgated by the department,
6 the department may issue a warrant for the payment of the amount of the
7 tax or amount payable under ORS 311.695, with the added penalties, interest
8 and any collection charge incurred. A copy of the warrant shall be mailed
9 or delivered to the taxpayer or transferee by the department at the taxpayer's
10 or transferee's last-known address.

11 (2) At any time after issuing a warrant under this section, the department
12 may record the warrant in the County Clerk Lien Record of any county of
13 this state. Recording of the warrant has the effect described in ORS 205.125.
14 After recording a warrant, the department may direct the sheriff for the
15 county in which the warrant is recorded to levy upon and sell the real and
16 personal property of the taxpayer or transferee found within that county, and
17 to levy upon any currency of the taxpayer or transferee found within that
18 county, for the application of the proceeds or currency against the amount
19 reflected in the warrant and the sheriff's cost of executing the warrant. The
20 sheriff shall proceed on the warrant in the same manner prescribed by law
21 for executions issued against property pursuant to a judgment, and is enti-
22 tled to the same fees as provided for executions issued against property
23 pursuant to a judgment. The fees of the sheriff shall be added to and col-
24 lected as a part of the warrant liability.

25 (3) In the discretion of the department a warrant under this section may
26 be directed to any agent authorized by the department to collect taxes, and
27 in the execution of the warrant the agent has all of the powers conferred
28 by law upon sheriffs, but is entitled to no fee or compensation in excess of
29 actual expenses paid in the performance of such duty.

30 (4) Until a warrant issued under this section is satisfied in full, the de-
31 partment has the same remedies to enforce the claim for taxes against the

1 taxpayer or for amounts payable by the transferee as if the state had recov-
2 ered judgment against the taxpayer for the amount of the tax or against the
3 transferee for the amount payable under ORS 311.695.

4 **SECTION 66.** ORS 314.466 is amended to read:

5 314.466. The provisions of ORS chapter 305 as to the audit and examina-
6 tion of reports and returns, determination of deficiencies, assessments, claims
7 for refund, conferences and appeals to the Oregon Tax Court, and the pro-
8 cedures relating thereto, shall apply to the determination of taxes, penalties
9 and interest imposed under this chapter and ORS chapters 315[,] **and** 316[,
10 317 and 318] **and sections 3 to 33 of this 2017 Act**, except where the context
11 requires otherwise.

12 **SECTION 67.** ORS 314.671 is amended to read:

13 314.671. (1) The Governor, in consultation with the Director of the Oregon
14 Business Development Department and the Director of the Department of
15 Revenue, may enter into, on behalf of the State of Oregon, a qualifying in-
16 vestment contract with any taxpayer according to the provisions of ORS
17 314.668 to 314.673.

18 (2) Any contract executed pursuant to subsection (1) of this section on
19 or after December 14, 2012, and before March 15, 2013, that meets the re-
20 quirements of a qualifying investment contract is ratified by ORS 314.668 to
21 314.673.

22 (3) A taxpayer may not satisfy the requirement that a qualifying invest-
23 ment result in an increase in the number of employees of the taxpayer by
24 gain of another entity's existing Oregon employees through a merger or ac-
25 quisition of any portion of that entity.

26 (4) A qualifying investment contract executed under ORS 314.668 to
27 314.673 may not be less than five years' duration and may not exceed 30
28 years' duration.

29 (5) The obligations of the State of Oregon under a qualifying investment
30 contract:

31 (a) Include the promise of this state that, if the taxpayer commences a

1 qualifying investment, the taxpayer's Oregon business income tax liability
2 may not exceed the amount the taxpayer would pay or owe under the single
3 sales factor method for each tax year that ends during the term of the
4 qualifying investment contract; and

5 (b) May not be abridged, impaired, limited or modified by any subsequent
6 law.

7 (6) If a taxpayer [*that*] **who** has executed a qualifying investment contract
8 files a report or return with the Department of Revenue for a tax year ending
9 during the term of the qualifying investment contract and reporting personal
10 income taxes [*or corporate excise or income taxes*] imposed under ORS chapter
11 316, [*317 or 318,*] that are determined in whole or part by apportioning busi-
12 ness income using the single sales factor method, the department may not
13 assess a deficiency against the taxpayer that is attributable to the use of a
14 different method of apportionment.

15 (7) An action for a breach of a qualifying investment contract may be
16 brought against the State of Oregon.

17 (8) The sole and exclusive remedies for the State of Oregon in an action
18 for breach of a qualifying investment contract brought by the state shall be:

19 (a) A judgment rescinding the qualifying investment contract; and

20 (b) A judgment awarding an amount equal to the difference, if any, be-
21 tween:

22 (A) The amount of taxes due from the taxpayer under the single sales
23 factor method from the date of breach through termination of the qualifying
24 investment contract; and

25 (B) The amount of taxes due from the taxpayer during the same period
26 using the method of apportioning business income:

27 (i) Under the tax laws that would have applied to the taxpayer but for
28 the qualifying investment contract; or

29 (ii) Identified in the judgment as fairly representing the extent of the
30 taxpayer's business activity in this state.

31 **SECTION 68.** ORS 314.673 is amended to read:

1 314.673. (1) The Oregon Business Development Department may, after
2 consultation with the Department of Revenue, adopt rules to implement ORS
3 314.668 to 314.673, including rules that define terms consistently with ORS
4 314.668 to 314.673. Rules adopted under this section apply only to qualifying
5 investment contracts executed on or after the date the rule is adopted.

6 (2) On or before February 15 of each odd-numbered year, the Oregon
7 Business Development Department shall report to the Legislative Assembly
8 in the manner provided in ORS 192.245 regarding the progress of qualifying
9 investment contracts executed under ORS 314.668 to 314.673, including
10 whether each taxpayer subject to a qualifying investment contract has com-
11 plied with the employment requirement under ORS 314.668 (4) **(2015**
12 **Edition)**.

13 **SECTION 69.** ORS 314.690 is amended to read:

14 314.690. The provisions of ORS 314.680 to 314.688 are not intended to
15 change the meaning of the terms “income-producing activity,” “sources
16 within this state,” “business activity” taxable in this state or “doing
17 business” in this state contained in this chapter or [*ORS chapter 317 or*
18 *318*] **sections 3 to 33 of this 2017 Act.**

19 **SECTION 70.** ORS 314.712 is amended to read:

20 314.712. (1) Except as provided in ORS 314.722 or 314.723, a partnership
21 as such is not subject to the tax imposed by ORS chapter 316[, *317 or 318*].
22 Partnership income shall be computed pursuant to section 703 of the Internal
23 Revenue Code, with the modifications, additions and subtractions provided
24 in this chapter and ORS chapter 316. Persons carrying on business as part-
25 ners are liable for the tax imposed by [*ORS chapter 316, 317 or 318*] **sections**
26 **3 to 33 of this 2017 Act** on their distributive shares of partnership income
27 only in their separate or individual capacities.

28 (2) If a partner engages in a transaction with a partnership other than
29 in the partner’s capacity as a member of the partnership, the transaction
30 shall be treated in the manner described in section 707 of the Internal Rev-
31 enue Code.

1 *[(3) If a partnership is an electing large partnership under section 775 of*
2 *the Internal Revenue Code, the modifications of law applicable to an electing*
3 *large partnership for federal tax purposes are applicable to the electing large*
4 *partnership for purposes of the tax imposed by this chapter or ORS chapter*
5 *316, 317 or 318.]*

6 **SECTION 71.** ORS 314.714 is amended to read:

7 314.714. (1) Each item of partnership income, gain, loss or deduction has
8 the same character for a partner as it has for federal income tax purposes.
9 If an item is not characterized for federal income tax purposes, it has the
10 same character for a partner as if realized directly from the source from
11 which realized by the partnership or incurred in the same manner as in-
12 curred by the partnership.

13 (2) A partner's distributive share of an item of partnership income, gain,
14 loss or deduction (or item thereof) shall be that partner's distributive share
15 of partnership income, gain, loss or deduction (or item thereof) for federal
16 income tax purposes as determined under section 704 of the Internal Revenue
17 Code and adjusted for the modifications, additions and subtractions provided
18 in this chapter and [*ORS chapters 316, 317 and 318*]**sections 3 to 33 of this**
19 **2017 Act.**

20 (3) A partner shall, on the partner's return, treat a partnership item in
21 a manner that is consistent with the treatment of the partnership item on
22 the partnership return, unless the partner notifies the Department of Reve-
23 nue of the inconsistency. The department shall prescribe by rule the method
24 for notification of an inconsistency. A partner of an electing large partner-
25 ship under section 775 of the Internal Revenue Code must treat a partnership
26 item in a manner that is consistent with the treatment of the partnership
27 item on the partnership return.

28 **SECTION 72.** ORS 314.716 is amended to read:

29 314.716. (1) The adjusted basis of a partner's interest in a partnership
30 shall be determined pursuant to the method described in sections
31 704(c)(1)(B)(iii), 705 and 733 of the Internal Revenue Code, and shall be in-

1 creased or decreased as provided in this chapter and ORS chapter 316[, 317
2 *or 318*] **or sections 3 to 33 of this 2017 Act**, whichever is applicable.

3 (2) Upon the sale or exchange of an interest in a partnership, gain or loss
4 shall be recognized to the transferor partner pursuant to section 741 of the
5 Internal Revenue Code.

6 (3) If a partnership elects to adjust the basis of its assets under section
7 754 of the Internal Revenue Code, then upon a transfer of an interest in the
8 partnership by sale or exchange or upon a death of a partner, that election
9 shall also be effective for Oregon income tax purposes.

10 **SECTION 73.** ORS 314.722 is amended to read:

11 314.722. (1) As used in this section, “publicly traded partnership” means
12 a partnership treated as a corporation for federal income tax purposes under
13 section 7704 of the Internal Revenue Code for the tax year.

14 (2) Persons carrying on business as partners in a publicly traded part-
15 nership are not subject to tax under ORS chapter 316[, 317 *or 318*] **or**
16 **sections 3 to 33 of this 2017 Act** on their distributive shares of partnership
17 income, but the publicly traded partnership is taxable as a corporation under
18 [*ORS chapter 317 or 318 as provided under ORS chapter 317 or 318*] **sections**
19 **3 to 33 of this 2017 Act.**

20 **SECTION 74.** ORS 314.727 is amended to read:

21 314.727. The Department of Revenue may disclose to a partner of a part-
22 nership those items of partnership gain, loss or other particulars relating to
23 the partnership that are necessary to determine or administer the tax im-
24 posed by ORS chapter 316[, 317 *or 318*] if the department considers the dis-
25 closure necessary to facilitate the audit of the partner’s income or excise tax
26 return.

27 **SECTION 75.** ORS 314.730 is amended to read:

28 314.730. For purposes of this chapter and [*ORS chapters 316, 317 and*
29 *318*] **ORS chapter 316 and sections 3 to 33 of this 2017 Act:**

30 (1) “C corporation” means, with respect to any taxable year, a corporation
31 which is not an S corporation for such year.

1 (2) “S corporation” means, with respect to any taxable year, a corporation
 2 for which an election under section 1362(a) of the Internal Revenue Code is
 3 in effect for such year.

4 **SECTION 76.** ORS 314.732 is amended to read:

5 314.732. (1) Except as otherwise provided in ORS 314.740[,] **and** 314.742
 6 [*and 317.090*], an S corporation [*shall*] **is** not [*be*] subject to the taxes imposed
 7 by ORS chapter 316[, *317 or 318*].

8 (2)(a) Subject to paragraphs (b) to (d) of this subsection, the taxable in-
 9 come of an S corporation shall be computed pursuant to section 1363(b) of
 10 the Internal Revenue Code, with the modifications, additions and sub-
 11 tractions provided in this chapter and ORS chapter 316.

12 (b) Except as otherwise provided under this chapter and ORS chapter
 13 316[, *317 or 318*], and except as inconsistent with ORS 314.730 to 314.752,
 14 subchapter C, chapter 1, Internal Revenue Code, shall apply to an S corpo-
 15 ration and its shareholders for Oregon tax purposes. For Oregon tax pur-
 16 poses, the provisions of section 1371 of the Internal Revenue Code shall
 17 apply, subject to the modifications, additions and subtractions under this
 18 chapter or ORS chapter 316[, *317 or 318*] and any provisions to the contrary
 19 in this chapter or ORS chapter 316[, *317 or 318*].

20 (c) [*Notwithstanding ORS 317.476, 317.478 or 317.479,*] No carryforward,
 21 arising for a taxable year for which a corporation is a C corporation, may
 22 be carried to a taxable year for which such corporation is an S corporation.

23 (d) [*Notwithstanding ORS 317.476 or other law,*] No carryforward, and no
 24 carryback, shall arise at the corporate level for a taxable year for which a
 25 corporation is an S corporation.

26 **SECTION 77.** ORS 314.736 is amended to read:

27 314.736. A distribution of property made by an S corporation with respect
 28 to its stock shall be treated in the manner provided under section 1368 of the
 29 Internal Revenue Code, subject to modifications, additions and subtractions
 30 under ORS chapter 316[, *317 or 318*].

31 **SECTION 78.** ORS 314.738 is amended to read:

1 314.738. (1) For purposes of employee fringe benefits, and subject to this
 2 chapter and ORS chapters 305[, 316, 317 and 318] **and 316** and ORS 314.712
 3 to 314.722, 314.726 and 316.124, section 1372 of the Internal Revenue Code
 4 shall apply to an S corporation and its shareholders.

5 (2) For purposes of foreign income, and subject to this chapter and ORS
 6 chapters 305[, 316, 317 and 318] **and 316** and ORS 314.712 to 314.722, 314.726
 7 and 316.124 **and sections 3 to 33 of this 2017 Act**, section 1373 of the
 8 Internal Revenue Code shall apply to an S corporation and its shareholders.

9 **SECTION 79.** ORS 314.744 is amended to read:

10 314.744. (1) Subject to subsection (2) of this section, if the Internal Reve-
 11 nue Code requires or permits an election or revocation to be made by an S
 12 corporation, then that election or revocation shall apply for Oregon tax
 13 purposes. If the Internal Revenue Code requires or permits an election or
 14 revocation to be made by a shareholder or shareholders of an S corporation,
 15 then that election or revocation shall apply for Oregon tax purposes.

16 (2) The Department of Revenue may adopt rules that contravene sub-
 17 section (1) of this section if the election or revocation does not carry out the
 18 purposes of this chapter and ORS chapter 305[,] **or 316[, 317 or 318] or**
 19 **sections 3 to 33 of this 2017 Act.**

20 **SECTION 80.** ORS 314.749 is amended to read:

21 314.749. The Department of Revenue may disclose to the shareholder of
 22 an S corporation those items of S corporation gain, loss or other particulars
 23 relating to the S corporation that are necessary to administer the tax im-
 24 posed by ORS chapter 316[, 317 or 318] if the department considers the dis-
 25 closure necessary to facilitate the audit of the shareholder's income tax
 26 return.

27 **SECTION 81.** ORS 314.752 is amended to read:

28 314.752. (1) [*Except as provided in ORS 314.740 (5)(b), the tax credits al-*
 29 *lowed or allowable to a C corporation for purposes of ORS chapter 317 or 318*
 30 *shall not be allowed to an S corporation.*] The business tax credits allowed
 31 or allowable for purposes of ORS chapter 316 shall be allowed or are allow-

1 able to the shareholders of the S corporation.

2 (2) In determining the tax imposed under ORS chapter 316, as provided
3 under ORS 314.734, on income of the shareholder of an S corporation, there
4 shall be taken into account the shareholder's pro rata share of business tax
5 credit (or item thereof) that would be allowed to the corporation (but for
6 subsection (1) of this section) or recapture or recovery thereof. The credit (or
7 item thereof), recapture or recovery shall be passed through to shareholders
8 in pro rata shares as determined in the manner prescribed under section
9 1377(a) of the Internal Revenue Code.

10 (3) The character of any item included in a shareholder's pro rata share
11 under subsection (2) of this section shall be determined as if such item were
12 realized directly from the source from which realized by the corporation, or
13 incurred in the same manner as incurred by the corporation.

14 (4) If the shareholder is a nonresident and there is a requirement appli-
15 cable for the business tax credit that in the case of a nonresident the credit
16 be allowed in the proportion provided in ORS 316.117, then that provision
17 shall apply to the nonresident shareholder.

18 (5) As used in this section, "business tax credit" means a tax credit
19 granted to personal income taxpayers to encourage certain investment, to
20 create employment, economic opportunity or incentive or for charitable, ed-
21 ucational, scientific, literary or public purposes that is listed under this
22 subsection as a business tax credit or is designated as a business tax credit
23 by law or by the Department of Revenue by rule and includes but is not
24 limited to the following credits: ORS 285C.309 (tribal taxes on reservation
25 enterprise zones and reservation partnership zones), ORS 315.104 (forestation
26 and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways),
27 ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning),
28 ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.204 (de-
29 pendent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213
30 (contributions for child care), ORS 315.304 (pollution control facility), ORS
31 315.326 (renewable energy development contributions), ORS 315.331 (energy

1 conservation projects), ORS 315.336 (transportation projects), ORS 315.341
2 (renewable energy resource equipment manufacturing facilities), ORS 315.354
3 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
4 merce) and ORS 315.533 (low income community jobs initiative).

5 **SECTION 82.** ORS 314.781 is amended to read:

6 314.781. (1) A pass-through entity shall withhold tax as prescribed in this
7 section if:

8 (a) The pass-through entity has distributive income from Oregon sources;
9 and

10 (b) One or more owners of the entity are nonresidents and do not have
11 other Oregon source income.

12 (2) For each taxpayer described in subsection (1)(b) of this section who
13 is subject to tax under ORS chapter 316, the entity shall withhold tax at the
14 highest marginal rate applicable for the tax year under ORS 316.037. The
15 withheld tax shall be computed based on the taxpayer's share of the entity's
16 distributive income from Oregon sources for the entity's tax year.

17 (3) For each corporation described in subsection (1)(b) of this section, the
18 entity shall withhold tax at the rate applicable for the tax year under [*ORS*
19 *317.061 and 318.020*] **section 8 of this 2017 Act**. The tax shall be computed
20 based on the corporation's share of the entity's distributive income from
21 Oregon sources for the entity's tax year.

22 (4) A pass-through entity that is required to withhold tax under this sec-
23 tion shall file a withholding return or report with the Department of Reve-
24 nue setting forth the share of Oregon source distributive income of each
25 nonresident owner, the amount of tax withheld under this section and any
26 other information required by the department. The return shall be filed with
27 the department on the form and in the time and manner prescribed by the
28 department. Taxes withheld under this section shall be paid to the depart-
29 ment in the time and manner prescribed by the department.

30 (5) A pass-through entity that is required to withhold tax under this sec-
31 tion shall furnish a statement to each owner on whose behalf tax is withheld.

1 The statement shall state the amount of tax withheld on behalf of the owner
2 for the tax year of the entity. The statement shall be made on a form pre-
3 scribed by the department and shall contain any other information required
4 by the department.

5 (6) The department shall apply taxes withheld under this section by a
6 lower-tier pass-through entity on distributions to an upper-tier pass-through
7 entity to the withholding required by the upper-tier pass-through entity un-
8 der this section.

9 (7) A pass-through entity is liable to the State of Oregon for amounts of
10 tax required to be withheld and paid under this section. A pass-through en-
11 tity is not liable to an owner of the pass-through entity for amounts required
12 to be withheld under this section that were paid to the department as pre-
13 scribed in this section.

14 **SECTION 83.** ORS 314.784 is amended to read:

15 314.784. (1) A pass-through entity is not required to withhold taxes under
16 ORS 314.781 on behalf of a nonresident owner if:

17 (a) The nonresident owner has a share of distributive income that is less
18 than \$1,000 for the tax year of the pass-through entity;

19 (b) Withholding is not required pursuant to a rule adopted under this
20 section;

21 (c) The owner makes a timely election under ORS 314.778 to have taxes
22 on the owner's distributive share of income paid and reported on the com-
23 posite return described in ORS 314.778, and the composite return is filed by
24 the pass-through entity;

25 (d) The pass-through entity is a publicly traded partnership, as defined in
26 section 7704(b) of the Internal Revenue Code, that is treated as a partnership
27 for federal tax purposes and that agrees to file an annual information return
28 on the form and in the time and manner prescribed by the Department of
29 Revenue and containing the information required by the department, includ-
30 ing but not limited to the name, address and taxpayer identification number
31 of each person with an ownership interest in the entity that results in the

1 person receiving Oregon source income of more than \$500; or

2 (e) The nonresident owner files an affidavit with the department, in the
 3 form and manner prescribed by the department, under which the nonresident
 4 owner agrees to allow the department and the courts of this state to have
 5 personal jurisdiction over the nonresident owner for the purpose of deter-
 6 mining and collecting any taxes imposed under ORS chapter 316[, 317 or
 7 318] **or sections 3 to 33 of this 2017 Act** that are attributable to the non-
 8 resident owner's distributive share of taxable income from the pass-through
 9 entity. The department may reject the affidavit if the taxpayer fails to com-
 10 ply with Oregon law requiring the filing of a tax return or the payment of
 11 any tax.

12 (2) The department may adopt rules setting forth circumstances under
 13 which pass-through entities are not required to withhold taxes under ORS
 14 314.781.

15 **SECTION 84.** ORS 315.052 is amended to read:

16 315.052. An income tax credit that is allowed under this chapter or ORS
 17 chapter 316[, 317 or 318] and that is transferable may be transferred or sold
 18 only once, unless expressly provided otherwise by statute.

19 **SECTION 85.** ORS 315.054 is amended to read:

20 315.054. No credits applied directly to the income tax calculated for fed-
 21 eral purposes pursuant to the Internal Revenue Code shall be applied in
 22 calculating the tax due under ORS [*chapter*] **chapters** 314[,] **and** 316[, 317
 23 *or* 318] except those prescribed in this chapter or ORS [*chapter*] **chapters**
 24 314[,] **and** 316[, 317 or 318].

25 **SECTION 86.** ORS 315.068 is amended to read:

26 315.068. (1) A credit against the taxes otherwise due under ORS chapter
 27 316 [*or, if the taxpayer is a corporation, under ORS chapter 317 or 318*] shall
 28 be allowed to a taxpayer for a claim of right income repayment adjustment.

29 (2) The credit shall be allowed under this section only if the taxpayer's
 30 federal tax liability is determined under section 1341(a) of the Internal Rev-
 31 enue Code.

1 (3) The amount of the credit shall equal the difference between:

2 (a) The taxpayer's actual Oregon state tax liability for the tax year for
3 which the claim of right income was included in gross income for federal tax
4 purposes; and

5 (b) The taxpayer's Oregon state tax liability for that tax year, had the
6 claim of right income not been included in gross income for federal tax
7 purposes.

8 (4) A credit under this section shall be allowed only for the tax year for
9 which the taxpayer's federal tax liability is determined under section 1341
10 of the Internal Revenue Code for federal tax purposes.

11 (5) If the amount allowable as a credit under this section, when added to
12 the sum of the amounts allowable as a payment of tax under ORS 314.505 to
13 314.525, 316.187 and 316.583, other payments of tax and other refundable
14 credit amounts, exceeds the taxes imposed by ORS chapters 314 [to 318] **and**
15 **316** (reduced by any nonrefundable credits allowed for the tax year), the ex-
16 cess shall be treated as an overpayment of tax and shall be refunded or ap-
17 plied in the same manner as other tax overpayments.

18 (6) As used in this section, "claim of right income" means:

19 (a) An item included in federal gross income for a prior tax year because
20 it appeared that the taxpayer had an unrestricted right to the item; and

21 (b) An item for which the taxpayer's federal tax liability is adjusted under
22 section 1341 of the Internal Revenue Code because the taxpayer did not have
23 an unrestricted right to the item of gross income.

24 **SECTION 87.** ORS 315.113 is amended to read:

25 315.113. (1) As used in this section:

26 (a) "Crop" means the total yearly production of an agricultural commod-
27 ity, not including livestock, that is harvested from a specified area.

28 (b) "Riparian land" means land in this state that:

29 (A) Borders both a river, stream or other natural watercourse and land
30 that is in farm production; and

31 (B) Does not exceed a width of 35 feet between the land that is in farm

1 production and the bank of the river, stream or other natural watercourse.

2 (c) "Share-rent agreement" means an agreement in which the person who
3 engages in farming operations and the person who owns the land where the
4 farming operations are conducted share the crop grown on that land or the
5 profits from that crop.

6 (2) A taxpayer may claim a credit against the taxes otherwise due under
7 ORS chapter 316[, 317 or 318] for 75 percent of the market value of crops
8 forgone when riparian land is voluntarily taken out of farm production.

9 (3) A credit under this section may be claimed only if:

10 (a) The taxpayer owns the riparian land that is the basis of the credit;

11 (b) The taxpayer is actively engaged in farming operations on land adja-
12 cent to the riparian land;

13 (c) The riparian land was in farm production for the previous tax year
14 or a credit under this section was claimed during the previous tax year;

15 (d) The conservation practices employed on the riparian land are con-
16 sistent with the agricultural water quality management plan administered
17 by the State Department of Agriculture in the applicable river basin man-
18 agement area; and

19 (e) The decision to remove the riparian land from farm production was a
20 voluntary decision and not the result of a federal, state or local law or
21 government decision requiring the riparian land to be taken out of farm
22 production. For purposes of this paragraph, action taken by a taxpayer under
23 an agricultural water quality management plan administered by the State
24 Department of Agriculture is not the result of a government decision re-
25 quiring the land to be taken out of farm production.

26 (4)(a) The amount of the credit shall be calculated by multiplying the
27 market value per acre of the forgone crop by the acreage of the riparian land
28 that is not in farm production and multiplying that product by 75 percent.

29 (b) For the first tax year for which a credit is claimed under this section,
30 the forgone crop for which a value is determined under this section shall be
31 the crop grown on the land in the previous tax year.

1 (c) For a tax year following the first tax year for which a credit is
2 claimed under this section, the forgone crop for which a value is determined
3 under this section shall be the crop for which the value was determined for
4 the previous tax year.

5 (d) If a taxpayer does not claim a credit under this section for a tax year,
6 any credit claimed in a subsequent tax year shall be treated as the first tax
7 year for which a credit is claimed under this section.

8 (5) Notwithstanding subsection (3)(a) and (b) of this section, if the
9 riparian land that is the basis of a credit under this section is adjacent to
10 land that is in farm production under a share-rent agreement, the taxpayer
11 that is engaged in farming operations and the taxpayer that is the landowner
12 may each claim a credit under this section. The amount of the credit shall
13 be allocated to each taxpayer in the proportion that the share-rent agreement
14 allocates crop proceeds to each of those taxpayers. The total amount of
15 credit allowed to both taxpayers under this subsection may not exceed the
16 amount of the credit otherwise allowable under this section if the farming
17 operations were not subject to a share-rent agreement.

18 (6) Notwithstanding subsections (3)(a) and (5) of this section, if the tax-
19 payer is actively engaged in farming operations and pays the landowner in
20 cash, the taxpayer may claim all of the credit available under this section.

21 (7) The credit allowed in any one tax year may not exceed the tax liability
22 of the taxpayer.

23 (8) Any tax credit otherwise allowable under this section that is not used
24 by the taxpayer in a particular tax year may be carried forward and offset
25 against the taxpayer's tax liability for the next succeeding tax year. Any
26 credit remaining unused in the next succeeding tax year may be carried
27 forward and used in the second succeeding tax year. Any credit remaining
28 unused in the second succeeding tax year may be carried forward and used
29 in the third succeeding tax year. Any credit remaining unused in the third
30 succeeding tax year may be carried forward and used in the fourth succeed-
31 ing tax year. Any credit remaining unused in the fourth succeeding tax year

1 may be carried forward and used in the fifth succeeding tax year, but may
2 not be used in any tax year thereafter.

3 (9) In the case of a credit allowed under this section for purposes of ORS
4 chapter 316:

5 (a) A nonresident shall be allowed the credit in the same manner and
6 subject to the same limitations as a resident. However, the credit shall be
7 prorated using the proportion provided in ORS 316.117.

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

12 (c) If a change in the status of a taxpayer from resident to nonresident
13 or from nonresident to resident occurs, the credit allowed by this section
14 shall be determined in a manner consistent with ORS 316.117.

15 (10) If a taxpayer that has claimed a credit under this section places the
16 riparian land for which the credit is claimed back in farm production, the
17 taxpayer may not claim a credit under this section for five tax years fol-
18 lowing the year the riparian land was placed back in farm production.

19 (11) The Department of Revenue may adopt rules prescribing procedures
20 for identifying forgone crops and for establishing the market value of forgone
21 crops.

22 **SECTION 88.** ORS 315.163 is amended to read:

23 315.163. As used in ORS 315.163 to 315.172:

24 (1)(a) "Acquisition costs" means the cost of acquiring buildings, struc-
25 tures and improvements that constitute or will constitute agriculture
26 workforce housing.

27 (b) "Acquisition costs" does not include the cost of acquiring land on
28 which agriculture workforce housing is or will be located.

29 (2) "Agricultural worker" means any person who, for an agreed
30 remuneration or rate of pay, performs temporary or permanent labor for an-
31 other in the:

- 1 (a) Production of agricultural or aquacultural crops or products;
2 (b) Handling of agricultural or aquacultural crops or products in an un-
3 processed stage;
4 (c) Processing of agricultural or aquacultural crops or products;
5 (d) Planting, cultivating or harvesting of seasonal agricultural crops; or
6 (e) Forestation or reforestation of lands, including but not limited to the
7 planting, transplanting, tubing, precommercial thinning and thinning of trees
8 and seedlings, the clearing, piling and disposal of brush and slash and other
9 related activities.

10 (3) "Agriculture workforce housing" means housing:

11 (a) Limited to occupancy by agricultural workers, including agricultural
12 workers who are retired or disabled, and their immediate families; and

13 (b) No dwelling unit of which is occupied by a relative of the owner or
14 operator of the agriculture workforce housing, except in the case of a man-
15 ufactured dwelling in a manufactured dwelling park nonprofit cooperative
16 as defined in ORS 62.803.

17 (4) "Agriculture workforce housing project" means the acquisition, con-
18 struction, installation or rehabilitation of agriculture workforce housing.

19 (5) "Condition of habitability" means a condition that is in compliance
20 with:

21 (a) The applicable provisions of the state building code under ORS chap-
22 ter 455 and the rules adopted thereunder; or

23 (b) If determined on or before December 31, 1995, sections 12 and 13,
24 chapter 964, Oregon Laws 1989.

25 (6) "Contributor" means a person:

26 (a) That acquired, constructed, manufactured or installed agriculture
27 workforce housing or contributed money to finance an agriculture workforce
28 housing project; or

29 (b) That has purchased or otherwise received via transfer a credit as
30 provided in ORS 315.169 (2).

31 (7) "Eligible costs" includes acquisition costs, finance costs, construction

1 costs, excavation costs, installation costs and permit costs and excludes land
2 costs.

3 (8)(a) "Owner" means a person that owns agriculture workforce housing.

4 (b) "Owner" does not include a person that only has an interest in the
5 agriculture workforce housing as a holder of a security interest.

6 (9) "Rehabilitation" means to make repairs or improvements to a building
7 that improve its livability and are consistent with applicable building codes.

8 (10) "Relative" means a brother or sister (whether by the whole or by half
9 blood), spouse, ancestor (whether by law or by blood), or lineal descendant
10 of an individual.

11 (11) "Taxpayer" includes a nonprofit corporation, a tax-exempt entity or
12 any other person not subject to tax under ORS chapter 316[, 317 or 318].

13 **SECTION 89.** ORS 315.271, as amended by section 2, chapter 29, Oregon
14 Laws 2016, is amended to read:

15 315.271. (1) A credit against taxes otherwise due under ORS chapter
16 316[, 317 or 318] shall be allowed for donations to a fiduciary organization
17 for distribution to individual development accounts established under ORS
18 458.685. The credit shall equal a percentage of the taxpayer's donation
19 amount, as determined by the fiduciary organization, but not to exceed 70
20 percent of any donation amount. To qualify for a credit under this section,
21 donations to a fiduciary organization must be made prior to January 1, 2022.

22 (2) If a credit allowed under this section is claimed, the amount upon
23 which the credit is based that is allowed or allowable as a deduction from
24 federal taxable income under section 170 of the Internal Revenue Code shall
25 be added to federal taxable income in determining Oregon taxable income.
26 As used in this subsection, the amount upon which a credit is based is the
27 allowed credit divided by the applicable percentage, as determined by the
28 fiduciary organization.

29 (3) The allowable tax credit that may be used in any one tax year shall
30 not exceed the tax liability of the taxpayer.

31 (4) Any tax credit otherwise allowable under this section that is not used

1 by the taxpayer in a particular year may be carried forward and offset
2 against the taxpayer's tax liability for the next succeeding tax year. Any tax
3 credit remaining unused in the next succeeding tax year may be carried
4 forward and used in the second succeeding tax year. Any tax credit not used
5 in the second succeeding tax year may be carried forward and used in the
6 third succeeding tax year, but may not be carried forward for any tax year
7 thereafter.

8 (5) The total credits allowed to all taxpayers in any tax year under this
9 section and ORS 458.690 may not exceed \$7.5 million. The total credit al-
10 lowed to a taxpayer in any tax year under this section and ORS 458.690 may
11 not exceed \$500,000.

12 **SECTION 90.** ORS 316.127 is amended to read:

13 316.127. (1) The adjusted gross income of a nonresident derived from
14 sources within this state is the sum of the following:

15 (a) The net amount of items of income, gain, loss and deduction entering
16 into the nonresident's federal adjusted gross income that are derived from
17 or connected with sources in this state including (A) any distributive share
18 of partnership income and deductions and (B) any share of estate or trust
19 income and deductions; and

20 (b) The portion of the modifications, additions or subtractions to federal
21 taxable income provided in this chapter and other laws of this state that
22 relate to adjusted gross income derived from sources in this state for per-
23 sonal income tax purposes, including any modifications attributable to the
24 nonresident as a partner.

25 (2) Items of income, gain, loss and deduction derived from or connected
26 with sources within this state are those items attributable to:

27 (a) The ownership or disposition of any interest in real or tangible per-
28 sonal property in this state;

29 (b) A business, trade, profession or occupation carried on in this state;
30 and

31 (c) A taxable lottery prize awarded by the Oregon State Lottery, including

1 a taxable lottery prize awarded by a multistate lottery association of which
2 the Oregon State Lottery is a member if the ticket upon which the prize is
3 awarded was sold in this state.

4 (3) Income from intangible personal property, including annuities, divi-
5 dends, interest and gains from the disposition of intangible personal prop-
6 erty, constitutes income derived from sources within this state only to the
7 extent that such income is from property employed in a business, trade,
8 profession or occupation carried on in this state.

9 (4) Deductions with respect to capital losses, net long-term capital gains,
10 and net operating losses shall be based solely on income, gains, losses and
11 deductions derived from or connected with sources in this state, under reg-
12 ulations to be prescribed by the Department of Revenue, but otherwise shall
13 be determined in the same manner as the corresponding federal deductions.

14 (5) Notwithstanding subsection (3) of this section:

15 (a) The income of an S corporation for federal income tax purposes de-
16 rived from or connected with sources in this state constitutes income derived
17 from sources within this state for a nonresident individual who is a share-
18 holder of the S corporation; and

19 (b) A net operating loss of an S corporation derived from or connected
20 with sources in this state constitutes a loss or deduction connected with
21 sources in this state for a nonresident individual who is a shareholder of the
22 S corporation.

23 (6) If a business, trade, profession or occupation is carried on partly
24 within and partly without this state, the determination of **situs of any** net
25 income derived from or connected with sources within this state shall be
26 made [*by apportionment and allocation under ORS 314.605 to 314.675*] **as**
27 **provided in section 9 of this 2017 Act.**

28 (7) Compensation paid by the United States for service in the Armed
29 Forces of the United States performed by a nonresident does not constitute
30 income derived from sources within this state.

31 (8) Compensation paid to a nonresident for services performed by the

1 nonresident at a hydroelectric facility does not constitute income derived
2 from sources within this state if the hydroelectric facility:

- 3 (a) Is owned by the United States;
- 4 (b) Is located on the Columbia River; and
- 5 (c) Contains portions located within both this state and another state.

6 (9)(a) Retirement income received by a nonresident does not constitute
7 income derived from sources within this state unless the individual is
8 domiciled in this state.

9 (b) As used in this section, “retirement income” means retirement income
10 as that term is defined in 4 U.S.C. 114, as amended and in effect for the tax
11 period.

12 (10) Compensation for the performance of duties described in this sub-
13 section that is paid to a nonresident does not constitute income derived from
14 sources within this state if the individual:

15 (a) Is engaged on a vessel to perform assigned duties in more than one
16 state as a pilot licensed under 46 U.S.C. 7101 or licensed or authorized under
17 the laws of a state; or

18 (b) Performs regularly assigned duties while engaged as a master, officer
19 or member of a crew on a vessel operating in the navigable waters of more
20 than one state.

21 **SECTION 91.** ORS 316.267 is amended to read:

22 316.267. The tax imposed by this chapter on individuals applies to the
23 taxable income of estates and trusts[, *except for trusts taxed as corporations*
24 *under ORS chapter 317 or 318*].

25 **SECTION 92.** ORS 316.277 is amended to read:

26 316.277. (1) An association, trust or other unincorporated organization
27 that is taxable as a corporation for federal income tax purposes is not sub-
28 ject to tax under this chapter[, *but is taxable as a corporation under ORS*
29 *chapter 317 or 318, or both, as provided therein*].

30 (2) An association, trust or other unincorporated organization that is not
31 taxable as a corporation for federal income tax purposes but by reason of its

1 purposes or activities is exempt from federal income tax except with respect
2 to its unrelated business taxable income, is taxable under this chapter on
3 such federally taxable income.

4 **SECTION 93.** ORS 316.695 is amended to read:

5 316.695. (1) In addition to the modifications to federal taxable income
6 contained in this chapter, there shall be added to or subtracted from federal
7 taxable income:

8 (a) If, in computing federal income tax for a tax year, the taxpayer de-
9 ducted itemized deductions, as defined in section 63(d) of the Internal Reve-
10 nue Code, the taxpayer shall add the amount of itemized deductions deducted
11 (the itemized deductions less an amount, if any, by which the itemized de-
12 ductions are reduced under section 68 of the Internal Revenue Code).

13 (b) If, in computing federal income tax for a tax year, the taxpayer de-
14 ducted the standard deduction, as defined in section 63(c) of the Internal
15 Revenue Code, the taxpayer shall add the amount of the standard deduction
16 deducted.

17 (c)(A) From federal taxable income there shall be subtracted the larger
18 of (i) the taxpayer's itemized deductions or (ii) a standard deduction. Except
19 as provided in subsection (8) of this section, for purposes of this subpara-
20 graph, "standard deduction" means the sum of the basic standard deduction
21 and the additional standard deduction.

22 (B) For purposes of subparagraph (A) of this paragraph, the basic stand-
23 ard deduction is:

- 24 (i) \$3,280, in the case of joint return filers or a surviving spouse;
25 (ii) \$1,640, in the case of an individual who is not a married individual
26 and is not a surviving spouse;
27 (iii) \$1,640, in the case of a married individual who files a separate return;
28 or
29 (iv) \$2,640, in the case of a head of household.

30 (C)(i) For purposes of subparagraph (A) of this paragraph for tax years
31 beginning on or after January 1, 2003, the Department of Revenue shall an-

1 nually recompute the basic standard deduction for each category of return
2 filer listed under subparagraph (B) of this paragraph. The basic standard
3 deduction shall be computed by dividing the monthly averaged U.S. City
4 Average Consumer Price Index for the 12 consecutive months ending August
5 31 of the prior calendar year by the average U.S. City Average Consumer
6 Price Index for the second quarter of 2002, then multiplying that quotient
7 by the amount listed under subparagraph (B) of this paragraph for each
8 category of return filer.

9 (ii) If any change in the maximum household income determined under
10 this subparagraph is not a multiple of \$5, the increase shall be rounded to
11 the next lower multiple of \$5.

12 (iii) As used in this subparagraph, "U.S. City Average Consumer Price
13 Index" means the U.S. City Average Consumer Price Index for All Urban
14 Consumers (All Items) as published by the Bureau of Labor Statistics of the
15 United States Department of Labor.

16 (D) For purposes of subparagraph (A) of this paragraph, the additional
17 standard deduction is the sum of each additional amount to which the tax-
18 payer is entitled under subsection (7) of this section.

19 (E) As used in subparagraph (B) of this paragraph, "surviving spouse" and
20 "head of household" have the meanings given those terms in section 2 of the
21 Internal Revenue Code.

22 (F) In the case of the following, the standard deduction referred to in
23 subparagraph (A) of this paragraph shall be zero:

24 (i) One of the spouses in a marriage filing a separate return where the
25 other spouse has claimed itemized deductions under subparagraph (A) of this
26 paragraph;

27 (ii) A nonresident alien individual;

28 (iii) An individual making a return for a period of less than 12 months
29 on account of a change in the individual's annual accounting period;

30 (iv) An estate or trust;

31 (v) A common trust fund; or

1 (vi) A partnership.

2 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's
3 itemized deductions are the amount of the taxpayer's itemized deductions as
4 defined in section 63(d) of the Internal Revenue Code (reduced, if applicable,
5 as described under section 68 of the Internal Revenue Code) minus the de-
6 duction for Oregon income tax (reduced, if applicable, by the proportion that
7 the reduction in federal itemized deductions resulting from section 68 of the
8 Internal Revenue Code bears to the amount of federal itemized deductions
9 as defined for purposes of section 68 of the Internal Revenue Code).

10 (2)(a) There shall be subtracted from federal taxable income any portion
11 of the distribution of a pension, profit-sharing, stock bonus or other retire-
12 ment plan, representing that portion of contributions which were taxed by
13 the State of Oregon but not taxed by the federal government under laws in
14 effect for tax years beginning prior to January 1, 1969, or for any subsequent
15 year in which the amount that was contributed to the plan under the Inter-
16 nal Revenue Code was greater than the amount allowed under this chapter.

17 (b) Interest or other earnings on any excess contributions of a pension,
18 profit-sharing, stock bonus or other retirement plan not permitted to be de-
19 ducted under paragraph (a) of this subsection may not be added to federal
20 taxable income in the year earned by the plan and may not be subtracted
21 from federal taxable income in the year received by the taxpayer.

22 (3)(a) Except as provided in subsection (4) of this section, there shall be
23 added to federal taxable income the amount of any federal income taxes in
24 excess of the amount provided in paragraphs (b) to (d) of this subsection,
25 accrued by the taxpayer during the tax year as described in ORS 316.685, less
26 the amount of any refund of federal taxes previously accrued for which a tax
27 benefit was received.

28 (b) The limits applicable to this subsection are:

29 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax
30 year is less than \$125,000, or, if reported on a joint return, less than \$250,000.

31 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax

1 year is \$125,000 or more and less than \$130,000, or, if reported on a joint
2 return, \$250,000 or more and less than \$260,000.

3 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax
4 year is \$130,000 or more and less than \$135,000, or, if reported on a joint
5 return, \$260,000 or more and less than \$270,000.

6 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax
7 year is \$135,000 or more and less than \$140,000, or, if reported on a joint
8 return, \$270,000 or more and less than \$280,000.

9 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax
10 year is \$140,000 or more and less than \$145,000, or, if reported on a joint
11 return, \$280,000 or more and less than \$290,000.

12 (c) If the federal adjusted gross income of the taxpayer is \$145,000 or more
13 for the tax year, or, if reported on a joint return, \$290,000 or more, the limit
14 is zero and the taxpayer is not allowed a subtraction for federal income taxes
15 under ORS 316.680 (1) for the tax year.

16 (d) In the case of spouses in a marriage filing separate tax returns, the
17 amount added shall be in the amount of any federal income taxes in excess
18 of 50 percent of the amount provided for individual taxpayers under para-
19 graphs (a) to (c) of this subsection, less the amount of any refund of federal
20 taxes previously accrued for which a tax benefit was received.

21 (e) For purposes of this subsection, the limits applicable to a joint return
22 shall apply to a head of household or a surviving spouse, as defined in sec-
23 tion 2(a) and (b) of the Internal Revenue Code.

24 (f)(A) For a calendar year beginning on or after January 1, 2008, the De-
25 partment of Revenue shall make a cost-of-living adjustment to the federal
26 income tax threshold amounts described in paragraphs (b) and (d) of this
27 subsection.

28 (B) The cost-of-living adjustment for a calendar year is the percentage by
29 which the monthly averaged U.S. City Average Consumer Price Index for the
30 12 consecutive months ending August 31 of the prior calendar year exceeds
31 the monthly averaged index for the period beginning September 1, 2005, and

1 ending August 31, 2006.

2 (C) As used in this paragraph, "U.S. City Average Consumer Price
3 Index" means the U.S. City Average Consumer Price Index for All Urban
4 Consumers (All Items) as published by the Bureau of Labor Statistics of the
5 United States Department of Labor.

6 (D) If any adjustment determined under subparagraph (B) of this para-
7 graph is not a multiple of \$50, the adjustment shall be rounded to the next
8 lower multiple of \$50.

9 (E) The adjustment shall apply to all tax years beginning in the calendar
10 year for which the adjustment is made.

11 (4)(a) In addition to the adjustments required by ORS 316.130, a full-year
12 nonresident individual shall add to taxable income a proportion of any ac-
13 crued federal income taxes as computed under ORS 316.685 in excess of the
14 amount provided in subsection (3) of this section in the proportion provided
15 in ORS 316.117.

16 (b) In the case of spouses in a marriage filing separate tax returns, the
17 amount added under this subsection shall be computed in a manner consist-
18 ent with the computation of the amount to be added in the case of spouses
19 in a marriage filing separate returns under subsection (3) of this section. The
20 method of computation shall be determined by the Department of Revenue
21 by rule.

22 (5) Subsections (3)(d) and (4)(b) of this section shall not apply to married
23 individuals living apart as defined in section 7703(b) of the Internal Revenue
24 Code.

25 [(6)(a) *For tax years beginning on or after January 1, 1981, and prior to*
26 *January 1, 1983, income or loss taken into account in determining federal*
27 *taxable income by a shareholder of an S corporation pursuant to sections 1373*
28 *to 1375 of the Internal Revenue Code shall be adjusted for purposes of deter-*
29 *mining Oregon taxable income, to the extent that as income or loss of the S*
30 *corporation, they were required to be adjusted under the provisions of ORS*
31 *chapter 317.]*

1 [(b)] **(6)(a)** For tax years beginning on or after January 1, 1983, items of
2 income, loss or deduction taken into account in determining federal taxable
3 income by a shareholder of an S corporation pursuant to sections 1366 to
4 1368 of the Internal Revenue Code shall be adjusted for purposes of deter-
5 mining Oregon taxable income, to the extent that as items of income, loss
6 or deduction of the shareholder the items are required to be adjusted under
7 the provisions of this chapter.

8 [(c)] **(b)** The tax years referred to in [paragraphs (a) and (b)] **paragraph**
9 **(a)** of this subsection are those of the S corporation.

10 [(d) *As used in paragraph (a) of this subsection, an S corporation refers to*
11 *an electing small business corporation.*]

12 (7)(a) The taxpayer shall be entitled to an additional amount, as referred
13 to in subsection (1)(c)(A) and (D) of this section, of \$1,000:

14 (A) For the taxpayer if the taxpayer has attained age 65 before the close
15 of the taxpayer's tax year; and

16 (B) For the spouse of the taxpayer if the spouse has attained age 65 before
17 the close of the tax year and an additional exemption is allowable to the
18 taxpayer for such spouse for federal income tax purposes under section 151(b)
19 of the Internal Revenue Code.

20 (b) The taxpayer shall be entitled to an additional amount, as referred to
21 in subsection (1)(c)(A) and (D) of this section, of \$1,000:

22 (A) For the taxpayer if the taxpayer is blind at the close of the tax year;
23 and

24 (B) For the spouse of the taxpayer if the spouse is blind as of the close
25 of the tax year and an additional exemption is allowable to the taxpayer for
26 such spouse for federal income tax purposes under section 151(b) of the
27 Internal Revenue Code. For purposes of this subparagraph, if the spouse dies
28 during the tax year, the determination of whether such spouse is blind shall
29 be made immediately prior to death.

30 (c) In the case of an individual who is not married and is not a surviving
31 spouse, paragraphs (a) and (b) of this subsection shall be applied by substi-

1 tuting "\$1,200" for "\$1,000."

2 (d) For purposes of this subsection, an individual is blind only if the
3 individual's central visual acuity does not exceed 20/200 in the better eye
4 with correcting lenses, or if the individual's visual acuity is greater than
5 20/200 but is accompanied by a limitation in the fields of vision such that
6 the widest diameter of the visual field subtends an angle no greater than 20
7 degrees.

8 (8) In the case of an individual with respect to whom a deduction under
9 section 151 of the Internal Revenue Code is allowable for federal income tax
10 purposes to another taxpayer for a tax year beginning in the calendar year
11 in which the individual's tax year begins, the basic standard deduction (re-
12 ferred to in subsection (1)(c)(B) of this section) applicable to such individual
13 for such individual's tax year shall equal the lesser of:

14 (a) The amount allowed to the individual under section 63(c)(5) of the
15 Internal Revenue Code for federal income tax purposes for the tax year for
16 which the deduction is being claimed; or

17 (b) The amount determined under subsection (1)(c)(B) of this section.

18 **SECTION 94.** ORS 316.749 is amended to read:

19 316.749. (1) In addition to the other modifications to federal taxable in-
20 come contained in this chapter, there shall be subtracted from federal taxa-
21 ble income the amount of any dividend received by the taxpayer on or after
22 January 1, 2013, from a domestic international sales corporation formed on
23 or before January 1, 2014, and subject to the tax imposed under ORS 317.283
24 (2)(a) **(2015 Edition).**

25 (2) As used in this section, "domestic international sales corporation"
26 means a domestic international sales corporation as defined in section 992
27 of the Internal Revenue Code.

28 **SECTION 95.** ORS 317.131 is amended to read:

29 317.131. (1) For each tax year in which a taxpayer is allowed a credit
30 under ORS 317.124, the Department of Revenue shall distribute to the local
31 taxing districts in which the facility that is the basis of the credit is located

1 an amount of tax payments that corresponds to the amount of payments de-
2 posited under ORS 317.129 (2015 Edition).

3 (2)(a) Amounts to be distributed under subsection (1) of this section shall
4 be distributed to the local taxing districts of the code area in which the fa-
5 cility is located that are not school districts, education service districts,
6 community college districts or community college service districts.

7 (b) If the facility is located in more than one code area, amounts to be
8 distributed under subsection (1) of this section shall be allocated to each
9 code area in which the facility is located, based on the ratio of the real
10 market value of the facility in each code area to the total real market value
11 of the facility.

12 (c) The amount distributed to each district under subsection (1) of this
13 section shall be the amount that bears the same proportion to the total
14 amount to be distributed under this section as the proportion of the operat-
15 ing tax billing rate of the district receiving distribution bears to the total
16 operating tax billing rate of all of the local taxing districts described in
17 paragraph (a) of this subsection.

18 (d) Notwithstanding paragraph (b) of this subsection, the amount distrib-
19 uted to a local taxing district under subsection (1) of this section for a fiscal
20 year may not exceed the amount of property taxes forgone by that district
21 as a result of the exemption from property tax under ORS 285C.409 in that
22 year.

23 (3) If any moneys described in subsection (1) of this section remain fol-
24 lowing computation of the distributions to local taxing districts under sub-
25 section (2) of this section, the moneys shall be distributed to the zone
26 sponsor.

27 (4) Distributions shall be made under this section on or before June 1 of
28 each fiscal year.

29 **SECTION 96.** ORS 344.755 is amended to read:

30 344.755. Training agents who terminate youth apprentices without cause
31 as determined by the appropriate apprenticeship committee prior to com-

1 pletion of training or who violate ORS 344.745 or 344.750 or rules adopted
2 pursuant thereto by the State Apprenticeship and Training Council or the
3 Department of Education[, *upon notice to the Department of Revenue,*] may
4 lose their eligibility [*for tax credits pursuant to ORS 318.031 and their eligi-*
5 *bility*] to train and employ youth apprentices under ORS 344.745 to 344.757
6 for a period of one year.

7 **SECTION 97.** ORS 401.690 is amended to read:

8 401.690. (1) Disaster or emergency related work conducted by an out-of-
9 state business may not be used as the sole basis for:

10 (a) [*Notwithstanding ORS 317.018 and 317.080,*] A finding that the out-of-
11 state business is doing business in this state;

12 (b) Imposition of the taxes imposed under ORS 314.725 or ORS chapter 316
13 [*or 317*];

14 (c) Notwithstanding ORS 60.704, 63.704, 65.704, 67.705 and 70.355, a re-
15 quirement that the out-of-state business register with or obtain authority to
16 transact business from the Secretary of State during the disaster response
17 period; or

18 (d) A requirement that the out-of-state business or an out-of-state em-
19 ployee comply with state or local business or professional licensing or reg-
20 istration requirements or state and local taxes or fees including
21 unemployment insurance, state or local occupational licensing fees and ad
22 valorem tax on equipment brought into this state for use during the disaster
23 response period and subsequently removed from this state.

24 (2) For purposes of any state or local tax on or measured by, in whole
25 or in part, net or gross income or receipts, all activity of the out-of-state
26 business that is conducted in this state, or equipment brought into this state,
27 pursuant to ORS 401.685 to 401.695 shall be disregarded with respect to [*the*
28 *filing requirements of ORS 317.710 and 317.715 and*] the apportionment pro-
29 visions of ORS 314.605 to 314.675. Receipts from disaster or emergency re-
30 lated work may not be sourced to and may not otherwise impact or increase
31 the amount of income, revenue or receipts apportioned to this state.

1 (3) For purposes of ORS chapter 316, an out-of-state employee is not taxed
2 as a resident, nonresident or part-year resident and is not considered to have
3 established domicile or residence in this state. Wages paid for disaster or
4 emergency related work are not subject to the withholding provisions of ORS
5 316.162 to 316.221.

6 (4) Out-of-state businesses and out-of-state employees shall be required to
7 pay transaction taxes and fees including fuel taxes, transient lodging taxes,
8 car rental taxes or applicable fees during the disaster response period, unless
9 an exemption applies to the taxes or fees during the disaster response period.

10 (5) Any out-of-state business that transacts business in this state or out-
11 of-state employee who remains in this state after the end of the disaster re-
12 sponse period will become subject to this state's normal standards for
13 establishing domicile or residency or doing business in this state and will
14 become responsible for any business or employee tax requirements that en-
15 sue.

16 (6) ORS 401.990 does not apply to ORS 401.685 to 401.695.

17 **SECTION 98.** ORS 461.560 is amended to read:

18 461.560. (1) No state or local taxes shall be imposed upon the sale of lot-
19 tery tickets or shares of the Oregon State Lottery established by this chapter
20 or any prize awarded by the state lottery established by this chapter that
21 does not exceed \$600. A prize awarded by the state lottery that is greater
22 than \$600 shall be subject to tax under ORS chapters 314 [to 318] **and 316**
23 and any other applicable state or local tax. For purposes of this section,
24 "prize awarded by the state lottery" includes a prize awarded by a multistate
25 lottery association of which the Oregon State Lottery is a member if the
26 ticket upon which the prize is awarded was sold in this state.

27 (2) A city, county or other political subdivision in this state may not
28 impose, by charter provision or ordinance, or collect a tax that is imposed
29 on lottery game retailers only and that is measured by or based upon the
30 amount of the commissions or other compensation received by lottery game
31 retailers for selling tickets or shares in lottery games. However, if a city,

1 county or other political subdivision levies or imposes generally on a
2 nondiscriminatory basis throughout the jurisdiction of the taxing authority
3 an income, gross income or gross receipts tax, as otherwise provided by law,
4 such tax may be levied or imposed upon lottery game retailers.

5 **SECTION 99.** ORS 469.685 is amended to read:

6 469.685. A dwelling owner served by an investor-owned utility, as defined
7 in ORS 469.631, or a publicly owned utility, as defined in ORS 469.649, who
8 applies for financing under the provisions of ORS 316.744[, 317.386] and
9 469.631 to 469.687, may use without obtaining a new energy audit an energy
10 audit obtained from an energy supplier under chapter 887, Oregon Laws 1977,
11 or a public utility under chapter 889, Oregon Laws 1977, before November
12 1, 1981.

13 **SECTION 100.** ORS 469.687 is amended to read:

14 469.687. ORS 316.744[, 317.386] and 469.631 to 469.687 shall be known as
15 the Oregon Residential Energy Conservation Act.

16 **SECTION 101.** ORS 526.450 is amended to read:

17 526.450. ORS 315.104[, 318.031] and 526.450 to 526.475 may be cited as the
18 “Woodland Management Act of 1979.”

19 **SECTION 102.** ORS 526.450, as amended by section 5, chapter 883, Oregon
20 Laws 2007, is amended to read:

21 526.450. ORS [318.031 and] 526.450 to 526.475 may be cited as the
22 “Woodland Management Act of 1979.”

23 **SECTION 103.** ORS 526.455 is amended to read:

24 526.455. As used in ORS 315.104[, 318.031] and 526.450 to 526.475, unless
25 the context requires otherwise:

26 (1) “Approved forest management practice” means and includes site prep-
27 aration, tree planting, precommercial thinning, release, fertilization, animal
28 damage control, insect and disease management or such other young growth
29 management practices that increase wood growth as the State Forester shall
30 approve or determine proper generally with regard to any particular appli-
31 cant.

1 (2) "Board" means State Board of Forestry.

2 (3) "Commercial forestland" means land for which a primary use is the
3 growing and harvesting of forest tree species and other forest resource val-
4 ues.

5 (4) "Eligible owner" means any private individual, group, Indian tribe or
6 other native group, association, corporation or other nonpublic legal entity
7 owning 10 to 500 acres of Oregon commercial forestland.

8 (5) "Forest management plan" means an operation plan to reach land-
9 owner objectives and assures public benefits as they relate to producing
10 timber and other values. It shall include a cover map, basic forest stand de-
11 scription data, treatment opportunities, landowner objectives and a schedule
12 for implementing the forest management plan.

13 (6) "Forest management practices" means and includes site preparation,
14 tree planting, precommercial thinning, release, fertilization, animal damage
15 control, insect and disease management and other young growth management
16 practices that increase wood growth.

17 (7) "Industrial private forestlands" means lands capable of producing
18 crops of industrial wood, greater than 10 acres and owned by other than an
19 eligible owner.

20 (8) "Industrial wood" means forest products used to sustain a sawmill,
21 plywood mill, pulp mill or other forest industry related manufacturing facil-
22 ity.

23 (9) "Landowner" means any private individual, group, Indian tribe or
24 other native group, association, corporation or other legal entity, owning
25 both the forestland and any timber thereon.

26 (10) "Nonindustrial private forestlands" means lands capable of producing
27 crops of industrial wood and owned by an eligible owner.

28 (11) "State Forester" means the individual appointed pursuant to ORS
29 526.031, or the authorized representative of the State Forester.

30 (12) "Timber" means wood growth, mature or immature, growing or dead,
31 standing or down of species acceptable for regeneration under the Oregon

1 Forest Practices Act.

2 (13) “Underproductive forestlands” means commercial forestlands not
3 meeting the minimum stocking standards of the Oregon Forest Practices Act.

4 **SECTION 104.** ORS 526.455, as amended by section 6, chapter 883, Oregon
5 Laws 2007, is amended to read:

6 526.455. As used in ORS [318.031 and] 526.450 to 526.475, unless the con-
7 text requires otherwise:

8 (1) “Approved forest management practice” means and includes site prep-
9 aration, tree planting, precommercial thinning, release, fertilization, animal
10 damage control, insect and disease management or such other young growth
11 management practices that increase wood growth as the State Forester shall
12 approve or determine proper generally with regard to any particular appli-
13 cant.

14 (2) “Board” means State Board of Forestry.

15 (3) “Commercial forestland” means land for which a primary use is the
16 growing and harvesting of forest tree species and other forest resource val-
17 ues.

18 (4) “Eligible owner” means any private individual, group, Indian tribe or
19 other native group, association, corporation or other nonpublic legal entity
20 owning 10 to 500 acres of Oregon commercial forestland.

21 (5) “Forest management plan” means an operation plan to reach land-
22 owner objectives and assures public benefits as they relate to producing
23 timber and other values. It shall include a cover map, basic forest stand de-
24 scription data, treatment opportunities, landowner objectives and a schedule
25 for implementing the forest management plan.

26 (6) “Forest management practices” means and includes site preparation,
27 tree planting, precommercial thinning, release, fertilization, animal damage
28 control, insect and disease management and other young growth management
29 practices that increase wood growth.

30 (7) “Industrial private forestlands” means lands capable of producing
31 crops of industrial wood, greater than 10 acres and owned by other than an

1 eligible owner.

2 (8) "Industrial wood" means forest products used to sustain a sawmill,
3 plywood mill, pulp mill or other forest industry related manufacturing facil-
4 ity.

5 (9) "Landowner" means any private individual, group, Indian tribe or
6 other native group, association, corporation or other legal entity, owning
7 both the forestland and any timber thereon.

8 (10) "Nonindustrial private forestlands" means lands capable of producing
9 crops of industrial wood and owned by an eligible owner.

10 (11) "State Forester" means the individual appointed pursuant to ORS
11 526.031, or the authorized representative of the State Forester.

12 (12) "Timber" means wood growth, mature or immature, growing or dead,
13 standing or down of species acceptable for regeneration under the Oregon
14 Forest Practices Act.

15 (13) "Underproductive forestlands" means commercial forestlands not
16 meeting the minimum stocking standards of the Oregon Forest Practices Act.

17 **SECTION 105.** ORS 526.465 is amended to read:

18 526.465. The purpose of ORS 315.104[, 318.031] and 526.450 to 526.475 is to
19 encourage long term forestry investments that lead to increased management
20 of Oregon's forestlands by:

21 (1) Providing the forest owner with tax relief during the timber growth
22 period.

23 (2) Promoting programs that provide forest credit on young stands and
24 encourage harvesting of mature forest crops.

25 (3) Promoting the establishment of new forest crops on cutover, denuded
26 or underproductive privately owned forestlands.

27 (4) Protecting the public interest by assuring that the citizens of the state
28 and future generations shall have the benefits to be derived from the con-
29 tinuous production of forest products from the private forestlands of Oregon,
30 including jobs, taxes, water, erosion control and habitat for wild game.

31 **SECTION 106.** ORS 526.465, as amended by section 7, chapter 883, Oregon

1 Laws 2007, is amended to read:

2 526.465. The purpose of ORS [318.031 and] 526.450 to 526.475 is to en-
3 courage long term forestry investments that lead to increased management
4 of Oregon's forestlands by:

5 (1) Promoting programs that provide forest credit on young stands and
6 encourage harvesting of mature forest crops.

7 (2) Promoting the establishment of new forest crops on cutover, denuded
8 or underproductive privately owned forestlands.

9 (3) Protecting the public interest by assuring that the citizens of the state
10 and future generations shall have the benefits to be derived from the con-
11 tinuous production of forest products from the private forestlands of Oregon,
12 including jobs, taxes, water, erosion control and habitat for wild game.

13 **SECTION 107.** ORS 526.475 is amended to read:

14 526.475. (1) Any owner affected by a determination of the State Forester
15 made under ORS 315.104[, 318.031] and 526.450 to 526.475 may appeal to the
16 State Board of Forestry under such rules as it may adopt. An appeal to set
17 aside any decision of the board with respect to ORS 315.104 [or 318.031] may
18 be taken within 60 days of the decision to the Oregon Tax Court in the
19 manner provided for tax cases under ORS chapter 305.

20 (2) Any owner affected by a determination of the Department of Revenue
21 made under ORS 315.104 [or 318.031] may appeal directly to the tax court
22 under ORS 305.404 to 305.560.

23 **SECTION 108.** ORS 526.475, as amended by section 8, chapter 883, Oregon
24 Laws 2007, is amended to read:

25 526.475. [(1)] Any owner affected by a determination of the State Forester
26 made under ORS [318.031 and] 526.450 to 526.475 may appeal to the State
27 Board of Forestry under such rules as it may adopt. [An appeal to set aside
28 any decision of the board with respect to ORS 318.031 may be taken within 60
29 days of the decision to the Oregon Tax Court in the manner provided for tax
30 cases under ORS chapter 305.]

31 [(2) Any owner affected by a determination of the Department of Revenue

1 *made under ORS 318.031 may appeal directly to the tax court under ORS*
2 *305.404 to 305.560.]*

3 **SECTION 109.** ORS 701.106 is amended to read:

4 701.106. (1) A contractor that violates or fails to comply with any of the
5 following provisions or any rules adopted under those provisions is subject
6 to the suspension of, revocation of, refusal to issue or refusal to renew a li-
7 cense, imposition of a civil penalty under ORS 701.992, or a combination of
8 those sanctions:

9 (a) ORS 87.007 (2).

10 (b) ORS chapter 316 [*or 317*].

11 (c) ORS 446.225 to 446.285.

12 (d) ORS 446.395 to 446.420.

13 (e) ORS 447.010 to 447.156.

14 (f) ORS chapter 455.

15 (g) ORS 460.005 to 460.175.

16 (h) ORS 479.510 to 479.945.

17 (i) ORS 480.510 to 480.670.

18 (j) ORS chapter 656.

19 (k) ORS chapter 657.

20 (L) ORS 670.600.

21 (m) ORS 671.510 to 671.760.

22 (n) ORS chapter 693.

23 (2) The imposition of a sanction under this section is subject to ORS
24 183.413 to 183.497.

25 **SECTION 110.** ORS 731.840 is amended to read:

26 731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer
27 under ORS 731.854 and 731.859[, *or the corporate excise tax imposed upon a*
28 *foreign or alien insurer under ORS chapter 317,*] is in lieu of all other state
29 taxes upon premiums, taxes upon income, franchise or other taxes measured
30 by income that might otherwise be imposed upon the foreign or alien insurer
31 except the fire insurance premiums tax imposed under ORS 731.820 and the

1 tax imposed upon wet marine and transportation insurers under ORS 731.824
2 and 731.828. However, all real and personal property, if any, of the insurer
3 shall be listed, assessed and taxed the same as real and personal property
4 of like character of noninsurers. Nothing in this subsection shall be con-
5 strued to preclude the imposition of the assessments imposed under ORS
6 656.612 upon a foreign or alien insurer.

7 (2) Subsection (1) of this section applies to a reciprocal insurer and its
8 attorney in its capacity as such.

9 (3) Subsection (1) of this section applies to foreign or alien title insurers
10 and to foreign or alien wet marine and transportation insurers issuing poli-
11 cies and subject to taxes referred to in ORS 731.824 and 731.828.

12 (4) The State of Oregon hereby preempts the field of regulating or of im-
13 posing excise, privilege, franchise, income, license, permit, registration, and
14 similar taxes, licenses and fees upon insurers and their insurance producers
15 and other representatives as such, and:

16 (a) No county, city, district, or other political subdivision or agency in
17 this state shall so regulate, or shall levy upon insurers, or upon their in-
18 surance producers and representatives as such, any such tax, license or fee;
19 except that whenever a county, city, district or other political subdivision
20 levies or imposes generally on a nondiscriminatory basis throughout the ju-
21 risdiction of the taxing authority a payroll, excise or income tax, as other-
22 wise provided by law, such tax may be levied or imposed upon domestic
23 insurers; and

24 (b) No county, city, district, political subdivision or agency in this state
25 shall require of any insurer, insurance producer or representative, duly au-
26 thorized or licensed as such under the Insurance Code, any additional au-
27 thorization, license, or permit of any kind for conducting therein
28 transactions otherwise lawful under the authority or license granted under
29 this code.

30 **SECTION 111.** ORS 743B.012 is amended to read:

31 743B.012. (1) As a condition of transacting business in the small employer

1 health insurance market in this state, a carrier shall offer small employers
2 all of the carrier's health benefit plans, approved by the Department of
3 Consumer and Business Services for use in the small employer market, for
4 which the small employer is eligible.

5 (2) A carrier shall issue to a small employer any health benefit plan that
6 is offered by the carrier if the small employer applies for the plan and agrees
7 to make the required premium payments and to satisfy the other provisions
8 of the health benefit plan.

9 (3) A multiple employer welfare arrangement, professional or trade asso-
10 ciation or other similar arrangement established or maintained to provide
11 benefits to a particular trade, business, profession or industry or their sub-
12 sidiaries may not issue coverage to a group or individual that is not in the
13 same trade, business, profession or industry as that covered by the arrange-
14 ment. The arrangement shall accept all groups and individuals in the same
15 trade, business, profession or industry or their subsidiaries that apply for
16 coverage under the arrangement and that meet the requirements for mem-
17 bership in the arrangement. For purposes of this subsection, the require-
18 ments for membership in an arrangement may not include any requirements
19 that relate to the actual or expected health status of the prospective
20 enrollee.

21 (4) A carrier shall, pursuant to subsection (2) of this section, accept ap-
22 plications from and offer coverage to a small employer group covered under
23 an existing health benefit plan regardless of whether a prospective enrollee
24 is excluded from coverage under the existing plan because of late enrollment.
25 When a carrier accepts an application for a small employer group, the car-
26 rier may continue to exclude the prospective enrollee excluded from coverage
27 by the replaced plan until the prospective enrollee would have become eli-
28 gible for coverage under that replaced plan.

29 (5) A carrier is not required to accept applications from and offer cover-
30 age pursuant to subsection (2) of this section if the department finds that
31 acceptance of an application or applications would endanger the carrier's

1 ability to fulfill its contractual obligations or result in financial impairment
2 of the carrier.

3 (6) A carrier shall actively market all health benefit plans that are offered
4 by the carrier to small employers in the geographical areas in which the
5 carrier makes coverage available or provides benefits.

6 (7)(a) Subsection (2) of this section does not require a carrier to offer
7 coverage to or accept applications from:

8 (A) A small employer if the small employer is not physically located in
9 the carrier's approved service area;

10 (B) An employee of a small employer if the employee does not work or
11 reside within the carrier's approved service areas; or

12 (C) Small employers located within an area where the carrier reasonably
13 anticipates, and demonstrates to the department, that it will not have the
14 capacity in its network of providers to deliver services adequately to the
15 enrollees of those small employer groups because of its obligations to exist-
16 ing small employer group contract holders and enrollees.

17 (b) A carrier that does not offer coverage pursuant to paragraph (a)(C)
18 of this subsection may not offer coverage in the applicable service area to
19 new employer groups other than small employers until the carrier resumes
20 enrolling groups of new small employers in the applicable area.

21 (8) For purposes of ORS 743B.010 to 743B.013, except as provided in this
22 subsection, carriers that are affiliated carriers or that are eligible to file a
23 consolidated tax return pursuant to [ORS 317.715] **section 3 of this 2017**
24 **Act** shall be treated as one carrier and any restrictions or limitations im-
25 posed by ORS 743B.010 to 743B.013 apply as if all health benefit plans de-
26 livered or issued for delivery to small employers in this state by the affiliated
27 carriers were issued by one carrier. However, any insurance company or
28 health maintenance organization that is an affiliate of a health care service
29 contractor located in this state, or any health maintenance organization lo-
30 cated in this state that is an affiliate of an insurance company or health care
31 service contractor, may treat the health maintenance organization as a sep-

1 arate carrier and each health maintenance organization that operates only
2 one health maintenance organization in a service area in this state may be
3 considered a separate carrier.

4 (9) A carrier that elects to discontinue offering all of its health benefit
5 plans to small employers under ORS 743B.013 (3)(e) or elects to discontinue
6 renewing all such plans is prohibited from offering health benefit plans to
7 small employers in this state for a period of five years from one of the fol-
8 lowing dates:

9 (a) The date of notice to the department pursuant to ORS 743B.013 (3)(e);
10 or

11 (b) If notice is not provided under paragraph (a) of this subsection, from
12 the date on which the department provides notice to the carrier that the
13 department has determined that the carrier has effectively discontinued of-
14 fering health benefit plans to small employers in this state.

15 **SECTION 112.** ORS 314.520 is amended to read:

16 314.520. ORS [~~314.505,~~] 314.518 and 316.198 do not alter the authority un-
17 der ORS 293.525 of a state agency to require by rule that certain payments
18 to the agency be made by electronic funds transfer.

19 **SECTION 113.** ORS 314.610 is amended to read:

20 314.610. As used in ORS 314.605 to 314.675, unless the context otherwise
21 requires:

22 (1) "Business income" means income arising from transactions and activ-
23 ity in the regular course of the taxpayer's trade or business and includes
24 income from tangible and intangible property if the acquisition, the man-
25 agement, use or rental, and the disposition of the property constitute integral
26 parts of the taxpayer's regular trade or business operations.

27 (2) "Commercial domicile" means the principal place from which the trade
28 or business of the taxpayer is directed or managed.

29 (3) "Compensation" means wages, salaries, commissions and any other
30 form of remuneration paid to employees for personal services.

31 (4) "Financial institution" means a person, corporation or other business

1 entity that is any of the following:

2 (a) A bank holding company under the laws of this state or under the
3 federal Bank Holding Company Act of 1956, 12 U.S.C. 1841 et seq., as
4 amended.

5 (b) A savings and loan holding company under the National Housing Act,
6 12 U.S.C. 1701 et seq., as amended.

7 (c) A national bank organized and existing as a national bank association
8 under the National Bank Act, 12 U.S.C. 21 et seq., as amended.

9 (d) A savings association, as defined in 12 U.S.C. 1813(b)(1), as amended.

10 (e) A bank or thrift institution incorporated or organized under the laws
11 of any state.

12 (f) An entity organized under the provisions of 12 U.S.C. 611 to 631, as
13 amended.

14 (g) An agency or branch of a foreign bank, as defined in 12 U.S.C. 3101,
15 as amended.

16 (h) A state credit union with loan assets that exceed \$50,000,000 as of the
17 first day of the taxable year of the state credit union.

18 (i) A production credit association subject to 12 U.S.C. 2071 et seq., as
19 amended.

20 (j) A corporation, more than 50 percent of the voting stock of which is
21 owned, directly or indirectly, by a person, corporation or other business en-
22 tity described in paragraphs (a) to (i) of this subsection[, *provided that the*
23 *corporation is not an insurer taxable under ORS 317.655*].

24 (k) An entity that is not otherwise described in this subsection[, *that is*
25 *not an insurer taxable under ORS 317.655*] and that derives more than 50
26 percent of its gross income from activities that a person, corporation or en-
27 tity described in paragraph (c), (d), (e), (f), (g), (h), (i) or (L) of this sub-
28 section is authorized to conduct, not taking into account any income derived
29 from nonrecurring extraordinary sources.

30 (L) A person that derives at least 50 percent of the person's annual av-
31 erage gross income, for financial accounting purposes for the current tax

1 year and the two preceding tax years, from finance leases, excluding any
2 gross income from incidental or occasional transactions. For purposes of this
3 paragraph, “finance lease” means:

4 (A) A lease transaction that is the functional equivalent of an extension
5 of credit and that transfers substantially all of the benefits and risks of the
6 ownership of the leased property;

7 (B) A direct financing lease or a leverage lease that meets the criteria
8 of Financial Accounting Standards Board Statement No. 13; or

9 (C) Any other lease that is accounted for as a financing by a lessor under
10 generally accepted accounting principles.

11 (5) “Nonbusiness income” means all income other than business income.

12 (6) “Public utility” means any business entity whose principal business
13 is ownership and operation for public use of any plant, equipment, property,
14 franchise, or license for the transmission of communications, transportation
15 of goods or persons, or the production, storage, transmission, sale, delivery,
16 or furnishing of electricity, water, steam, oil, oil products or gas.

17 (7) “Sales” means all gross receipts of the taxpayer not allocated under
18 ORS 314.615 to 314.645.

19 (8) “State” means any state of the United States, the District of Columbia,
20 the Commonwealth of Puerto Rico, any territory or possession of the United
21 States, and any foreign country or political subdivision thereof.

22 **SECTION 114.** ORS 314.734 is amended to read:

23 314.734. (1) The shareholder’s pro rata share of the income of an S cor-
24 poration is subject to tax under ORS chapter 316. In determining the tax
25 imposed under ORS chapter 316 of a shareholder for the shareholder’s taxa-
26 ble year in which the taxable year of the S corporation ends (or for the final
27 taxable year of a shareholder who dies, or of a trust or estate that termi-
28 nates, before the end of the corporation’s taxable year), there shall be taken
29 into account the shareholder’s pro rata share of the corporation’s separately
30 stated items of income, loss or deduction and nonseparately computed income
31 or loss, as determined under or for purposes of section 1366 of the Internal

1 Revenue Code (including but not limited to section 1366(d) and (e) of the
2 Internal Revenue Code), with the modifications, additions and subtractions
3 provided under this chapter and ORS chapter 316.

4 (2) Each item of shareholder income, gain, loss or deduction has the same
5 character for a shareholder under this chapter and ORS chapter 316 as it has
6 for federal income tax purposes. If an item is not characterized for federal
7 income tax purposes, it has the same character for a shareholder as if real-
8 ized directly from the source from which realized by the S corporation or
9 incurred in the same manner as incurred by the S corporation.

10 (3) In any case where it is necessary to determine the gross income of a
11 shareholder for purposes of ORS chapter 316, such gross income shall include
12 the shareholder's pro rata share of the gross income of the S corporation.

13 *[(4) If any tax is imposed under ORS 314.740 for any taxable year on an
14 S corporation, for purposes of subsection (1) of this section, the amount of each
15 recognized built-in gain for such taxable year shall be reduced by its propor-
16 tionate share of such tax.]*

17 *[(5) If any tax is imposed under ORS 314.742 on an S corporation, for
18 purposes of subsection (1) of this section, each item of passive investment in-
19 come shall be reduced by an amount which bears the same ratio to the amount
20 of such tax as the amount of such item bears to the total passive investment
21 income for the taxable year.]*

22 **SECTION 115.** ORS 723.586 is amended to read:

23 723.586. A credit union may enter into cooperative marketing arrange-
24 ments to facilitate its members' voluntary purchases of such goods and ser-
25 vices as are in the interest of improving economic and social conditions of
26 the members. Said investment shall not exceed one percent of the credit
27 union's assets. *[Notwithstanding any other provision of law, the taxable in-
28 come from such activities which are conducted by the credit union shall be
29 subject to tax pursuant to ORS 317.920.]*

30 **SECTION 116.** ORS 314.280, 314.505, 314.515, 314.525, 314.615, 314.620,
31 314.647, 314.650, 314.655, 314.660, 314.665, 314.667, 314.668, 314.669, 314.675,

1 314.695, 316.043, 316.044, 316.279, 317.005, 317.010, 317.013, 317.018, 317.019,
2 317.025, 317.030, 317.035, 317.038, 317.063, 317.067, 317.070, 317.080, 317.090,
3 317.122, 317.129, 317.151, 317.154, 317.259, 317.267, 317.273, 317.283, 317.286,
4 317.301, 317.303, 317.304, 317.307, 317.309, 317.310, 317.311, 317.312, 317.314,
5 317.319, 317.322, 317.327, 317.329, 317.344, 317.349, 317.351, 317.356, 317.362,
6 317.374, 317.379, 317.386, 317.388, 317.391, 317.394, 317.398, 317.401, 317.476,
7 317.478, 317.479, 317.485, 317.488, 317.491, 317.625, 317.635, 317.650, 317.655,
8 317.660, 317.665, 317.667, 317.705, 317.710, 317.713, 317.715, 317.716, 317.717,
9 317.720, 317.725, 317.850, 317.853, 317.920, 317.950, 317.991, 318.010, 318.020,
10 318.031, 318.040, 318.060, 318.070, 318.074, 318.106 and 318.130 are repealed.

11 **SECTION 117.** (1) Sections 3 to 33 of this 2017 Act, the amendments
12 to statutes by sections 34 to 115 of this 2017 Act and the repeal of
13 statutes by section 116 of this 2017 Act apply:

14 (a) For purposes of sections 3 to 33 of this 2017 Act, to calendar
15 years and calendar quarters beginning on or after January 1, 2018; and

16 (b) For purposes of ORS chapters 314, 315, 316, 317 and 318, to tax
17 years beginning on or after January 1, 2018.

18 (2) The amendments to statutes and session laws by sections 34 to
19 115 of this 2017 Act and the repeal of statutes by section 116 of this 2017
20 Act may not be construed to limit the authority of the Department
21 of Revenue to administer and enforce the taxes imposed under ORS
22 chapters 317 and 318, as applicable to tax years beginning before Jan-
23 uary 1, 2018.

24

25

CAPTIONS

26

27 **SECTION 118.** The unit and section captions used in this 2017 Act
28 are provided only for convenience in locating provisions of this 2017
29 Act and do not become part of the statutory law of this state or ex-
30 press any legislative intent in the enactment of this 2017 Act.

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EFFECTIVE DATE

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SECTION 119. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.
