

CHAPTER 701

AN ACT

HB 2171

Relating to taxation; creating new provisions; amending ORS 307.130, 314.752, 315.213, 315.271, 315.514, 315.613, 316.027, 316.099, 316.116, 316.502, 316.699, 316.758, 317.090, 329A.700, 329A.703, 329A.706, 329A.712, 458.685, 458.700, 469B.100, 469B.103, 469B.106, 469B.112, 469B.115, 469B.118 and 469B.991 and section 13, chapter 674, Oregon Laws 2001, section 77, chapter 736, Oregon Laws 2003, section 9, chapter 765, Oregon Laws 2007, section 9, chapter 843, Oregon Laws 2007, and sections 25, 38, 39, 42 and 50, chapter 913, Oregon Laws 2009; repealing ORS 317.115 and 469B.109 and section 11, chapter 765, Oregon Laws 2007; and prescribing an effective date.

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

SECTION 1. (1) The Legislative Revenue Officer, in consultation with the Department of Revenue and other relevant state agencies, shall prepare an analysis of options for restructuring Oregon's state and local revenue system.

(2) Options to be analyzed pursuant to this section shall include:

(a) Alternatives for restructuring the property tax system.

(b) Alternative methods of taxing consumption in the state.

(c) Alternative methods for taxing business in the state including taxes based on net income, and commercial activity and value added taxes.

(d) Alternatives for restructuring the personal income tax.

(3) Analysis for each option, or combination of options, examined pursuant to this section shall include the estimated impact on:

(a) Oregon's economy.

(b) State and local tax revenue.

(c) Distribution of the state and local tax burden.

(d) Stability of the state and local revenue system.

(4) Not later than December 1, 2015, the Legislative Revenue Officer shall submit a report to the interim committees of the Legislative Assembly related to revenue on the progress of the analysis required under this section.

SECTION 2. Section 3 of this 2015 Act is added to and made a part of ORS chapter 315.

SECTION 3. (1)(a) A credit against the tax otherwise due under ORS chapter 316 shall be allowed a taxpayer in an amount equal to a percentage of employment-related expenses of a type allowable as a credit pursuant to section 21 of the Internal Revenue Code, notwithstanding the limitation imposed by section 21(c) of the Internal Revenue Code, and limited as provided in paragraph (b) of this subsection.

(b) The employment-related expenses for which a credit is claimed under this section may not exceed \$12,000 for a taxpayer for which there is one qualifying individual, or \$24,000 for a taxpayer for which there are two or more qualifying individuals.

(2) The applicable percentage described in subsection (1) of this section shall be determined in accordance with the following table:

Greater of Federal or Oregon Adjusted Gross Income, as Percentage of Federal Poverty Level

Applicable percentage based on age of youngest child at close of tax year

Greater than	Less than or equal to	Under 3 years	At least 3 years but less than 6	At least 6 years but less than 13, or at least 13 but less than 18 if disabled	18 years or older if disabled
0%	10%	10%	8%	5%	5%
10%	20%	20%	18%	15%	5%
20%	30%	30%	28%	25%	10%
30%	40%	40%	38%	35%	20%
40%	50%	50%	48%	45%	30%
50%	60%	55%	53%	50%	35%
60%	70%	60%	58%	55%	40%
70%	80%	65%	63%	60%	45%
80%	90%	70%	68%	65%	50%
90%	110%	75%	73%	70%	55%
110%	120%	71%	69%	66%	50%
120%	130%	66%	64%	61%	45%
130%	140%	61%	59%	56%	39%

140%	150%	55%	53%	50%	33%
150%	160%	50%	48%	45%	28%
160%	200%	47%	45%	42%	25%
200%	210%	45%	43%	40%	22%
210%	220%	40%	38%	35%	20%
220%	230%	35%	33%	30%	15%
230%	240%	30%	28%	25%	10%
240%	250%	20%	18%	15%	5%
250%	260%	10%	8%	5%	5%
260%	280%	6%	6%	4%	4%
280%	300%	4%	4%	4%	4%
300%	-	0%	0%	0%	0%

(3) The applicable percentage for a household in excess of eight members shall be calculated as if for a household size of eight members.

(4) The credit under this section is not allowed to a taxpayer with federal adjusted gross income or Oregon adjusted gross income, whichever is greater, in excess of 300 percent of the federal poverty level.

(5) In order to ensure compliance with the eligibility requirements of the credit allowed under this section, the Department of Revenue shall be afforded access to utilization data maintained by the Department of Human Services in its administration of the Employment Related Day Care program.

(6) The Director of the Department of Revenue may assess a penalty in an amount not to exceed 25 percent of the amount of credit claimed by the taxpayer against any taxpayer who knowingly claims or attempts to claim any amount of credit under this section for which the taxpayer is ineligible, or against any individual who knowingly assists another individual in claiming any amount of credit for which the individual is ineligible.

(7) The Department of Revenue may adopt rules for carrying out the provisions of this section and prescribe the form used to claim a credit and the information required on the form.

(8) A nonresident individual shall be allowed the credit computed in the same manner and subject to the same limitations as the credit allowed a resident by subsection (1) of this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

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

(11) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as payment of tax under ORS

316.187 or 316.583, other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

SECTION 4. ORS 316.502 is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and amounts described in ORS 285B.630 and 285C.635, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

(2) A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of \$1 million.

(3) Moneys are continuously appropriated to the Department of Revenue to make:

(a) The refunds authorized under subsection (2) of this section; and

(b) The refund payments in excess of tax liability authorized under ORS 315.174, 315.262 and 315.266 and section 17, chapter 906, Oregon Laws 2007, and section 3 of this 2015 Act.

SECTION 5. Section 3 of this 2015 Act applies to tax years beginning on or after January 1, 2016, and before January 1, 2022.

SECTION 6. ORS 458.685 is amended to read:

458.685. (1) A person may establish an individual development account only for a purpose approved by a fiduciary organization. Purposes that the fiduciary organization may approve are:

(a) The acquisition of post-secondary education or job training.

(b) If the account holder has established the account for the benefit of a household member who is under the age of 18 years, the payment of extracurricular nontuition expenses designed to prepare the member for post-secondary education or job training.

(c) If the account holder has established a college savings network account under ORS 348.841 to 348.873 on behalf of a designated beneficiary, the

establishment of an additional college savings network account on behalf of the same designated beneficiary.

(d) The purchase of a primary residence. In addition to payment on the purchase price of the residence, account moneys may be used to pay any usual or reasonable settlement, financing or other closing costs. The account holder must not have owned or held any interest in a residence during the three years prior to making the purchase. However, this three-year period shall not apply to displaced homemakers, [or other] individuals who have lost home ownership as a result of divorce **or owners of manufactured homes.**

(e) **The rental of a primary residence when housing stability is essential to achieve state policy goals. Account moneys may be used for security deposits, first and last months' rent, application fees and other expenses necessary to move into the primary residence, as specified in the account holder's personal development plan for increasing the independence of the person.**

[(e)] (f) The capitalization of a small business. Account moneys may be used for capital, plant, equipment and inventory expenses **and to hire employees upon capitalization of the small business,** or for working capital pursuant to a business plan. The business plan must have been developed by a financial institution, nonprofit microenterprise program or other qualified agent demonstrating business expertise and have been approved by the fiduciary organization. The business plan must include a description of the services or goods to be sold, a marketing plan and projected financial statements.

[(f)] (g) Improvements, repairs or modifications necessary to make or keep the account holder's primary dwelling habitable, accessible or visitable for the account holder or a household member. This paragraph does not apply to improvements, repairs or modifications made to a rented primary dwelling to achieve or maintain a habitable condition for which ORS 90.320 (1) places responsibility on the landlord. As used in this paragraph, "accessible" and "visitable" have the meanings given those terms in ORS 456.508.

[(g)] (h) The purchase of equipment, technology or specialized training required to become competitive in obtaining or maintaining employment or to start or maintain a business, as specified in the account holder's personal development plan for increasing the independence of the person.

(i) **The purchase or repair of a vehicle, as specified in the account holder's personal development plan for increasing the independence of the person.**

(j) **The saving of funds for retirement, as specified in the account holder's personal development plan for increasing the independence of the person.**

(k) **The payment of debts owed for educational or medical purposes when the account holder is saving for another allowable purpose,**

as specified in the account holder's personal development plan for increasing the independence of the person.

(L) **The creation or improvement of a credit score by obtaining a secured loan or a financial product that is designed to improve credit, as specified in the account holder's personal development plan for increasing the independence of the person.**

(m) **The replacement of a primary residence when replacement offers significant opportunity to improve habitability or energy efficiency.**

(2)(a) If an emergency occurs, an account holder may withdraw all or part of the account holder's deposits to an individual development account for a purpose not described in subsection (1) of this section. As used in this paragraph, [an] "emergency" includes making payments for necessary medical expenses, to avoid eviction of the account holder from the account holder's residence and for necessary living expenses following a loss of employment.

(b) The account holder must reimburse the account for the amount withdrawn under this subsection within 12 months after the date of the withdrawal. Failure of an account holder to make a timely reimbursement to the account is grounds for removing the account holder from the individual development account program. Until the reimbursement has been made in full, an account holder may not withdraw any matching deposits or accrued interest on matching deposits from the account.

(3) If an account holder withdraws moneys from an individual development account for other than an approved purpose, the fiduciary organization may remove the account holder from the program.

(4)(a) **If the account holder of an account established for the purpose set forth in subsection (1)(c) or (j) of this section has achieved the account's approved purpose in accordance with the personal development plan developed by the account holder under ORS 458.680, the account holder may withdraw, or authorize the withdrawal of, the remaining amount of all deposits, including matching deposits, and interest in the account as follows:**

(A) **For an account established for the purpose set forth in subsection (1)(c) of this section, by rolling over the entire withdrawal amount, not to exceed the limit established pursuant to ORS 348.857, into one or more of the college savings network accounts under ORS 348.841 to 348.873, the establishment of which is the purpose of the individual development account; or**

(B) **For an account established for the purpose set forth in subsection (1)(j) of this section, by rolling over the entire withdrawal amount into an individual retirement account, a retirement plan or a similar account or plan established under the Internal Revenue Code.**

(b) Upon withdrawal of all moneys in the individual development account as provided in paragraph (a) of this subsection, the account relationship shall terminate.

(c) **The rollover of moneys into a college savings network account under this subsection may not cause the amount in the college savings network account to exceed the limit on total contributions established pursuant to ORS 348.857.**

(d) **Any amount of the rollover that has been subtracted on the taxpayer's federal return pursuant to section 219 of the Internal Revenue Code shall be added back in the determination of taxable income.**

[(4)] (5) If an account holder moves from the area where the program is conducted or is otherwise unable to continue in the program, the fiduciary organization may remove the account holder from the program.

[(5)] (6) If an account holder is removed from the program under subsection (2), (3) or [(4)] (5) of this section, all matching deposits in the account and all interest earned on matching deposits shall revert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a source of matching deposits for other accounts.

SECTION 6a. If Senate Bill 777 becomes law, section 6 of this 2015 Act (amending ORS 458.685) is repealed and ORS 458.685, as amended by section 20, chapter 843, Oregon Laws 2015 (Enrolled Senate Bill 777), is amended to read:

458.685. (1) A person may establish an individual development account only for a purpose approved by a fiduciary organization. Purposes that the fiduciary organization may approve are:

(a) The acquisition of post-secondary education or job training.

(b) If the account holder has established the account for the benefit of a household member who is under the age of 18 years, the payment of extracurricular nontuition expenses designed to prepare the member for post-secondary education or job training.

(c) If the account holder has established a savings network account for higher education under ORS 348.841 to 348.873 on behalf of a designated beneficiary, the establishment of an additional savings network account for higher education on behalf of the same designated beneficiary.

(d) The purchase of a primary residence. In addition to payment on the purchase price of the residence, account moneys may be used to pay any usual or reasonable settlement, financing or other closing costs. The account holder must not have owned or held any interest in a residence during the three years prior to making the purchase. However, this three-year period shall not apply to displaced homemakers, [or other] individuals who have lost home ownership as a result of divorce **or owners of manufactured homes.**

(e) **The rental of a primary residence when housing stability is essential to achieve state policy goals. Account moneys may be used for security deposits, first and last months' rent, application fees and other expenses necessary to move into the primary residence, as specified in**

the account holder's personal development plan for increasing the independence of the person.

[(e)] (f) The capitalization of a small business. Account moneys may be used for capital, plant, equipment and inventory expenses **and to hire employees upon capitalization of the small business**, or for working capital pursuant to a business plan. The business plan must have been developed by a financial institution, nonprofit microenterprise program or other qualified agent demonstrating business expertise and have been approved by the fiduciary organization. The business plan must include a description of the services or goods to be sold, a marketing plan and projected financial statements.

[(f)] (g) Improvements, repairs or modifications necessary to make or keep the account holder's primary dwelling habitable, accessible or visitable for the account holder or a household member. This paragraph does not apply to improvements, repairs or modifications made to a rented primary dwelling to achieve or maintain a habitable condition for which ORS 90.320 (1) places responsibility on the landlord. As used in this paragraph, "accessible" and "visitable" have the meanings given those terms in ORS 456.508.

[(g)] (h) The purchase of equipment, technology or specialized training required to become competitive in obtaining or maintaining employment or to start or maintain a business, as specified in the account holder's personal development plan for increasing the independence of the person.

(i) **The purchase or repair of a vehicle, as specified in the account holder's personal development plan for increasing the independence of the person.**

(j) **The saving of funds for retirement, as specified in the account holder's personal development plan for increasing the independence of the person.**

(k) **The payment of debts owed for educational or medical purposes when the account holder is saving for another allowable purpose, as specified in the account holder's personal development plan for increasing the independence of the person.**

(L) **The creation or improvement of a credit score by obtaining a secured loan or a financial product that is designed to improve credit, as specified in the account holder's personal development plan for increasing the independence of the person.**

(m) **The replacement of a primary residence when replacement offers significant opportunity to improve habitability or energy efficiency.**

(2)(a) If an emergency occurs, an account holder may withdraw all or part of the account holder's deposits to an individual development account for a purpose not described in subsection (1) of this section. As used in this paragraph, [an] "emergency" includes making payments for necessary medical expenses, to avoid eviction of the account holder from

the account holder's residence and for necessary living expenses following a loss of employment.

(b) The account holder must reimburse the account for the amount withdrawn under this subsection within 12 months after the date of the withdrawal. Failure of an account holder to make a timely reimbursement to the account is grounds for removing the account holder from the individual development account program. Until the reimbursement has been made in full, an account holder may not withdraw any matching deposits or accrued interest on matching deposits from the account.

(3) If an account holder withdraws moneys from an individual development account for other than an approved purpose, the fiduciary organization may remove the account holder from the program.

(4)(a) If the account holder of an account established for the purpose set forth in subsection (1)(c) or (j) of this section has achieved the account's approved purpose in accordance with the personal development plan developed by the account holder under ORS 458.680, the account holder may withdraw, or authorize the withdrawal of, the remaining amount of all deposits, including matching deposits, and interest in the account as follows:

(A) For an account established for the purpose set forth in subsection (1)(c) of this section, by rolling over the entire withdrawal amount, not to exceed the limit established pursuant to ORS 348.857, into one or more of the savings network accounts for higher education under ORS 348.841 to 348.873, the establishment of which is the purpose of the individual development account; or

(B) For an account established for the purpose set forth in subsection (1)(j) of this section, by rolling over the entire withdrawal amount into an individual retirement account, a retirement plan or a similar account or plan established under the Internal Revenue Code.

(b) Upon withdrawal of all moneys in the individual development account as provided in paragraph (a) of this subsection, the account relationship shall terminate.

(c) The rollover of moneys into a savings network account for higher education under this subsection may not cause the amount in the savings network account for higher education to exceed the limit on total contributions established pursuant to ORS 348.857.

(d) Any amount of the rollover that has been subtracted on the taxpayer's federal return pursuant to section 219 of the Internal Revenue Code shall be added back in the determination of taxable income.

[(4)] (5) If an account holder moves from the area where the program is conducted or is otherwise unable to continue in the program, the fiduciary organization may remove the account holder from the program.

[(5)] (6) If an account holder is removed from the program under subsection (2), (3) or **[(4)] (5)** of this

section, all matching deposits in the account and all interest earned on matching deposits shall revert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a source of matching deposits for other accounts.

SECTION 7. Section 9, chapter 765, Oregon Laws 2007, is amended to read:

Sec. 9. A credit may not be claimed under ORS 315.271 and 458.690 [are repealed on January 2, 2016] for tax years beginning on or after January 1, 2022.

SECTION 8. ORS 315.271 is amended to read:

315.271. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be allowed for donations to a fiduciary organization for distribution to individual development accounts established under ORS 458.685. The credit shall equal *[the lesser of \$75,000 or 75 percent of the]* **a percentage of the taxpayer's donation amount, as determined by the fiduciary organization, but not to exceed 70 percent of any donation amount.** To qualify for a credit under this section, donations to a fiduciary organization must be made prior to January 1, **[2016] 2022.**

(2) If a credit allowed under this section is claimed, the amount upon which the credit is based that is allowed or allowable as a deduction from federal taxable income under section 170 of the Internal Revenue Code shall be added to federal taxable income in determining Oregon taxable income. As used in this subsection, the amount upon which a credit is based is the allowed credit divided by **[75 percent] the applicable percentage, as determined by the fiduciary organization.**

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

(4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any tax credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year. Any tax credit not used in the second succeeding tax year may be carried forward and used in the third succeeding tax year, but may not be carried forward for any tax year thereafter.

(5) The total credits allowed to all taxpayers in any tax year under this section and ORS 458.690 may not exceed \$7.5 million.

SECTION 9. ORS 316.699 is amended to read:

316.699. (1) There shall be subtracted from federal taxable income the amount contributed to a college savings network account established under ORS 348.841 to 348.873.

(2) Notwithstanding subsection (1) of this section, a subtraction under this section may not exceed the lesser of:

(a) \$4,000 for the tax year if the taxpayer files a joint return, or \$2,000 for the tax year if the taxpayer files a return other than a joint return; and

(b) If an amount is carried forward to a succeeding tax year under subsection (4) of this section, the balance in the college savings network account at the close of the tax year for which the subtraction is being made.

(3)(a) The Department of Revenue shall annually adjust the maximum subtraction allowable under this section according to the cost-of-living adjustment for the calendar year. The department shall make this adjustment by multiplying the amount in subsection (2) of this section by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31, 2007.

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

(4) Any amounts contributed to a college savings network account that are not subtracted from federal taxable income because of the monetary limitations imposed by subsection (2) of this section may be carried forward for four succeeding tax years and subtracted from federal taxable income in any of those succeeding tax years in an amount that does not exceed the monetary limitations imposed by subsection (2) of this section.

(5) The amount contributed to a college savings network account may be subtracted from a preceding tax year if the contribution is made before the taxpayer files a return or before the 15th day of the fourth month following the closing of the taxpayer's tax year, whichever is earlier.

(6) A subtraction is not allowed under this section for any amount that has been transferred into a college savings network account from an individual development account, through a rollover, as provided in ORS 458.685 (4)(a)(A).

SECTION 9a. If Senate Bill 777 becomes law, section 9 of this 2015 Act (amending ORS 316.699) is repealed and ORS 316.699, as amended by section 5, chapter 843, Oregon Laws 2015 (Enrolled Senate Bill 777), is amended to read:

316.699. (1) There shall be subtracted from federal taxable income the amount contributed to:

(a) A savings network account for higher education established under ORS 348.841 to 348.873; or

(b) An ABLE account established under section 2 [of this 2015 Act], chapter 843, Oregon Laws 2015 (Enrolled Senate Bill 777), and rules adopted by the Oregon 529 Savings Board, when the contribution is made before the designated beneficiary of the account attains 21 years of age.

(2) Notwithstanding subsection (1) of this section, a subtraction under this section may not exceed the lesser of:

(a) \$4,000 for the tax year if the taxpayer files a joint return, or \$2,000 for the tax year if the taxpayer files a return other than a joint return; and

(b) If an amount is carried forward to a succeeding tax year under subsection (4) of this section, the balance in the savings network account for higher education or ABLE account at the close of the tax year for which the subtraction is being made.

(3)(a) The Department of Revenue shall annually adjust the maximum subtraction allowable under this section according to the cost-of-living adjustment for the calendar year. The department shall make this adjustment by multiplying the amount in subsection (2) of this section by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31, 2007.

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

(4) Any amounts contributed to a savings network account for higher education or an ABLE account that are not subtracted from federal taxable income because of the monetary limitations imposed by subsection (2) of this section may be carried forward for four succeeding tax years and subtracted from federal taxable income in any of those succeeding tax years in an amount that does not exceed the monetary limitations imposed by subsection (2) of this section.

(5) The amount contributed to a savings network account for higher education or an ABLE account may be subtracted from a preceding tax year if the contribution is made before the taxpayer files a return or before the 15th day of the fourth month following the closing of the taxpayer's tax year, whichever is earlier.

(6) A subtraction is not allowed under this section for any amount that has been transferred into a savings network account for higher education from an individual development account, through a rollover, as provided in ORS 458.685 (4)(a)(A).

SECTION 10. ORS 458.700, as amended by section 10, chapter 765, Oregon Laws 2007, is amended to read:

458.700. (1) Subject to Housing and Community Services Department rules, a fiduciary organization has sole authority over, and responsibility for, the administration of individual development accounts. The responsibility of the fiduciary organization extends to all aspects of the account program, includ-

ing marketing to participants, soliciting matching contributions, counseling account holders, providing financial literacy education, and conducting required verification and compliance activities. The fiduciary organization may establish program provisions as the organization believes necessary to ensure account holder compliance with the provisions of ORS 458.680 and 458.685. Notwithstanding ORS 458.670 (5) and 458.680 (2), a fiduciary organization may establish income and net worth limitations for account holders that are lower than the income and net worth limitations established by ORS 458.670 (5) and 458.680 (2).

(2) A fiduciary organization may act in partnership with other entities, including businesses, government agencies, nonprofit organizations, community development corporations, community action programs, housing authorities and congregations to assist in the fulfillment of fiduciary organization responsibilities under this section and ORS 458.685, **458.690** and 458.695.

(3) A fiduciary organization may use a reasonable portion of moneys allocated to the individual development account program for administration, operation and evaluation purposes.

(4) A fiduciary organization selected to administer moneys directed by the state to individual development account purposes or receiving tax deductible contributions shall provide the Housing and Community Services Department with an annual report of the fiduciary organization's individual development account program activity. The report shall be filed no later than 90 days after the end of the fiscal year of the fiduciary organization. The report shall include, but is not limited to:

- (a) The number of individual development accounts administered by the fiduciary organization;
- (b) The amount of deposits and matching deposits for each account;
- (c) The purpose of each account;
- (d) The number of withdrawals made; and
- (e) Any other information the department may require for the purpose of making a return on investment analysis.

(5) A fiduciary organization that is the account owner of a college savings network account:

(a) May make a qualified withdrawal only at the direction of the designated beneficiary and only after the college savings network account of the account holder that was established for the designated beneficiary has been reduced to a balance of zero exclusively through qualified withdrawals by the designated beneficiary; and

(b) May make nonqualified withdrawals only if the college savings network account of the account holder that was established for the designated beneficiary has a balance of less than \$100 or if the account holder or designated beneficiary has granted permission to make the withdrawal. Moneys received by a fiduciary organization from a nonqualified withdrawal made under this paragraph must be used for individual development account purposes.

(6) The department may make all reasonable and necessary rules to ensure fiduciary organization compliance with this section and ORS 458.685 and 458.695.

SECTION 11. Section 11, chapter 765, Oregon Laws 2007, is repealed.

SECTION 12. Section 9, chapter 843, Oregon Laws 2007, as amended by section 52, chapter 913, Oregon Laws 2009, is amended to read:

Sec. 9. (1) ORS 315.624 applies to tax years beginning on or after January 1, 2008, and before January 1, [2016] **2022**.

(2) The amendments to ORS 316.680 by section 2, chapter 843, Oregon Laws 2007, apply to tax years beginning on or after January 1, 2008, and before January 1, 2012.

SECTION 13. Section 50, chapter 913, Oregon Laws 2009, is amended to read:

Sec. 50. ORS 734.835 does not apply to tax years beginning on or after January 1, [2016] **2022**.

SECTION 14. Section 42, chapter 913, Oregon Laws 2009, is amended to read:

Sec. 42. A credit may not be claimed under ORS 316.758 for tax years beginning on or after January 1, [2016] **2022**.

SECTION 15. ORS 316.758, as amended by section 9, chapter 114, Oregon Laws 2014, is amended to read:

316.758. (1) In addition to the personal exemption credit allowed by this chapter for state personal income tax purposes, there shall be allowed an additional personal exemption credit for the taxpayer if the taxpayer:

(a) Has a severe disability at the close of the taxable year[.]; and

(b) **Has federal adjusted gross income that does not exceed \$100,000 for the tax year.**

(2) The amount of the credit [allowed for the tax year shall be calculated as provided in ORS 316.085, except that the amount may not be reduced on the basis of income under ORS 316.085 (5)] **shall be equal to the amount allowed as the personal exemption credit for the taxpayer for state personal income tax purposes for the tax year.**

SECTION 16. Section 39, chapter 913, Oregon Laws 2009, is amended to read:

Sec. 39. A credit may not be claimed under ORS 316.099 for tax years beginning on or after January 1, [2016] **2022**.

SECTION 17. ORS 316.099, as amended by section 8, chapter 114, Oregon Laws 2014, is amended to read:

316.099. (1) As used in this section, unless the context requires otherwise:

(a) "Child with a disability" means a qualifying child under section 152 of the Internal Revenue Code who has been determined eligible for early

intervention services or is diagnosed for the purposes of special education as being mentally retarded, multidisabled, visually impaired, hard of hearing, deaf-blind, orthopedically impaired or other health impaired or as having autism, emotional disturbance or traumatic brain injury, in accordance with State Board of Education rules.

(b) "Early intervention services" means programs of treatment and habilitation designed to address a child's developmental deficits in sensory, motor, communication, self-help and socialization areas.

(c) "Special education" means specially designed instruction to meet the unique needs of a child with a disability, including regular classroom instruction, instruction in physical education, home instruction and instruction in hospitals, institutions and special schools.

(2) The State Board of Education shall adopt rules further defining "child with a disability" for purposes of this section. A diagnosis obtained for the purposes of entitlement to special education or early intervention services shall serve as the basis for a claim for the additional credit allowed under subsection (3) of this section.

(3) In addition to the personal exemption credit allowed by this chapter for state personal income tax purposes for a dependent of the taxpayer, **for a taxpayer with federal adjusted gross income that does not exceed \$100,000**, there shall be allowed an additional personal exemption credit for a child with a disability if the child is a child with a disability at the close of the tax year. The amount of the credit allowed for the dependent for the tax year shall be calculated as provided in ORS 316.085, *except that the amount may not be reduced on the basis of income under ORS 316.085 (5)*.

(4) Each taxpayer qualifying for the additional personal exemption credit allowed by this section may claim the credit on the personal income tax return. However, the claim shall be substantiated by any proof of entitlement to the credit as may be required by the state board by rule.

SECTION 18. Section 25, chapter 913, Oregon Laws 2009, as amended by section 10, chapter 750, Oregon Laws 2013, is amended to read:

Sec. 25. (1) Except as provided in subsection (2) of this section, a credit may not be claimed under ORS 315.613 for tax years beginning on or after January 1, [2016] **2018**.

(2) A taxpayer who meets the eligibility requirements in ORS 315.613 for the tax year beginning on or after January 1, [2013] **2017**, and before January 1, [2014] **2018**, shall be allowed the credit under ORS 315.613 for any tax year:

(a) That begins on or before January 1, [2023] **2027**; and

(b) For which the taxpayer meets the eligibility requirements of ORS 315.613.

SECTION 19. ORS 315.613 is amended to read:

315.613. (1) A resident or nonresident individual certified as eligible under ORS 442.563, licensed under ORS chapter 677, who is engaged in the practice of medicine, and who is engaged for at least 20 hours per week, averaged over the month, during the tax year in a rural practice, shall be allowed an annual credit against taxes otherwise due under ORS chapter 316 [*in the sum of \$5,000*].

(2) **The amount of credit allowed shall be based on the distance, in highway miles, from a major population center in a metropolitan statistical area at which the taxpayer maintains a practice or hospital membership:**

(a) **If at least 10 miles but fewer than 20 miles, \$3,000.**

(b) **If at least 20 miles but fewer than 50 miles, \$4,000.**

(c) **If 50 or more miles, \$5,000.**

(3) **The credit shall be allowed** during the time in which the individual retains such practice and membership if the individual is actively practicing in and is a member of the medical staff of one of the following hospitals:

(a) A type A hospital designated as such by the Office of Rural Health;

(b) A type B hospital designated as such by the Office of Rural Health if the hospital is:

(A) Not within the boundaries of a metropolitan statistical area; **or**

[B] *Located 30 or more highway miles from the closest hospital within the major population center in a metropolitan statistical area; or*

[C] (B) Located in a county with a population of less than 75,000;

(c) A type C rural hospital, if the Office of Rural Health makes the findings required by ORS 315.619;

(d) A rural hospital that was designated a rural referral center by the federal government before January 1, 1989, and that serves a community with a population of at least 14,000 but not more than 19,000; **or**

(e) A rural critical access hospital.

[2] (4) In order to claim the credit allowed under this section, the individual must remain willing during the tax year to serve patients with Medicare coverage and patients receiving medical assistance in at least the same proportion to the individual's total number of patients as the Medicare and medical assistance populations represent of the total number of persons determined by the Office of Rural Health to be in need of care in the county served by the practice, not to exceed 20 percent Medicare patients or 15 percent medical assistance patients.

[3] (5) A nonresident individual shall be allowed the credit under this section in the proportion provided in ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

[4] (6) For purposes of this section, an "individual's practice" shall be determined on the basis of actual time spent in practice each week in

hours or days, whichever is considered by the Office of Rural Health to be more appropriate. In the case of a shareholder of a corporation or a member of a partnership, only the time of the individual shareholder or partner shall be considered and the full amount of the credit shall be allowed to each shareholder or partner who qualifies in an individual capacity.

[5] (7) As used in this section:

(a) "Type A hospital," "type B hospital" and "type C hospital" have the meaning for those terms provided in ORS 442.470.

(b) "Rural critical access hospital" means a facility that meets the criteria set forth in 42 U.S.C. 1395i-4 (c)(2)(B) and that has been designated a critical access hospital by the Office of Rural Health and the Oregon Health Authority.

SECTION 20. ORS 315.213 is amended to read:

315.213. (1) A credit against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer for certified contributions made to the Office of Child Care under ORS 329A.706.

(2) The amount of a tax credit available to a taxpayer for a tax year under this section shall equal the amount stated in the tax credit certificate received under ORS 329A.706.

(3) The credit allowed under this section may not exceed **the lesser of 50 percent of the amount contributed in the tax year or the tax liability** of the taxpayer for the tax year in which the credit is claimed.

(4) If the amount claimed as a credit under this section is allowed as a deduction for federal tax purposes, the amount allowed as a credit under this section shall be added to federal taxable income for Oregon tax purposes.

(5) A credit under this section may be claimed by a nonresident or part-year resident without proration.

(6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, but may not be carried forward for any tax year thereafter.

(7) The definitions in ORS 329A.700 apply to this section.

SECTION 21. ORS 329A.700 is amended to read: 329A.700. As used in ORS 329A.700 to 329A.718:

(1)(a) "Child care provider" means a provider, for compensation, of care, supervision or guidance

to a child on a regular basis in a center or in a home other than the child's home.

(b) "Child care provider" does not include a person who is the child's parent, guardian or custodian.

[(2) "Community agency" means a nonprofit agency that:]

[(a) Provides services related to child care, children and families, community development or similar services; and]

[(b) Is eligible to receive contributions that qualify as deductions under section 170 of the Internal Revenue Code.]

[(3) (2) "High quality child care" means child care that meets standards for high quality child care established or approved by the Early Learning Council.

[(4) (3) "Qualified contribution" means a contribution made by a taxpayer to the Office of Child Care [or a selected community agency] for the purpose of promoting **high quality** child care, and for which the taxpayer will receive a tax credit certificate under ORS 329A.706.

[(5) (4) "Tax credit certificate" means a certificate issued by the Office of Child Care to a taxpayer to qualify the taxpayer for a tax credit under ORS 315.213.

[(6) "Tax credit marketer" means an individual or entity selected by the Office of Child Care to market tax credits to taxpayers.]

SECTION 22. ORS 329A.703 is amended to read:

329A.703. (1) The Office of Child Care, in collaboration with an advisory committee established by the office, shall establish a program to:

(a) Allocate tax credit certificates to taxpayers that make qualified contributions to the Office of Child Care; and

(b) Distribute to child care providers moneys from qualified contributions and other contributions.

(2) The purposes of the program are to:

(a) Encourage taxpayers to make contributions to the Office of Child Care by providing a financial return on qualified contributions and by soliciting other contributions.

(b) Achieve specific and measurable goals for targeted communities and populations.

(c) Set standards for the child care industry concerning the cost of providing quality, affordable child care.

(d) Strengthen the viability and continuity of child care providers [while making child care more affordable for low and moderate income families].

SECTION 23. ORS 329A.706 is amended to read:

329A.706. (1) For the purpose of implementing the program established under ORS 329A.703, the Early Learning Council, in collaboration with an advisory committee established by the council and the Office of Child Care, shall:

(a) Adopt rules.

[(b) Select a tax credit marketer who agrees to market tax credits to taxpayers.]

[(c)] **(b)** Identify child care goals that are consistent with the purposes provided in ORS 329A.703 (2). The goals identified under this paragraph shall take into account state resources and needs.

[(d)] *Develop by rule the application process an entity must complete to be designated as a community agency under ORS 329A.700 to 329A.718, and any process for the renewal of that designation.*

[(e)] *Select one or more community agencies.*

[(f)] *Enter into an agreement with each selected community agency to perform the functions specified in ORS 329A.715.*

[(g)] *Determine the total value of moneys to be available to each selected community agency to distribute to providers based on goals identified under paragraph (c) of this subsection, and distribute those moneys in the manner provided in ORS 329A.712 to the selected community agencies. The total value of moneys available to all selected community agencies in this state may not exceed the amount of contributions received from taxpayers during the tax year minus any reasonable administrative costs incurred by the Office of Child Care and the selected community agencies.*

[(2)] *The Early Learning Council may adopt rules that establish a fixed percentage that is less than 100 percent by which the amount contributed by a taxpayer will be certified for a tax credit by the Office of Child Care. The purpose of the grant of rulemaking authority under this subsection is to permit the Early Learning Council to calibrate the amount of the tax credit to interpretations of the deductibility of qualified contributions under section 170 of the Internal Revenue Code for federal tax purposes.*

[(3)(a)] **(2)(a)** The Office of Child Care shall issue tax credit certificates in the chronological order in which the contributions are received by the office. The office shall issue tax credit certificates to contributors until the total value of all certificates issued by the office for the calendar year equals \$500,000. Each issued certificate shall state the value of the contribution being certified as eligible for the tax credit allowed under ORS 315.213. *[Except as provided in rules adopted under subsection (2) of this section, the certified value shall equal the amount of the contribution.]*

(b) The Office of Child Care may not issue a tax credit certificate to a taxpayer to the extent the credit value to be certified, when added to the total credit value previously certified by the office under paragraph (a) of this subsection for the calendar year exceeds \$500,000.

(c) The Office of Child Care shall send a copy of all tax credit certificates issued under this section to the Department of Revenue.

(d) Qualified contributions shall be deposited in the Child Care Fund.

[(4)] **(3)** A taxpayer that receives a notice of denial of a tax credit certificate or that receives a tax credit certificate issued for an amount that is less than the amount contributed may request a refund for the amount contributed within 90 days of the denial or issuance of the certificate by the Office of

Child Care. The Office of Child Care must send notice of a denial or changed amount and refund the amount for which a tax credit will not be granted within 30 days after receiving the request. The refund shall be made from the Child Care Fund.

[(5)] **(4)** The Early Learning Council may establish by rule any other provisions required to implement the program established under ORS 329A.700 to 329A.718.

SECTION 24. ORS 329A.712 is amended to read: 329A.712. (1) The Office of Child Care shall distribute revenues in the Child Care Fund that are derived from contributions, minus the amounts needed to make refunds under ORS 329A.706 [(4)] **(3)** and to cover expenses of the Office of Child Care in administering ORS 329A.700 to 329A.718.

(2) Revenues shall be disbursed to child care providers consistent with rules adopted by the Early Learning Council.

[(2)] **(3)** Distributions shall be made to [community agencies selected under ORS 329A.706] **child care providers** in the proportion that the Office of Child Care determines **by rule** best promotes the provision of **high quality** child care in this state.

[(3)] *Moneys distributed to selected community agencies shall be disbursed to child care providers, consistent with rules adopted by the Early Learning Council relating to the disbursement of moneys by selected community agencies. The council shall consider the factors described in ORS 329A.715 (2)(h) when adopting rules under this subsection.*

SECTION 25. Section 13, chapter 674, Oregon Laws 2001, as amended by section 9, chapter 473, Oregon Laws 2003, section 1, chapter 880, Oregon Laws 2007, and section 47, chapter 913, Oregon Laws 2009, is amended to read:

Sec. 13. ORS 315.213 applies to tax years beginning on or after January 1, 2002, and before January 1, [2016] **2022**.

SECTION 26. ORS 316.116 is amended to read: 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due under this chapter for costs paid or incurred for construction or installation of each of one or more alternative energy devices in **or at** a dwelling.

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

(c) A credit against the taxes otherwise due under this chapter is not allowed for an alternative energy device that does not meet or exceed all applicable federal, state and local requirements for energy efficiency, including equipment codes, **state and federal appliance standards**, the state building code, specialty codes and any other standards.

(2)(a) In the case of a category one alternative energy device that is not an alternative fuel device, the credit shall be based upon the first year energy

yield of the alternative energy device that qualifies under ORS 469B.100 to 469B.118. The amount of the credit shall be the same whether for collective or noncollective investment.

(b) **Except as provided in paragraph (c) of this subsection**, the credit allowed under this section for each category one alternative energy device for each dwelling may not exceed the lesser of \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or domestic water heating for tax years beginning on or after January 1, 1998.

(c) **For each category one alternative energy device that uses solar radiation for domestic water heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by \$2, whichever is lower, up to \$6,000 for tax years beginning on or after January 1, 2015. The State Department of Energy may by rule provide for a lesser amount of incentive as market conditions warrant.**

(c) (d) **Except as provided in paragraph (e) of this subsection**, for each category one alternative energy device used for swimming pool, spa or hot tub heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first [year's] year energy yield in kilowatt hours per year multiplied by 15 cents, whichever is lower, up to \$1,500 for tax years beginning on or after January 1, 1998.

(e) **For each category one alternative energy device that uses solar radiation for swimming pool heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by 20 cents, whichever is lower, up to \$2,500 for tax years beginning on or after January 1, 2015. The State Department of Energy may by rule provide for a lesser amount of incentive as market conditions warrant.**

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

(g) **Notwithstanding paragraph (c) or (e) of this subsection, the total amount of the credits allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each alternative energy device, whichever is less. Unused credit amounts may be carried forward as provided in subsection (6) of this section, but may not be carried forward to a tax year that is more than five tax years following the first tax year for which any credit was allowed with respect to the category one alternative energy device that is the basis for the credit.**

(e)(A) (h)(A) For each category two alternative energy device that is a solar electric system or fuel

cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of installed output or \$6,000. The State Department of Energy may by rule provide for a lesser amount of incentive as market conditions warrant, taking into consideration factors including the availability of bulk purchasing of alternative energy devices.

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

(C) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credits allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each alternative energy device, whichever is less. Unused credit amounts may be carried forward as provided in subsection (6) of this section, but may not be carried forward to a tax year that is more than five tax years following the first tax year for which any credit was allowed with respect to the category two alternative energy device that is the basis for the credit.

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

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

(a) The alternative energy device must be purchased, constructed, installed and operated in accordance with ORS 469B.100 to 469B.118 and a certificate issued thereunder.

(b) The taxpayer who is allowed the credit must be the owner or contract purchaser of the dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the contract purchaser and must:

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

(B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant who uses the dwelling or dwellings as a principal or secondary residence.

(c) In the case of an alternative fuel device, unless the verification form and certificate are transferred as authorized under ORS 469B.106 (9), the taxpayer who is allowed the credit must be the contractor who constructs the dwelling that incorporates the alternative fuel device into the dwelling or installs the fueling station in the dwelling.

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

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

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

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

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

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

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

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

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

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

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

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

(c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 (9).

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

SECTION 27. ORS 316.116, as amended by section 26 of this 2015 Act, is amended to read:

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

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

[(c) (b) A credit against the taxes otherwise due under this chapter is not allowed for an alternative energy device that does not meet or exceed all applicable federal, state and local requirements for energy efficiency, including equipment codes, state and federal appliance standards, the state building code, specialty codes and any other standards.

(2)(a) For each category one alternative energy device other than an alternative fuel device or an alternative energy device that uses solar radiation for domestic water heating or swimming pool heating, the credit allowed under this section may not exceed the lesser of 50 percent of the cost of the alternative energy device or \$1,500, and shall be computed as follows:

(A) *[In the case of]* For a category one alternative energy device that is not an alternative fuel device, the credit shall be based upon the first year energy yield of the alternative energy device that qualifies under ORS 469B.100 to 469B.118. The amount of the credit shall be the same whether for collective or noncollective investment.

[(b) (B) [Except as provided in paragraph (c) of this subsection, the credit allowed under this section] For each category one alternative energy device for [each] a dwelling [may not exceed the lesser of \$1,500 or], the credit shall be based upon the first year energy yield in kilowatt hours per year multiplied by 60 cents per dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or domestic water heating [for tax years beginning on or after January 1, 1998].

[(c) For each category one alternative energy device that uses solar radiation for domestic water heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by \$2, whichever is lower, up to \$6,000 for tax years beginning on or after January 1, 2015. The State Department of Energy may by rule provide for a lesser amount of incentive as market conditions warrant.]

[(d) (C) Except as provided in paragraph [(e)] (c) of this subsection, for each category one alternative energy device used for swimming pool, spa or hot tub heating, the credit [allowed under this section] shall be based upon [50 percent of the cost of the device or] the first year energy yield in kilowatt hours per year multiplied by 15 cents[, whichever is lower, up to \$1,500 for tax years beginning on or after January 1, 1998].

[(e) For each category one alternative energy device that uses solar radiation for swimming pool heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by 20 cents, whichever is lower, up to \$2,500 for tax years beginning on or after January 1, 2015. The State Department of Energy may by rule provide for a lesser amount of incentive as market conditions warrant.]

[(f) (b) For each alternative fuel device, the credit allowed under this section [is 25 percent of the cost of the alternative fuel device but the total credit shall not exceed \$750 if the device is placed in service on or after January 1, 1998.] **may not exceed the lesser of 50 percent of the cost of the alternative fuel device or \$750.**

(c) For each category one alternative energy device that uses solar radiation for:

(A) Domestic water heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by \$2, whichever is lower, up to \$6,000.

(B) Swimming pool heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by 20 cents, whichever is lower, up to \$2,500.

[(g) Notwithstanding paragraph (c) or (e) of this subsection, the total amount of the credits allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each alternative energy device, whichever is less. Unused credit amounts may be carried forward as provided in subsection (6) of this section, but may not be carried forward to a tax year that is more than five tax years following the first tax year for which any credit was allowed with respect to the category one alternative energy device that is the basis for the credit.]

[(h)(A) (d)(A) For each category two alternative energy device that is a solar electric system or fuel cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of installed output or \$6,000. [The State Department of Energy may by rule provide for a lesser amount of incentive as market conditions warrant, taking into consideration factors including the availability of bulk purchasing of alternative energy devices.]

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

(C) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credits allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each alternative energy device, whichever is less. Unused credit amounts may be carried forward as provided in subsection [(6)] (7) of this section, but may not be carried forward to a tax year that is more than five tax

years following the first tax year for which any credit was allowed with respect to the category two alternative energy device that is the basis for the credit.

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

(3) The State Department of Energy may by rule provide for a lesser amount of incentive for each type of alternative energy device as market conditions warrant.

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

(a) The alternative energy device must be purchased, constructed, installed and operated in accordance with ORS 469B.100 to 469B.118 and a certificate issued thereunder.

(b) The taxpayer who is allowed the credit must be the owner or contract purchaser of the dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the contract purchaser and must:

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

(B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant who uses the dwelling or dwellings as a principal or secondary residence.

[(c) In the case of an alternative fuel device, unless the verification form and certificate are transferred as authorized under ORS 469B.106 (9), the taxpayer who is allowed the credit must be the contractor who constructs the dwelling that incorporates the alternative fuel device into the dwelling or installs the fueling station in the dwelling.]

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

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

[(4)] (5) The credit provided by this section does not affect the computation of basis under this chapter.

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

[(6)] (7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried

forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

[(7)] (8) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

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

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

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

[(11)] (12) As used in this section, unless the context requires otherwise:

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

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

(c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 [(9)] (8).

[(12)] (13) Notwithstanding any provision of [subsection (1) or (2)] **subsections (1) to (3)** of this section, the sum of the credit allowed under subsection (1) of this section plus any similar credit allowed for federal income tax purposes may not exceed the cost for the acquisition, construction and installation of the alternative energy device.

SECTION 28. ORS 469B.100 is amended to read: 469B.100. As used in ORS 316.116[, 317.115] and 469B.100 to 469B.118:

(1) "Alternative energy device" means a category one alternative energy device or a category two alternative energy device.

(2) "Alternative fuel device" includes a facility for mixing, storing, compressing or dispensing fuels for alternative fuel vehicles, and any other necessary and reasonable equipment.

[(3)] "Alternative fuel vehicle" means a motor vehicle as defined in ORS 801.360 that is:

[(a)] Registered in this state; and

[(b)] Manufactured or modified to use an alternative fuel, including but not limited to electricity, natural gas, ethanol, methanol, propane and any other fuel approved in rules adopted by the Director of the

State Department of Energy that produces less exhaust emissions than vehicles fueled by gasoline or diesel. Determination that a vehicle is an alternative fuel vehicle shall be made without regard to energy consumption savings.]

[(4)] (3) "Category one alternative energy device" means:

(a) Any system, mechanism or series of mechanisms that uses solar radiation for space heating or cooling for one or more dwellings;

(b) Any system that uses solar radiation for:

(A) Domestic water heating; or

(B) Swimming pool, spa or hot tub heating and that meets the requirements set forth in ORS 316.116;

(c) A ground [water] **source** heat pump and ground loop system;

(d) Any wind powered device used to offset or supplement the use of electricity by performing a specific task such as pumping water;

(e) Equipment used in the production of alternative fuels;

(f) A generator powered by alternative fuels and used to produce electricity;

(g) An energy efficient appliance;

(h) An alternative fuel device; or

(i) A premium efficiency biomass combustion device that includes a dedicated outside combustion air source and that meets minimum performance standards that are established by the State Department of Energy.

[(5)] (4) "Category two alternative energy device" means a fuel cell system, solar electric system or wind electric system.

[(6)] (5) "Coefficient of performance" means the ratio calculated by dividing the usable output energy by the electrical input energy. Both energy values must be expressed in equivalent units.

[(7)] (6) "Contractor" means a person whose trade or business consists of offering for sale an alternative energy device, construction service, installation service or design service.

[(8)(a)] (7) "Cost" means the actual cost of the acquisition, construction and installation of the alternative energy device.

[(b)] For an alternative fuel vehicle, "cost" means the difference between the cost of the alternative fuel vehicle and the same vehicle or functionally similar vehicle manufactured to use conventional gasoline or diesel fuel or, in the case of modification of an existing vehicle, the cost of the modification. "Cost" does not include any amounts paid for remodification of the same vehicle.]

[(c)] For a fueling station necessary to operate an alternative fuel vehicle, "cost" means the cost to the contractor of constructing or installing the fueling station in a dwelling and of making the fuel station operational in accordance with the specifications issued under ORS 469B.100 to 469B.118 and any rules adopted by the Director of the State Department of Energy.]

[(d)] For related equipment, "cost" means the cost of the related equipment and any modifications or

additions to the related equipment necessary to prepare the related equipment for use in converting a vehicle to alternative fuel use.]

[(9)] (8) “Domestic water heating” means the heating of water used in a dwelling for bathing, clothes washing, dishwashing and other related functions.

[(10)] (9) “Dwelling” means real or personal property ordinarily inhabited as a principal or secondary residence and located within this state. “Dwelling” includes, but is not limited to, an individual unit within multiple unit residential housing.

[(11)] (10) “Energy efficient appliance” includes emerging technologies **that exceed state and federal appliance standards.***[, such as high-efficiency heat-pump water heaters for domestic hot water that meet the Northern Tier Specification established by the Northwest Energy Efficiency Alliance for electricity or have 0.67 or greater energy factor for gas water heaters, ductless heat pumps, high-efficiency furnaces that are at least 95 percent efficient, on-demand gas water heaters and heat-pumps, that exceed code.]*

[(12)] (11) “First year energy yield” of an alternative energy device is the usable energy produced **or energy saved** under average environmental conditions in one year.

[(13)] (12) “Fuel cell system” means any system, mechanism or series of mechanisms that uses fuel cells or fuel cell technology to generate electrical energy for a dwelling.

[(14)] “Fueling station” *includes but is not limited to a compressed natural gas compressor fueling system or an electric charging system for vehicle power battery charging.*

[(15)] (13) “Placed in service” means the date an alternative energy device is ready and available to produce usable energy or save energy.

[(16)] (14) “Solar electric system” means any system, mechanism or series of mechanisms, including photovoltaic systems, that uses solar radiation to generate electrical energy for a dwelling.

[(17)] (15) “Third-party alternative energy device installation” means an alternative energy device that is installed in connection with residential property and owned by a person other than the residential property owner in accordance with an agreement in effect for at least 10 years between the residential property owner and the alternative energy device owner. The agreement must cover maintenance and either the use of or the power generated by the alternative energy device.

[(18)] (16) “Wind electric system” means any system, mechanism or series of mechanisms that uses wind to generate electrical energy for a dwelling.

SECTION 29. ORS 469B.103 is amended to read: 469B.103. (1) For the purposes of carrying out ORS 469B.100 to 469B.118, the State Department of Energy may adopt rules prescribing minimum performance criteria for alternative energy devices for dwellings. The department may, in prescribing criteria, rely on applicable federal, state and local re-

quirements for energy efficiency, including the state building code, **state and federal appliance standards** and any specialty codes and any code adopted by the Building Codes Division of the Department of Consumer and Business Services.

(2) The department shall take into consideration evolving market conditions in prescribing minimum performance criteria for alternative energy devices and in determining credit amounts, consistent with ORS 316.116.

(3) The department, in adopting rules under this section for solar heating and cooling systems, shall take into consideration applicable standards of federal performance criteria prescribed pursuant to the provisions of the Solar Heating and Cooling Demonstration Act of 1974, 42 U.S.C. 5506.

(4) The Director of the State Department of Energy shall adopt rules governing the determination of eligibility, verification and certification of an alternative fuel device for purposes of the tax credits granted under ORS 316.116 *[and 317.115]*, including but not limited to rules that further define an alternative fuel *[vehicle, related equipment or fueling station necessary to operate an alternative fuel vehicle,]* **device and** that govern the computation of costs eligible for credit *[and that require equitable allocation of the tax credit benefits between the lessor and the lessee of an alternative fuel vehicle as a condition of tax credit eligibility].*

(5) The department shall by rule establish policies and procedures for the administration and enforcement of the provisions of ORS 316.116 and 469B.100 to 469B.118.

SECTION 30. ORS 469B.106 is amended to read: 469B.106. (1) Subject to the limitations in section 75, chapter 730, Oregon Laws 2011, any person may claim a tax credit under ORS 316.116 *[(or ORS 317.115, if the person is a corporation)]* if the person:

(a) Meets the requirements of ORS 316.116 *[(or ORS 317.115, if applicable)];*

(b) Meets the requirements of ORS 469B.100 to 469B.118; and

(c) Pays, subject to subsection [(10)] (9) of this section, all or a portion of the costs of an alternative energy device.

[(2)] *A credit under ORS 317.115 may be claimed only if the alternative energy device is a fueling station necessary to operate an alternative fuel vehicle.*

[(3)(a)] (2) In order to be eligible for a tax credit under ORS 316.116 *[or 317.115]*, a person claiming a tax credit for construction or installation of an alternative energy device *[(including a fueling station)]* shall have the device certified by the State Department of Energy or constructed or installed by a contractor certified by the department under subsection [(5)] (4) of this section. *[This paragraph does not apply to an alternative fuel vehicle or to related equipment.]*

[(b) Certification of an alternative fuel vehicle or related equipment shall be accomplished under rules that shall be adopted by the Director of the State Department of Energy.]

[(4)] (3) Verification of the purchase, construction or installation of an alternative energy device shall be made in writing on a form provided by the Department of Revenue and, if applicable, shall contain:

(a) The location of the alternative energy device;
 (b) A description of the type of device;
 (c) If the device was constructed or installed by a contractor, evidence that the contractor has any license, bond, insurance and permit required to sell and construct or install the alternative energy device;

(d) If the device was constructed or installed by a contractor, a statement signed by the contractor that the applicant has received:

(A) A statement of the reasonably expected energy savings of the device;

(B) A copy of consumer information published by the State Department of Energy;

(C) An operating manual for the alternative energy device; and

(D) A copy of the contractor's certification certificate or alternative energy device system certificate for the alternative energy device, as appropriate;

(e) If the device was not constructed or installed by a contractor, evidence that:

(A) The State Department of Energy has issued an alternative energy device system certificate for the alternative energy device; and

(B) The taxpayer has obtained all building permits required for construction or installation of the device;

(f) A statement, signed by both the taxpayer claiming the credit and the contractor if the device was constructed or installed by a contractor, that the construction or installation meets all the requirements of ORS 469B.100 to 469B.118 [*or, if the device is a fueling station and the taxpayer is the contractor, a statement signed by the contractor that the construction or installation meets all of the requirements of ORS 469B.100 to 469B.118*];

(g) The date the alternative energy device was purchased by the residential property owner, or, for a third-party alternative energy device installation, the date that the residential property owner and the alternative energy device owner signed a contract;

(h) The date the alternative energy device was placed in service; and

(i) Any other information that the Director of the State Department of Energy or the Department of Revenue determines is necessary.

[(5)(a)] (4)(a) When the State Department of Energy finds that an alternative energy device can meet the standards adopted under ORS 469B.103, the Director of the State Department of Energy may issue a contractor system certification to the person selling and constructing or installing the alternative energy device.

(b) Any person who sells or installs more than 12 alternative energy devices in one year shall apply for a contractor system certification. An application for a contractor system certification shall be made

in writing on a form provided by the State Department of Energy and shall contain:

(A) A statement that the contractor has any license, bonding, insurance and permit that is required for the sale and construction or installation of the alternative energy device;

(B) A specific description of the alternative energy device, including, but not limited to, the material, equipment and mechanism used in the device, operating procedure, sizing and siting method and construction or installation procedure;

(C) The addresses of three installations of the device that are available for inspection by the State Department of Energy;

(D) The range of installed costs to purchasers of the device;

(E) Any important construction, installation or operating instructions; and

(F) Any other information that the State Department of Energy determines is necessary.

(c) A new application for contractor system approval shall be filed when there is a change in the information supplied under paragraph (b) of this subsection.

(d) The State Department of Energy may issue contractor system certificates to each contractor who on October 3, 1989, has a valid dealer system certification, which shall authorize the sale and installation of the same domestic water heating alternative energy devices authorized by the dealer certification.

(e) If the State Department of Energy finds that an alternative energy device can meet the standards adopted under ORS 469B.103, the Director of the State Department of Energy may issue an alternative energy device system certificate to the taxpayer constructing or installing or having an alternative energy device constructed or installed.

(f) An application for an alternative energy device system certificate shall be made in writing on a form provided by the State Department of Energy and shall contain:

(A) A specific description of the alternative energy device, including, but not limited to, the material, equipment and mechanism used in the device, operating procedure, sizing, siting method and construction or installation procedure;

(B) The constructed or installed cost of the device; and

(C) A statement that the taxpayer has all permits required for construction or installation of the device.

[(6)] (5) Prior to commencing installation of alternative energy devices, installers of third-party alternative energy device installations must apply to the State Department of Energy to reserve credits on behalf of owners of residential property. Installers may reserve credit for no more than 25 installations under this subsection in one application.

[(7)] (6) To claim the tax credit, the verification form described in subsection [(4)] (3) of this section shall be submitted with the taxpayer's tax return for the year the alternative energy device is placed in

service or the immediately succeeding tax year. A copy of the contractor's certification certificate[,] **or** alternative energy device system certificate [*or alternative fuel vehicle or related equipment certificate*] also shall be submitted.

[(8)] (7) The verification form and contractor's certification certificate[,] **or** alternative energy device system certificate [*or alternative fuel vehicle or related equipment certificate*] described under this section shall be effective for purposes of tax relief allowed under ORS 316.116 [*or 317.115*].

[(9)] (8) The verification form and contractor's certification described under this section may be transferred to the first purchaser of a dwelling [*or, in the case of construction or installation of a fueling station in an existing dwelling, the current owner,*] who intends to use [*or is using*] the dwelling as a principal or secondary residence.

[(10)] (9) Any person that pays the present value of the tax credit for an alternative energy device provided under ORS 316.116 [*or 317.115*] and 469B.100 to 469B.118 to the person who constructs or installs the alternative energy device shall be entitled to claim the credit in the manner and subject to rules adopted by the Department of Revenue to carry out the purposes of this subsection. The State Department of Energy may establish by rule uniform discount rates to be used in calculating the present value of a tax credit under this subsection.

SECTION 31. ORS 469B.112 is amended to read: 469B.112. The following devices are not eligible for the tax credit under ORS 316.116:

- (1) Standard efficiency furnaces;
- (2) Air conditioning systems;
- (3) Boilers;
- (4) Standard back-up heating systems;
- (5) Woodstoves or wood furnaces, or any part of a heating system that burns wood, unless the woodstove, furnace or system constitutes a premium efficiency biomass combustion device described in ORS 469B.100 [(4)(i)] **(3)(i)**;
- (6) Heat pump water heaters that are part of a geothermal heat pump space heating system;
- (7) Structures that cover or enclose a swimming pool;
- (8) Swimming pools, hot tubs or spas used to store heat;
- (9) Above ground, uninsulated swimming pools, hot tubs or spas;
- (10) Photovoltaic systems installed on recreational vehicles;
- (11) Conversion of an existing alternative energy device to another type of alternative energy device;
- (12) Repair or replacement of an existing alternative energy device;
- (13) A category two alternative energy device, if the equipment or other property that comprises the category two alternative energy device is the basis for an allowed credit for a category one alternative energy device under ORS 316.116;
- (14) A category one alternative energy device, if the equipment or other property that comprises the

category one alternative energy device is also the basis for an allowed credit for a category two alternative energy device under ORS 316.116; or

(15) Any other device identified by the State Department of Energy. The department may adopt rules defining standards for eligible and ineligible devices under this section.

SECTION 32. ORS 469B.115 is amended to read:

469B.115. (1) [*Except for alternative fuel vehicles or related equipment,*] In order to carry out ORS 469B.100 to 469B.118, the State Department of Energy shall develop performance assumptions and prescriptive measures to determine the eligibility and tax credit amount for alternative energy devices constructed or installed in a dwelling.

(2) The department shall use the performance assumptions and prescriptive measures to develop information for the Department of Revenue to use to allow taxpayers to determine their eligibility and tax credit amount. The State Department of Energy may review this information on an annual basis to take into consideration new technology and performance assumption accuracy.

(3) For the purpose of determining the first year energy yield of an alternative energy device, the department shall use the following assumptions and test standards:

(a) Solar Rating and Certification Corporation [*standard*] **standards** SRCC 100, [200] **300**, American Society of Heating, Refrigerating and Air-Conditioning Engineers 93-77, or the [*American Refrigeration Institute standard 325-85*] **Air-Conditioning, Heating, and Refrigeration Institute under ANSI/AHRI/ASHRAE/ISO Standard 13256-1** test at 50 degrees **Fahrenheit** entering water temperature, as appropriate. The testing requirements under this paragraph [*shall*] **do** not apply to an owner-built alternative energy device.

[(b) For an alternative energy device used as a source for domestic water heating energy, a hot water use of 75 gallons per day at 120 degrees Fahrenheit. The load of 75 gallons per day at 120 degrees Fahrenheit shall be achieved by including conservation measures in the construction or installation of the alternative energy device.]

[(c) (b) For an alternative energy device used as a source for space heating or cooling, the heating or cooling energy load as determined by a heat loss or gain calculation performed in accordance with the methods established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers. Except for an owner-built or site-built system, an alternative energy device used as a source for domestic hot water heating must meet the SRCC OG 300 systems test or comply with comparable requirements as determined by the department.

[(d) (c) For an alternative energy device used as a source for electrical energy, the first year energy yield shall be based upon the electrical energy load of the dwelling as determined according to the procedure established by the department.

(e) (d) For an alternative energy device used as a source for swimming pool, spa or hot tub heating, the first year energy yield shall be based on the heating load of the swimming pool, spa or hot tub as determined according to the procedure established by the department.

SECTION 33. ORS 469B.118 is amended to read:

469B.118. (1) Upon the Department of Revenue's own motion, or upon request of the State Department of Energy, the Department of Revenue may initiate proceedings for the forfeiture of a tax credit allowed under ORS 316.116 *[or 317.115]* if:

(a) The verification was fraudulent because of a misrepresentation by the taxpayer *[or investor owned utility]*;

(b) The verification was fraudulent because of a misrepresentation by the contractor;

(c) *[In the case of an alternative energy device other than an alternative fuel vehicle or related equipment,]* The alternative energy device has not been constructed, installed or operated in substantial compliance with the requirements of ORS 469B.100 to 469B.118; or

(d) The taxpayer *[or investor owned utility]* failed to consent to an inspection of the constructed or installed alternative energy device by the State Department of Energy after a reasonable, written request for such an inspection by the State Department of Energy. *[This paragraph does not apply to an alternative fuel vehicle or to related equipment.]*

(2) Pursuant to the procedures for a contested case under ORS chapter 183, the Director of the State Department of Energy may order the revocation of a contractor certificate issued under ORS 469B.106 if the director finds that:

(a) The contractor certificate was obtained by fraud or misrepresentation by the contractor certificate holder;

(b) The contractor's performance for the alternative energy device for which the contractor is issued a certificate under ORS 469B.106 does not meet industry standards; or

(c) The contractor has misrepresented to the customer either the tax credit program or the nature or quality of the alternative energy device.

(3) If the tax credit allowed under ORS 316.116 *[or 317.115]* for the purchase, construction or installation of an alternative energy device is ordered forfeited due to an action of the taxpayer *[or investor owned utility]* under subsection (1)(a), (c) or (d) of this section, all prior tax relief provided to the taxpayer *[or investor owned utility]* shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the taxpayer *[or utility]* as a result of the tax credit relief under ORS 316.116 *[or 317.115]*.

(4) If the tax credit for the construction or installation of an alternative energy device is ordered forfeited due to an action of the contractor under subsection (1)(b) of this section, the Department of Revenue shall proceed to collect, from the contrac-

tor, an amount equivalent to those taxes not paid by the taxpayer *[or investor owned utility]* as a result of the tax credit relief under ORS 316.116 *[or 317.115]*. As long as the forfeiture is due to an action of the contractor and not to an action of the taxpayer *[or utility]*, the assessment of such taxes shall be levied on the contractor and not on the taxpayer *[or utility]*. Notwithstanding ORS 314.835, the Department of Revenue may disclose information from income tax returns or reports to the extent such disclosure is necessary to collect amounts from contractors under this subsection.

(5) In order to obtain information necessary to verify eligibility and amount of the tax credit, the State Department of Energy or its representative may inspect an alternative energy device that has been purchased, constructed or installed. The inspection shall be made only with the consent of the owner of the dwelling. Failure to consent to the inspection is grounds for the forfeiture of any tax credit relief under ORS 316.116 *[or 317.115]*. The Department of Revenue shall proceed to collect any taxes due according to subsection (4) of this section. For electrical generating alternative energy devices, the State Department of Energy may obtain energy consumption records for the dwelling the device serves, for a 12-month period, in order to verify eligibility and amount of the tax credit.

SECTION 34. ORS 469B.991 is amended to read:

469B.991. (1) The Director of the State Department of Energy may impose a civil penalty against a contractor if a contractor certificate is revoked under ORS 469B.118. The amount of the penalty shall be equal to the total amount of tax relief estimated to have been provided under ORS 316.116 *[or 317.115]* to the contractor or to purchasers of the system for which a contractor's certificate has been revoked.

(2) The State Department of Energy may not collect any of the amount of a civil penalty imposed under subsection (1) of this section from a purchaser of the system for which the final certificate has been revoked. However, the Department of Revenue shall proceed under ORS 469B.118 (3) to collect taxes not paid by a taxpayer if the tax credit is ordered forfeited because of that taxpayer's fraud or misrepresentation under ORS 469B.118 (1)(a).

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(4) A penalty recovered under this section shall be paid into the State Treasury and credited to the General Fund and is available for general governmental expenses.

SECTION 35. ORS 314.752 is amended to read:

314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are allowable to the shareholders of the S corporation.

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

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

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

(5) As used in this section, "business tax credit" means a tax credit granted to personal income taxpayers to encourage certain investment, to create employment, economic opportunity or incentive or for charitable, educational, scientific, literary or public purposes that is listed under this subsection as a business tax credit or is designated as a business tax credit by law or by the Department of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic commerce)[,] **and** ORS 315.533 (low income community jobs initiative) [*and ORS 317.115 (fueling stations necessary to operate an alternative fuel vehicle)*].

SECTION 36. ORS 317.115 and 469B.109 are repealed.

SECTION 37. (1) The amendments to ORS 316.116 by section 26 of this 2015 Act apply to alternative energy devices certified under ORS 469B.106 on or after September 1, 2015, and before January 1, 2016, and to tax years beginning

on or after January 1, 2015, and before January 1, 2016.

(2) The amendments to ORS 316.116, 469B.100, 469B.103, 469B.106, 469B.112, 469B.115, 469B.118 and 469B.991 by sections 27 to 34 of this 2015 Act apply to alternative energy devices certified under ORS 469B.106 on or after January 1, 2016, and to tax years beginning on or after January 1, 2016.

(3) The repeal of ORS 317.115 and 469B.109 by section 36 of this 2015 Act applies to tax years beginning on or after January 1, 2012.

SECTION 38. The amendments to ORS 315.213, 315.613, 316.099, 316.699, 316.758, 329A.700, 329A.703, 329A.706 and 329A.712 by sections 9, 15, 17 and 19 to 24 of this 2015 Act apply to tax years beginning on or after January 1, 2016.

SECTION 38a. If Senate Bill 777 becomes law, section 38 of this 2015 Act is amended to read:

Sec. 38. The amendments to ORS 315.213, 316.099, 316.699, 316.758, 329A.700, 329A.703, 329A.706 and 329A.712 by sections [9] **9a**, 15, 17 and 20 to 24 of this 2015 Act apply to tax years beginning on or after January 1, 2016.

SECTION 39. Section 38, chapter 913, Oregon Laws 2009, is amended to read:

Sec. 38. A credit may not be claimed under ORS 315.610 for tax years beginning on or after January 1, [2016] **2015**.

SECTION 40. Notwithstanding ORS 316.587, a penalty may not be imposed for any underpayment of tax for the 2015 tax year that is attributable solely to the unavailability of the credit allowed under ORS 315.610 in that tax year.

SECTION 41. ORS 315.514 is amended to read:

315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film production development contributions made by the taxpayer during the tax year to the Oregon Production Investment Fund established under ORS 284.367.

(2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office, conduct an auction of tax credits under this section. The department may conduct the auction in the manner that it determines is best suited to maximize the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the department for the actual costs incurred by the department in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The department shall deposit net receipts from the auction required under this section in the Oregon Production Investment Fund.

(b) The Oregon Film and Video Office shall adopt rules in order to achieve the following goals:

(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of \$10 million are certified for each fiscal year;

(B) Maximize income and excise tax revenues that are retained by the State of Oregon for state operations; and

(C) Provide the necessary financial incentives for taxpayers to make contributions, taking into consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

(3) Contributions made under this section shall be deposited in the Oregon Production Investment Fund.

(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed \$10 million for the fiscal year in which certification is made.

(b) The Oregon Film and Video Office and the department are not liable, and a refund of a contributed amount need not be made, if a taxpayer who has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

(5) To the extent the Oregon Film and Video Office does not certify contributed amounts as eligible for a tax credit under this section, the taxpayer may request a refund of the amount the taxpayer contributed, and the office shall refund that amount.

(6)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under this section may not exceed the tax liability of the taxpayer and may not be carried over to another tax year.

(b) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year but may not be carried forward for any tax year thereafter.

(c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which the credit would otherwise be allowed begins on or after January 1, [2018] **2024**.

(7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer, the amount shall be allowed without proration under ORS 316.117.

(8) If the amount of contribution for which a tax credit certification is made is allowed as a deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable income for Oregon tax purposes.

SECTION 42. Section 77, chapter 736, Oregon Laws 2003, as amended by section 1, chapter 913, Oregon Laws 2009, and section 17, chapter 730, Oregon Laws 2011, is amended to read:

Sec. 77. ORS 315.514 applies to tax years beginning on or after January 1, 2005, and before January 1, [2018] **2024**, and to tax credit certifications issued by the Oregon Film and Video Office on or after July 1, 2005.

SECTION 43. ORS 317.090 is amended to read: 317.090. (1) As used in this section:

(a) "Oregon sales" means:

(A) If the corporation apportions business income under ORS 314.650 to 314.665 for Oregon tax purposes, the total sales of the taxpayer in this state during the tax year, as determined for purposes of ORS 314.665;

(B) If the corporation does not apportion business income for Oregon tax purposes, the total sales in this state that the taxpayer would have had, as determined for purposes of ORS 314.665, if the taxpayer were required to apportion business income for Oregon tax purposes; or

(C) If the corporation apportions business income using a method different from the method prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by rule.

(b) If the corporation is an agricultural cooperative that is a cooperative organization described in section 1381 of the Internal Revenue Code, "Oregon sales" does not include sales representing business done with or for members of the agricultural cooperative.

(2) Each corporation or affiliated group of corporations filing a return under ORS 317.710 shall pay annually to the state, for the privilege of carrying on or doing business by it within this state, a minimum tax as follows:

(a) If Oregon sales properly reported on a return are:

(A) Less than \$500,000, the minimum tax is \$150.

(B) \$500,000 or more, but less than \$1 million, the minimum tax is \$500.

(C) \$1 million or more, but less than \$2 million, the minimum tax is \$1,000.

(D) \$2 million or more, but less than \$3 million, the minimum tax is \$1,500.

(E) \$3 million or more, but less than \$5 million, the minimum tax is \$2,000.

(F) \$5 million or more, but less than \$7 million, the minimum tax is \$4,000.

(G) \$7 million or more, but less than \$10 million, the minimum tax is \$7,500.

(H) \$10 million or more, but less than \$25 million, the minimum tax is \$15,000.

(I) \$25 million or more, but less than \$50 million, the minimum tax is \$30,000.

(J) \$50 million or more, but less than \$75 million, the minimum tax is \$50,000.

(K) \$75 million or more, but less than \$100 million, the minimum tax is \$75,000.

(L) \$100 million or more, the minimum tax is \$100,000.

(b) If a corporation is an S corporation, the minimum tax is \$150.

(3) The minimum tax is not apportionable (except in the case of a change of accounting periods), [and] is payable in full for any part of the year during which a corporation is subject to tax, **and may not be reduced, paid or otherwise satisfied through the use of any tax credit.**

SECTION 44. ORS 317.090, as amended by section 43 of this 2015 Act, is amended to read:

317.090. (1) As used in this section:

(a) "Oregon sales" means:

(A) If the corporation apportions business income under ORS 314.650 to 314.665 for Oregon tax purposes, the total sales of the taxpayer in this state during the tax year, as determined for purposes of ORS 314.665;

(B) If the corporation does not apportion business income for Oregon tax purposes, the total sales in this state that the taxpayer would have had, as determined for purposes of ORS 314.665, if the taxpayer were required to apportion business income for Oregon tax purposes; or

(C) If the corporation apportions business income using a method different from the method prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by rule.

(b) If the corporation is an agricultural cooperative that is a cooperative organization described in section 1381 of the Internal Revenue Code, "Oregon sales" does not include sales representing business done with or for members of the agricultural cooperative.

(2) Each corporation or affiliated group of corporations filing a return under ORS 317.710 shall pay annually to the state, for the privilege of carrying on or doing business by it within this state, a minimum tax as follows:

(a) If Oregon sales properly reported on a return are:

(A) Less than \$500,000, the minimum tax is \$150.

(B) \$500,000 or more, but less than \$1 million, the minimum tax is \$500.

(C) \$1 million or more, but less than \$2 million, the minimum tax is \$1,000.

(D) \$2 million or more, but less than \$3 million, the minimum tax is \$1,500.

(E) \$3 million or more, but less than \$5 million, the minimum tax is \$2,000.

(F) \$5 million or more, but less than \$7 million, the minimum tax is \$4,000.

(G) \$7 million or more, but less than \$10 million, the minimum tax is \$7,500.

(H) \$10 million or more, but less than \$25 million, the minimum tax is \$15,000.

(I) \$25 million or more, but less than \$50 million, the minimum tax is \$30,000.

(J) \$50 million or more, but less than \$75 million, the minimum tax is \$50,000.

(K) \$75 million or more, but less than \$100 million, the minimum tax is \$75,000.

(L) \$100 million or more, the minimum tax is \$100,000.

(b) If a corporation is an S corporation, the minimum tax is \$150.

(3) The minimum tax is not apportionable (except in the case of a change of accounting periods), **and** is payable in full for any part of the year during which a corporation is subject to tax[, and may not be reduced, paid or otherwise satisfied through the use of any tax credit].

SECTION 45. (1) The amendments to ORS 317.090 by section 43 of this 2015 Act apply to tax years beginning on or after January 1, 2015, and before January 1, 2021.

(2) The amendments to ORS 317.090 by section 44 of this 2015 Act apply to tax years beginning on or after January 1, 2021.

SECTION 46. ORS 307.130, as amended by section 16, chapter 52, Oregon Laws 2014, is amended to read:

307.130. (1) As used in this section:

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

(b) "History museum or science museum" means a nonprofit corporation organized to display historical or scientific exhibits, or both, to the public.

[(b)] (c) "Nonprofit corporation" means a corporation that:

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

(B) Is organized and operated as described under section 501(c) of the Internal Revenue Code as defined in section 15, chapter 52, Oregon Laws 2014.

[(c)] (d) "Volunteer fire department" means a nonprofit corporation organized to provide fire protection services in a specific response area.

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

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

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

(c) All real or personal property of a rehabilitation facility or any retail outlet thereof, including inventory. As used in this subsection, "rehabilitation facility" means either those facilities defined in ORS 344.710 or facilities which provide individuals who have physical, mental or emotional disabilities with occupational rehabilitation activities of an educa-

tional or therapeutic nature, even if remuneration is received by the individual.

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

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

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

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

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

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

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

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

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

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

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

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

(3)(a) Upon compliance with ORS 307.162, real and personal property owned or leased by a history museum or science museum shall be exempt from property taxes if the property:

(A) Is used to fulfill the mission of the museum as provided in the articles of incorporation and bylaws of the museum; and

(B) Is used or occupied for one or more of the following purposes:

(i) As a food service facility or concession stand selling food and refreshments to museum visitors, volunteers or staff within the museum buildings or on museum grounds.

(ii) As a retail store selling inventory, at least 90 percent of which is museum-related, within the museum buildings or on museum grounds.

(iii) As a parking lot, the use of which is permitted without charge for not fewer than 355 days during the property tax year, for museum visitors, volunteers or staff employed by the museum.

(iv) As a theater located in a museum building showing entertainment or educational features, at least 75 percent of which are museum-related.

(v) As unimproved land that is not specially assessed and that is contiguous with the land on which the museum is situated.

(vi) For displays, storage areas, educational classrooms or meeting areas.

(b) The exemption granted under this subsection does not apply to property used or occupied as a hotel, water park or chapel or for any commercial enterprise.

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

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

SECTION 47. The amendments to ORS 307.130 by section 46 of this 2015 Act apply to property tax years beginning on or after July 1, 2015.

SECTION 48. ORS 307.130, as amended by section 16, chapter 52, Oregon Laws 2014, and section 46 of this 2015 Act, is amended to read:

307.130. (1) As used in this section:

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

(b) "*History museum or science museum*" means a nonprofit corporation organized to display historical or scientific exhibits, or both, to the public.]

[c] (b) "Nonprofit corporation" means a corporation that:

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

(B) Is organized and operated as described under section 501(c) of the Internal Revenue Code as defined in section 15, chapter 52, Oregon Laws 2014.

[d] (c) "Volunteer fire department" means a nonprofit corporation organized to provide fire protection services in a specific response area.

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

(a) Except as provided in ORS 748.414, only such real or personal property, or proportion thereof, as is actually and exclusively occupied or used in the

literary, benevolent, charitable or scientific work carried on by such institutions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[(3)(a) Upon compliance with ORS 307.162, real and personal property owned or leased by a history museum or science museum shall be exempt from property taxes if the property:]

[(A) Is used to fulfill the mission of the museum as provided in the articles of incorporation and by-laws of the museum; and]

[(B) Is used or occupied for one or more of the following purposes:]

[(i) As a food service facility or concession stand selling food and refreshments to museum visitors, volunteers or staff within the museum buildings or on museum grounds.]

[(ii) As a retail store selling inventory, at least 90 percent of which is museum-related, within the museum buildings or on museum grounds.]

[(iii) As a parking lot, the use of which is permitted without charge for not fewer than 355 days during the property tax year, for museum visitors, volunteers or staff employed by the museum.]

[(iv) As a theater located in a museum building showing entertainment or educational features, at least 75 percent of which are museum-related.]

[(v) As unimproved land that is not specially assessed and that is contiguous with the land on which the museum is situated.]

[(vi) For displays, storage areas, educational classrooms or meeting areas.]

[(b) The exemption granted under this subsection does not apply to property used or occupied as a hotel, water park or chapel or for any commercial enterprise.]

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

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

SECTION 49. The amendments to ORS 307.130 by section 48 of this 2015 Act apply to property tax years beginning on or after July 1, 2019.

SECTION 50. ORS 316.027 is amended to read: 316.027. (1) For purposes of this chapter, unless the context requires otherwise:

(a) "Resident" or "resident of this state" means:

(A) An individual who is domiciled in this state unless the individual:

(i) Maintains no permanent place of abode in this state;

(ii) Does maintain a permanent place of abode elsewhere; and

(iii) Spends in the aggregate not more than 30 days in the taxable year in this state; or

(B) An individual who is not domiciled in this state but maintains a permanent place of abode in this state and spends in the aggregate more than 200 days of the taxable year in this state unless the in-

dividual proves that the individual is in the state only for a temporary or transitory purpose.

(b) "Resident" or "resident of this state" does not include:

(A) An individual who is a qualified individual under section 911(d)(1) of the Internal Revenue Code for the tax year;

(B) A spouse of a qualified individual under section 911(d)(1) of the Internal Revenue Code, if the spouse has a principal place of abode for the tax year that is not located in this state; *[or]*

(C) A resident alien under section 7701(b) of the Internal Revenue Code who would be considered a qualified individual under section 911(d)(1) of the Internal Revenue Code if the resident alien were a citizen of the United States[.]; **or**

(D) A member of the Armed Forces who performs active service as defined in 10 U.S.C. 101(d)(3), other than annual training duty or inactive-duty training, if the member's residency as reflected in the payroll records of the Defense Finance and Accounting Service is outside this state.

(2) For purposes of subsection (1)(a)(B) of this section, a fraction of a calendar day shall be counted as a whole day.

SECTION 51. Section 52 of this 2015 Act is added to and made a part of ORS chapter 316.

SECTION 52. (1) Any taxpayer who seeks refunds, for tax years beginning on or after January 1, 2012, due to exemption of amounts from taxation as provided in ORS 316.027 (1)(b)(D) shall file amended returns for the applicable tax years.

(2) Notwithstanding ORS 314.415 (2), a taxpayer may file a claim for refund at any time prior to January 1, 2018.

(3) A refund under this section does not bear interest under ORS 305.220.

(4) Any interest or penalty for tax years beginning on or after January 1, 2010, and before January 1, 2012, that is attributable to a taxpayer's residency as defined in ORS 316.027 (1)(b)(D) shall be canceled.

SECTION 53. The amendments to ORS 316.027 by section 50 of this 2015 Act apply to tax years beginning on or after January 1, 2012.

SECTION 54. Section 52 of this 2015 Act is repealed January 1, 2018.

SECTION 55. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Approved by the Governor July 20, 2015

Filed in the office of Secretary of State July 21, 2015

Effective date October 5, 2015