

Enrolled
House Bill 2433

Sponsored by Representatives NATHANSON, RESCHKE (Presession filed.)

CHAPTER

AN ACT

Relating to taxation; creating new provisions; amending ORS 315.167, 315.264, 315.266, 315.271, 315.514, 315.613, 315.650, 316.699, 317.097, 320.308, 458.620, 458.660, 458.670, 458.675, 458.680, 458.685, 458.690, 458.700, 654.086, 658.453 and 658.815 and section 77, chapter 736, Oregon Laws 2003, section 1a, chapter 559, Oregon Laws 2005, section 9, chapter 765, Oregon Laws 2007, section 9, chapter 843, Oregon Laws 2007, sections 25, 27, 39, 42 and 50, chapter 913, Oregon Laws 2009, and section 5, chapter 701, Oregon Laws 2015; and prescribing an effective date.

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

SECTION 1. Section 39, chapter 913, Oregon Laws 2009, as amended by section 16, chapter 701, Oregon Laws 2015, 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, [2022] **2028**.

SECTION 2. Section 42, chapter 913, Oregon Laws 2009, as amended by section 14, chapter 701, Oregon Laws 2015, 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, [2022] **2028**.

SECTION 3. Section 25, chapter 913, Oregon Laws 2009, as amended by section 10, chapter 750, Oregon Laws 2013, section 18, chapter 701, Oregon Laws 2015, section 7, chapter 829, Oregon Laws 2015, and section 13, chapter 610, Oregon Laws 2017, 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, [2022] **2028**.

(2) A taxpayer who meets the eligibility requirements in ORS 315.613 for the tax year beginning on or after January 1, [2021] **2027**, and before January 1, [2022] **2028**, shall be allowed the credit under ORS 315.613 for any tax year:

(a) That begins on or before January 1, [2031] **2037**; and

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

(3) Notwithstanding subsection (2) of this section, a taxpayer may not during the taxpayer's lifetime claim the credit allowed under this section for more than a total of 10 tax years that begin on or after January 1, 2018.

SECTION 3a. ORS 315.613 is amended to read:

315.613. (1) An annual credit against the taxes otherwise due under ORS chapter 316 shall be allowed to a resident or nonresident individual who is:

(a) Certified as eligible under ORS 442.563;

(b) Licensed under ORS chapter 677;

(c) Engaged in the practice of medicine, and engaged for at least 20 hours per week, averaged over the month, during the tax year in a rural practice; and

(d) Has adjusted gross income not in excess of \$300,000 for the tax year. The limitation in this paragraph does not apply to a physician who practices as a general surgeon, specializes in obstetrics, [or] specializes in family or general practice and provides obstetrical services **or practices emergency medicine in a county that is a frontier rural practice county under rules adopted by the Office of Rural Health.**

(2) The amount of credit allowed shall be based on the distance from a major population center in a qualified 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;

(B) Located 30 or more miles from the closest hospital within the major population center in a metropolitan statistical area; or

(C) 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 critical access hospital; or

(e) A hospital:

(A) Classified by the Centers for Medicare and Medicaid Services as a rural referral center in accordance with 42 U.S.C. 1395ww(d)(5)(C)(i); and

(B) Classified by the Centers for Medicare and Medicaid Services as a sole community hospital in accordance with 42 U.S.C. 1395ww(d)(5)(D)(iii).

(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.

(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.

(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.

(7) As used in this section:

(a) "Qualified metropolitan statistical area" means only those counties of a metropolitan statistical area that are located in Oregon if the largest city within the metropolitan statistical area is located in Oregon.

(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.

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

SECTION 4. Section 27, chapter 913, Oregon Laws 2009, as amended by section 43, chapter 750, Oregon Laws 2013, and section 1, chapter 31, Oregon Laws 2016, is amended to read:

Sec. 27. A credit may not be claimed under ORS [315.521] **315.640** if the initial tax year in which the credit would otherwise be allowed begins on or after January 1, [2022] **2028**.

SECTION 5. Section 5, chapter 701, Oregon Laws 2015, is amended to read:

Sec. 5. (1) [Section 3 of this 2015 Act] **ORS 315.264** applies to tax years beginning on or after January 1, 2016, and before January 1, [2022] **2028**.

(2) The amendments to ORS 315.264 by section 5a of this 2021 Act apply to tax years beginning on or after January 1, 2022, and before January 1, 2028.

SECTION 5a. ORS 315.264 is amended to read:

315.264. (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 (c) of this subsection.

(b) The credit allowed under this section may be claimed for expenses for care of a qualifying individual that allow a nonmarried taxpayer to seek employment or to attend school **as a degree-seeking student enrolled** on a full-time or part-time basis.

(c) The employment-related expenses for which a credit is claimed under this section may not exceed the least of:

(A) **The combination of earned income taxable by Oregon and reportable on the taxpayer’s return and imputed income;**

(B) The lesser amount [of earned income taxable by Oregon earned by either spouse], **attributable to either spouse, of the combination of the spouse’s imputed income and the spouse’s earned income subject to taxation by Oregon,** if reportable on a joint return; or

(C) \$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.

(d) The limitations in paragraph (c)(C) of this subsection shall be reduced by the aggregate amount excludable under section 129 of the Internal Revenue Code for the tax year.

(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
qualifying individual on January 1 of tax year

				At least 6 years but less than	
			At least	13, or at least	
Greater	Less than	Under 3	3 years	13 but less	18 years or
than	or equal to	years	but less	than 18 if	older if
0%	10%	10%	than 6	disabled	disabled
			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) For the purposes of calculating the allowed amount of credit applicable to a student:

(a) Imputed income shall equal \$1,000 per qualified month per student for a student for whom there is one qualifying individual, or \$2,000 per qualified month per student for a student for which there are two or more qualifying individuals.

(b) A qualified month is any month in which the student is a full-time or part-time student and attending school, or a summer month in a calendar year in which the student was enrolled in a degree-seeking program in both the spring and fall academic terms.

(c) The school ratio shall equal 100 percent for a month for which a student is qualified for student financial aid as a full-time student, and 70 percent for a month for which a student is qualified for student financial aid as a part-time student.

(d) If a student is a part-time student for a portion of the year and a full-time student for the balance of the year, the credit shall be prorated. The school ratio applicable to the summer months, if any, shall be the school ratio applicable to the immediately preceding spring month.

(6) Notwithstanding subsections (2) and (3) of this section, for a student with adjusted gross income as a percentage of the federal poverty level that is less than or equal to 110 percent, the amount of credit shall be the greater of:

(a) The credit calculated using subsection (2) of this section; or

(b) The product of the applicable percentage, as shown in subsection (2) of this section, corresponding to an adjusted gross income percentage of 110 percent, multiplied by:

(A) The lesser of expenses for care of a qualifying individual or imputed income; and

(B) The school ratio.

[(5)] (7) 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)] (8) 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)] (9) 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)] (10) 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)] (11) 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)] (12) 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)] (13) 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.

[(12)] (14) Any amount that is refunded to the taxpayer under this section and that is in excess of the tax liability of the taxpayer does not bear interest.

SECTION 6. 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 a percentage of the taxpayer's donation amount, as determined by the fiduciary organization, but not to exceed 90 percent of any donation amount. **A credit may be claimed for a donation made not later than April 15 following December 31 of the tax year for which the credit is allowed.** To qualify for a credit under this section, donations to a fiduciary organization must be made prior to [January 1, 2022] **April 15, 2028.**

(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 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. The total credit allowed to a taxpayer in any tax year under this section and ORS 458.690 may not exceed \$500,000.

SECTION 7. Section 9, chapter 765, Oregon Laws 2007, as amended by section 7, chapter 701, Oregon Laws 2015, is amended to read:

Sec. 9. (1) A credit may not be claimed under ORS 315.271 and 458.690 for tax years beginning on or after January 1, [2022] **2028.**

(2) The amendments to ORS 315.271 by section 6 of this 2021 Act apply to tax years beginning on or after January 1, 2022, and before January 1, 2028.

SECTION 8. ORS 458.670 is amended to read:

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

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

(a) Is 12 years of age or older;

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

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

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

(a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 2018; or

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

(3) "Financial institution" means:

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

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

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

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

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

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

(6)(a) "Net worth" means a calculation based on the net value of assets of a household established by rule by the Housing and Community Services Department.

(b) "Net worth" does not include:

(A) Equity in one residence and in one vehicle.

(B) Holdings in pension accounts valued at less than \$120,000.

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

SECTION 9. ORS 458.675 is amended to read:

458.675. The Legislative Assembly finds that:

(1) The problem of poverty will not be solved solely by government programs and income subsidies.

(2) Family economic well-being does not come solely from income, spending or consumption, but instead requires savings, investment and the accumulation of assets.

(3) It is appropriate for the state to institute an asset-based antipoverty strategy.

(4) The state has an opportunity to take advantage of private and federal resources by making the transition to an asset-based antipoverty strategy. Those resources **may** include, but are not limited to, the Assets for Independence Act (42 U.S.C. 604) and the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.).

(5) Investment through an individual development account system will help lower income households obtain the assets they need to succeed. Communities and this state will experience resultant economic and social benefits accruing from the promotion of [*job training and higher education, home ownership and small business development*] **the financial stability and resilience of lower income households.**

[(6) It is desirable for this state to enact legislation that enables an authorized fiduciary organization sufficient flexibility to receive private, state and federal moneys for individual development accounts. The Legislative Assembly should periodically review the provisions of ORS 458.675 to 458.700 to ensure that this state maximizes the receipt of available federal moneys for individual development accounts.]

SECTION 10. ORS 458.680 is amended to read:

458.680. (1) A person who qualifies to become an account holder may enter into an agreement with a fiduciary organization for the establishment of an individual development account.

(2) To become an account holder a person must, in addition to meeting any other qualifications, be a member of a lower income household that has a net worth of less than \$20,000. [*As used in this subsection, "net worth" means the value of all assets owned in whole or part by household members, excluding equity in a residence and in one vehicle, and excluding holdings in pension accounts, as defined by the Housing and Community Services Department by rule, that are valued at less than \$60,000, minus the total debts and obligations of household members, all as measured at the time that the person applies to establish the account.*]

(3) Every account holder, with support from the fiduciary organization, shall develop a personal development plan to advance account holder self-reliance. The personal development plan must include appropriate coaching, mentorship, social support, financial adequacy training and asset-specific training designed to increase the independence of the person and the person's household through achievement of the account's approved purpose.

(4) Notwithstanding subsection (1) of this section, a fiduciary organization may refuse to allow a qualified person to establish an account if establishment of the account would result in the members of a lower income household having more than one account. Notwithstanding subsection (1) of this section, a fiduciary organization shall refuse to allow a qualified person to establish an account if establishment of the account would result in the members of a lower income household having more than two accounts.

SECTION 11. ORS 458.685, as amended by section 36, chapter 12, Oregon Laws 2020 (first special session) (Enrolled House Bill 4212), 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 178.300 to 178.360 on behalf of a designated beneficiary, the funding of qualified higher education expenses as defined in ORS 178.300 by one or more deposits into a 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, 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.

(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] **with** 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.

(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.

(h) The purchase of equipment, technology or specialized training [*required*], **as specified in the account holder's personal development plan, that allows the person** 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*] **or to increase** the independence of [*the person*] **an account holder**.

(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*] **to support** 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.

(n) The establishment of savings for emergency expenses to promote financial stability and to protect existing assets **as specified in the account holder's personal development plan**. As used in this paragraph, "emergency expenses" includes expenses for extraordinary medical costs or other unexpected and substantial personal expenses that would significantly impact the account holder's noncash assets, health, housing or standard of living if not promptly addressed.

(2)(a) An account holder may withdraw all or part of the account holder's deposits to an individual development account for [*emergency expenses as defined in subsection (1)(n) of this section*] **any financial hardship as determined by the account holder**, without regard to whether the account was established for emergency savings.

(b) [*The account holder must reimburse an account established for a purpose listed under subsection (1)(a) to (m) of this section for the amount withdrawn under this subsection. 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 except under this subsection.*] **The fiduciary organization shall remove from an account holder's account any moneys deposited as**

matching funds to deposits withdrawn under this section, unless the withdrawn deposits were deposited and withdrawn for emergency expenses under subsection (1)(n) of this section.

[(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)] (3)(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 178.335, into one or more of the savings network accounts for higher education under ORS 178.300 to 178.360, 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 178.335.

(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.

[(5)] (4) 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.

[(6)] (5) If an account holder is removed from the program under subsection *[(3) or (5)] (4)* 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 12. ORS 458.690 is amended to read:

458.690. (1) *[Notwithstanding ORS 315.271,]* A fiduciary organization selected under ORS 458.695 may qualify as the recipient of account contributions that qualify the contributor for a tax credit under ORS 315.271 only if *[the fiduciary organization structures the accounts to have the following features:]*

[(a)] the fiduciary organization matches amounts deposited by the account holder according to a formula established by the fiduciary organization. *The fiduciary organization shall maintain on deposit in the account] of* not less than \$1 nor more than \$5 for each \$1 deposited by the account holder.

[(b) The matching deposits by the fiduciary organization to the individual development account are placed in:]

[(A) A savings account jointly held by the account holder and the fiduciary organization and requiring the signatures of both for withdrawals;]

[(B) A savings] The matching funds must be deposited into a designated account that is controlled by the fiduciary organization and is separate from the savings account of the account holder[; or].

[(C) In the case of an account established for the purpose described in ORS 458.685 (1)(c), a savings network account for higher education under ORS 178.300 to 178.360, in which the fiduciary organization is the account owner as defined in ORS 178.300.]

(2) Account holders may not accrue more than [~~\$3,000~~] **\$6,000** of matching funds under subsection (1) of this section from state-directed moneys in any 12-month period. A fiduciary organization may designate a lower amount as a limit on annual matching funds. A fiduciary organization shall maintain on deposit sufficient funds to cover the matching deposit agreements for all individual development accounts managed by the organization.

(3) The Housing and Community Services Department shall adopt rules to establish a maximum total amount of state-directed moneys that may be deposited as matching funds into an individual development account.

(4) The Housing and Community Services Department shall provide information to the Department of Revenue about all individual development account contributors that are qualified for a tax credit under ORS 315.271, if required by ORS 315.058.

SECTION 13. ORS 458.700 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, including marketing to participants, soliciting **additional** matching contributions, counseling account holders, providing financial literacy education, and conducting required verification and compliances 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*] **ORS 458.670 to 458.700.**

(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*] **must** be filed no later than 90 days after the end of the fiscal year of the fiduciary organization. The report [*shall*] **must** 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 savings network account for higher education under ORS 178.300 to 178.360:*]

[*(a) May make a qualified withdrawal only at the direction of the designated beneficiary and only after the 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 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)] (5) The department may make all reasonable and necessary rules to ensure fiduciary organization compliance with [this section and ORS 458.685 and 458.695] **ORS 458.670 to 458.700.**

SECTION 14. ORS 315.650 is amended to read:

315.650. (1) A credit against taxes otherwise imposed under ORS chapter 316 shall be allowed for amounts contributed by the taxpayer during the tax year to a savings network account for higher education established under ORS 178.300 to 178.360 or an ABLE account established under ORS 178.380. A taxpayer who makes contributions to both types of account may claim the credit for the amounts listed in subsection (2) of this section for each type of account.

(2) The amount of the credit allowed under this section shall be limited based on the taxpayer's adjusted gross income and shall be the lesser of \$300, if reported on a joint return, or \$150, if reported on any other type of return, or the following:

(a) The amount contributed, if the taxpayer's adjusted gross income does not exceed \$30,000;

(b) 50 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds \$30,000 but does not exceed \$70,000;

(c) 25 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds \$70,000 but does not exceed \$100,000;

(d) 10 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds \$100,000 but does not exceed \$250,000; or

(e) 5 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds \$250,000.

(3)(a) The Department of Revenue shall annually adjust the maximum credit amounts allowable under this section according to the cost-of-living adjustment for the calendar year. The department shall first make this adjustment for a joint return by multiplying the maximum credit 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, 2018.

(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.

(c) If any adjustment to the maximum credit amount for a joint return, as determined under paragraph (a) of this subsection, is not a multiple of \$20, the adjustment shall be rounded to the next lower multiple of \$20. The department shall then adjust the maximum credit amount for all other types of returns so that it is half the maximum credit amount for a joint return.

(4) A credit under this section is allowed for a preceding tax year for amounts contributed to a savings network account for higher education or to an ABLE account 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.

(5) A credit 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)] **(3)(a)(A).**

(6) 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 (withholding), ORS 316.583 (estimated tax), other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year (reduced by 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.

(7) The credit shall be claimed on a form prescribed by the Department of Revenue that contains the information required by the department.

(8) Spouses in a marriage 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 adjusted gross income of each.

(9) In the case of a credit allowed under this section:

(a) A nonresident shall be allowed the credit in the proportion provided in ORS 316.117.

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

(c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit shall be prorated or computed in a manner consistent with ORS 314.085.

SECTION 15. ORS 316.699 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 178.300 to 178.360; or

(b) An ABLE account established under ORS 178.380 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)] **(3)(a)(A)**.

SECTION 16. Section 50, chapter 913, Oregon Laws 2009, as amended by section 13, chapter 701, Oregon Laws 2015, is amended to read:

Sec. 50. An offset is not allowed under ORS 734.835 [does not apply to tax years beginning] if the first tax year for which the credit would otherwise be allowed begins on or after January 1, [2022] 2028.

SECTION 17. Section 9, chapter 843, Oregon Laws 2007, as amended by section 52, chapter 913, Oregon Laws 2009, and section 12, chapter 701, Oregon Laws 2015, 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, [2022] 2028.

(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 18. ORS 315.167 is amended to read:

315.167. (1) Prior to the completion of an agriculture workforce housing project for which credit under ORS 315.164 will be claimed, an owner or operator of agriculture workforce housing shall apply to the Housing and Community Services Department for a letter of credit approval.

(2) The application shall be on such form as is prescribed by the Housing and Community Services Department and shall provide:

- (a) The name, address and taxpayer identification number of the taxpayer;
- (b) The location of the proposed agriculture workforce housing;
- (c) A description of the project identifying the type of housing that is the subject of the agriculture workforce housing project;
- (d) An estimate of the eligible costs of the agriculture workforce housing project;
- (e) The number of units in the project dedicated to agriculture workforce housing and the eligible costs associated with the units;
- (f) The amount of credit to be claimed by the owner or operator of agriculture workforce housing, and the amount of credit, if any, to be claimed by a contributor under ORS 315.169; and
- (g) Any other information as the Housing and Community Services Department may require.

(3) The Housing and Community Services Department may review applications using any reasonable system of prioritizing review established by department rule.

[(4) Applications filed in compliance with this section shall be approved by the Housing and Community Services Department to the extent that the total of estimated eligible costs for all approved agriculture workforce housing projects for the calendar year is equal to or less than \$7.25 million. No application shall be approved if the addition of the estimated eligible costs of the project to the estimated eligible costs for all approved projects for the calendar year would exceed \$7.25 million.]

[(5)] (4) Upon approval of an application, the Housing and Community Services Department shall prepare a letter of credit approval. The letter shall state the approved amount of estimated eligible costs for the agriculture workforce housing project and, if applicable, the portion of credit to be claimed by an owner or operator of agriculture workforce housing under ORS 315.164 and the portion of credit to be claimed by a contributor under ORS 315.169. The letter shall be sent:

(a) To the owner or operator of agriculture workforce housing, if any credit is to be claimed under ORS 315.164; and

(b) To the contributor, if any credit is to be claimed under ORS 315.169 and if the contributor has been identified at the time of approval.

[(6)] (5) At the conclusion of each calendar year, the Housing and Community Services Department shall send a list of the names, addresses and taxpayer identification numbers of taxpayers to whom a letter of credit approval has been issued under this section during the calendar year, along with approved amounts of estimated eligible costs for each agriculture workforce housing project, to the Department of Revenue.

[(7)] (6) Notwithstanding that a letter of credit approval has been issued to a taxpayer under this section, the Department of Revenue may disallow, in whole or in part, a claim for credit under ORS 315.164 upon the Department of Revenue's determination that under the provisions of ORS 315.164 the taxpayer is not entitled to the credit or is only entitled to a portion of the amount claimed.

SECTION 19. Section 20 of this 2021 Act is added to and made a part of ORS chapter 315.

SECTION 20. The Housing and Community Services Department may approve an application under ORS 315.167 only if the potential credits of the project would not cause the total potential credits claimed under ORS 315.164 (1) for all approved applications to exceed \$16.75 million within the biennium in which the application is approved.

SECTION 21. Section 20 of this 2021 Act applies to biennia beginning on or after July 1, 2021.

SECTION 22. ORS 458.660 is amended to read:

458.660. (1) Except as provided in subsection (2) of this section, the Housing and Community Services Department shall disburse the moneys credited to the [Farmworker] **Agricultural Worker** Housing Development Account to expand this state's supply of housing for low and very low income [farmworkers] **agricultural workers**.

(2) The department may expend funds from the account for administration of the account as provided for in the legislatively approved budget, as that term is defined in ORS 291.002, for the department.

SECTION 23. ORS 458.620 is amended to read:

458.620. (1) There is created, separate and distinct from the General Fund of the State Treasury, the Oregon Housing Fund, which consists of six separate revolving accounts:

- (a) The Housing Development and Guarantee Account;
- (b) The Emergency Housing Account;
- (c) The Home Ownership Assistance Account;
- (d) The [Farmworker] **Agricultural Worker** Housing Development Account;
- (e) The General Housing Account; and
- (f) The Wildfire Damage Housing Relief Account.

(2) Earnings on investment of moneys in:

- (a) The Housing Development and Guarantee Account accrue to that account.
- (b) The Emergency Housing Account accrue to that account.
- (c) The Home Ownership Assistance Account accrue to that account.
- (d) The [Farmworker] **Agricultural Worker** Housing Development Account accrue to that account.

account.

- (e) The General Housing Account accrue to that account.
- (f) The Wildfire Damage Housing Relief Account accrue to that account.

(3)(a) Moneys in the Housing Development and Guarantee Account are continuously appropriated to the Housing and Community Services Department to carry out the provisions of ORS 458.630.

(b) Moneys in the Emergency Housing Account are continuously appropriated to the department to carry out the provisions of ORS 458.650.

(c) Moneys in the Home Ownership Assistance Account are continuously appropriated to the department to carry out the provisions of ORS 458.655.

(d) Moneys in the [Farmworker] **Agricultural Worker** Housing Development Account are continuously appropriated to the department to carry out the provisions of ORS 458.660.

(e) Moneys in the General Housing Account are continuously appropriated to the department to carry out the provisions of ORS 456.515 to 456.725.

(f) Moneys in the Wildfire Damage Housing Relief Account are continuously appropriated to the department to carry out the provisions of ORS 458.667.

(4) Individuals and corporations, both for profit or nonprofit, may make monetary contributions to be credited to:

- (a) The Housing Development and Guarantee Account; or
- (b) The General Housing Account.

SECTION 24. ORS 458.620, as amended by section 39, chapter 10, Oregon Laws 2020 (second special session), is amended to read:

458.620. (1) There is created, separate and distinct from the General Fund of the State Treasury, the Oregon Housing Fund, which consists of five separate revolving accounts:

- (a) The Housing Development and Guarantee Account;
- (b) The Emergency Housing Account;
- (c) The Home Ownership Assistance Account;
- (d) The [Farmworker] **Agricultural Worker** Housing Development Account; and
- (e) The General Housing Account.

(2) Earnings on investment of moneys in:

- (a) The Housing Development and Guarantee Account accrue to that account.

- (b) The Emergency Housing Account accrue to that account.
- (c) The Home Ownership Assistance Account accrue to that account.
- (d) The [*Farmworker*] **Agricultural Worker** Housing Development Account accrue to that account.

(e) The General Housing Account accrue to that account.

(3)(a) Moneys in the Housing Development and Guarantee Account are continuously appropriated to the Housing and Community Services Department to carry out the provisions of ORS 458.630.

(b) Moneys in the Emergency Housing Account are continuously appropriated to the department to carry out the provisions of ORS 458.650.

(c) Moneys in the Home Ownership Assistance Account are continuously appropriated to the department to carry out the provisions of ORS 458.655.

(d) Moneys in the [*Farmworker*] **Agricultural Worker** Housing Development Account are continuously appropriated to the department to carry out the provisions of ORS 458.660.

(e) Moneys in the General Housing Account are continuously appropriated to the department to carry out the provisions of ORS 456.515 to 456.725.

(4) Individuals and corporations, both for profit or nonprofit, may make monetary contributions to be credited to:

- (a) The Housing Development and Guarantee Account; or
- (b) The General Housing Account.

SECTION 25. ORS 654.086 is amended to read:

654.086. (1) The Director of the Department of Consumer and Business Services or the authorized representative of the director has the authority to assess civil penalties as provided by this section for violation of the requirements of a state occupational safety or health statute or the lawful rules, standards or orders adopted under the statute. In setting maximum penalties, the director or the director's representative shall consider, but may not exceed, the maximum penalties under the federal Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(a) Any employer who receives a citation for a serious violation of such requirements shall be assessed a civil penalty of not less than \$50.

(b) Any employer who receives a citation for a violation of such requirements, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty.

(c) Any employer who willfully or repeatedly violates such requirements may be assessed a civil penalty of not less than the minimum penalty under the federal Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(d) Any employer who receives a citation, as provided in ORS 654.071 (4), for failure to correct a violation may be assessed a civil penalty for each day during which the violation continues.

(e) Any employer who knowingly makes any false statement, representation or certification regarding the correction of a violation shall be assessed a civil penalty of not less than \$100.

(f) Any employer who violates any of the posting requirements, as prescribed under the provisions of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, may be assessed a civil penalty for each violation.

(g) Any person who violates the provisions of ORS 654.082 (2) or (3) shall be assessed a civil penalty of not less than \$100 for each violation.

(h) Notwithstanding paragraph (b) of this subsection, an employer who substantially fails to comply with ORS 654.174 (1) shall be assessed a civil penalty of not less than \$250 for each violation.

(i) Any insurer or self-insured employer who violates any provision of ORS 654.097, or any rule or order carrying out ORS 654.097, shall be assessed a civil penalty. Each violation, or each day a violation continues, shall be considered a separate offense.

(2) For the purposes of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 a serious violation exists in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices,

means, methods, operations or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(3) When an order assessing a civil penalty becomes final by operation of law or on appeal, unless the amount of penalty is paid within 20 days after the order becomes final, it constitutes a judgment and may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record. The penalty provided in the order so recorded shall become a lien upon the title to any interest in property owned by the person against whom the order is entered, and execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(4) Except as provided in subsection (5) of this section, civil penalties collected under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 shall be paid into the Consumer and Business Services Fund.

(5) Civil penalties assessed under this section for a violation of ORS 658.750 shall be credited to the [*Farmworker*] **Agricultural Worker** Housing Development Account of the Oregon Housing Fund.

SECTION 26. ORS 658.453 is amended to read:

658.453. (1) In addition to any other penalty provided by law, the Commissioner of the Bureau of Labor and Industries may assess a civil penalty not to exceed \$2,000 for each violation by:

(a) A labor contractor who, without the license required by ORS 658.405 to 658.511, recruits, solicits, supplies or employs a worker.

(b) A labor contractor who fails to comply with ORS 658.415 (16).

(c) A labor contractor who fails to comply with ORS 658.440 (1), (2)(c) or (3).

(d) Any person who violates ORS 658.452.

(e) A labor contractor who fails to comply with ORS 658.417 (1).

(f) Any person who uses an unlicensed labor contractor without complying with ORS 658.437.

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

(3) All penalties recovered under this section shall be paid into the State Treasury and credited to the [*Farmworker*] **Agricultural Worker** Housing Development Account of the Oregon Housing Fund.

(4) After filing a complaint with the commissioner, in addition to any other penalty provided by law, a worker has a right of action against a labor contractor who violates ORS 658.417 (1) or (2), 658.440 or 658.452 without exhausting any alternative administrative remedies. The action may not be commenced later than two years after the date of the violation giving rise to the right of action. The amount of damages recoverable for each violation under this subsection is actual damages or \$1,000, whichever amount is greater. In any such action the court may award to the prevailing party, in addition to costs and disbursements, reasonable attorney fees at trial and appeal.

SECTION 27. ORS 658.815 is amended to read:

658.815. (1) All farmworker camp indorsement fees received by the Commissioner of the Bureau of Labor and Industries under ORS 658.810 shall be credited to the Bureau of Labor and Industries Account. Notwithstanding ORS 651.160 (1) and 658.413 (4), moneys credited to the account under this subsection are continuously appropriated for the enforcement of ORS 658.705 to 658.850.

(2) Moneys collected from civil penalties imposed by the commissioner pursuant to ORS 658.850 for violations of ORS 658.750 shall be credited to the [*Farmworker*] **Agricultural Worker** Housing Development Account of the Oregon Housing Fund.

(3) Except as provided in subsection (2) of this section, all moneys other than fees described in ORS 658.413 received by the commissioner under ORS 658.705 to 658.850 shall be credited to the General Fund.

SECTION 28. (1) **The amendments to ORS 458.620, 458.660, 654.086, 658.453 and 658.815 by sections 22 to 27 of this 2021 Act are intended to change the name of the “Farmworker**

Housing Development Account” to the “Agricultural Worker Housing Development Account.”

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “Farmworker Housing Development Account,” wherever they occur in statutory law, other words designating the “Agricultural Worker Housing Development Account.”

SECTION 29. ORS 317.097 is amended to read:

317.097. (1) As used in this section:

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

(b) “Bonds” means a bond, as defined in ORS 286A.001, if issued on behalf of the Housing and Community Services Department, or bonds, as defined in ORS 456.055, if issued by a housing authority.

[(b)] (c) “Finance charge” means the total of all interest, loan fees, interest on any loan fees financed by the lending institution, and other charges related to the cost of obtaining credit.

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

[(d)] (e) “Manufactured dwelling park” has the meaning given that term in ORS 446.003.

[(e)] (f) “Nonprofit corporation” means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2018.

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

[(g)] (h) “Qualified assignee” means any investor participating in the secondary market for real estate loans.

[(h)] (i) “Qualified borrower” means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by a qualified loan. A controlling interest includes a controlling interest in the general partner of a limited partnership that owns the real property.

[(i)] (j) “Qualified loan” means:

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

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

(B) The purchase by a lending institution of bonds, the proceeds of which are used to finance or refinance a loan that meets the criteria described in subsection (5) of this section.

[(j)] (k) “Sponsoring entity” means a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any other person, provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government or housing authority.

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

(a) The amount of finance charge charged by the lending institution during the tax year at an annual rate less than the market rate for a qualified loan that is made before January 1, 2026, that complies with the requirements of this section; and

(b) The amount of finance charge that would have been charged during the tax year by the lending institution for the qualified loan for housing construction, development, acquisition or rehabilitation measured at the annual rate charged by the lending institution for nonsubsidized loans made under like terms and conditions at the time the qualified loan for housing construction, development, acquisition or rehabilitation is made.

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

(4) Any tax credit allowed 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.

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

(5) To be eligible for the tax credit allowable under this section, a lending institution must make a qualified loan by either purchasing bonds, the proceeds of which are used to finance or refinance a loan that meets the criteria stated in this subsection, or making a loan directly to:

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

(b) A qualified borrower who:

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

(B) Provides a written certification executed by the Housing and Community Services Department that the:

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

(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on to the tenants in the form of reduced housing payments;

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

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

(B) Provides a written certification executed by the Housing and Community Services Department that the housing will continue to be operated as a manufactured dwelling park during the period for which the tax credit is allowed; *[or]*

(d) A qualified borrower who:

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

(B) Provides a written certification executed by the Housing and Community Services Department that the housing preserved by the loan:

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

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

(e) A qualified borrower who:

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

(B) Provides a written certification executed by the Housing and Community Services Department or the governmental party to the rent assistance contract that the housing preserved by the loan:

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

(ii) Is the subject of a rent assistance contract with the federal government or with a state or local government that will be maintained by the qualified borrower and that limits a tenant's rent to no more than 30 percent of their income.

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

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

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

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

(a) States that the qualified loan is within the limitation imposed by subsection (8) of this section; and

(b) Specifies the period, as determined by the Housing and Community Services Department, during which the tax credit is allowed for the qualified loan, not to exceed:

(A) 30 years, for a qualified loan with a contract for rent assistance or financing resources from the United States Department of Agriculture, for new housing construction, acquisition of housing or a preservation project; or

(B) 20 years, for any other type of qualified loan.

(8) The Housing and Community Services Department may certify qualified loans that are eligible under subsection (5) of this section if the total credits attributable to all qualified loans eligible for credits under this section and then outstanding do not exceed *[\$25 million]* **\$35 million** for any fiscal year. In making loan certifications under subsection (7) of this section, the Housing and Community Services Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state that are determined by the Oregon Housing Stability Council to have the greatest need for affordable housing.

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

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

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

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

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

(12) Notwithstanding any other provision of law, a lending institution that is a community development corporation organized under the Oregon Nonprofit Corporation Law may transfer all or

part of a tax credit allowed under this section to one or more other lending institutions that are stockholders or members of the community development corporation or that otherwise participate through the community development corporation in the making of one or more qualified loans for which the tax credit under this section is allowed.

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

(14) Notwithstanding subsection [(1)(h) and (j)] **(1)(i) and (k)** of this section, a qualified borrower on a loan to finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park under subsection (5)(c) of this section must be:

(a) A nonprofit corporation, manufactured dwelling park nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706 or housing authority; or

(b) A nonprofit corporation or housing authority that has a controlling interest in the real property that is financed by a qualified loan. A controlling interest includes a controlling interest in the general partner of a limited partnership that owns the real property.

(15) The Department of Revenue may require that a lending institution that has earned the credit and a lending institution that intends to claim the credit jointly file a notice, as prescribed by the Department of Revenue. The notice must comply with ORS 315.056 (2) or 315.058 (2).

(16) The Housing and Community Services Department shall provide information to the Department of Revenue about all certifications executed under this section, if required by ORS 315.058.

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

SECTION 30. The amendments to ORS 317.097 by section 29 of this 2021 Act apply to tax years beginning on or after January 1, 2022, and before January 1, 2026.

SECTION 31. 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 auction may be conducted no later than April 15 following December 31 of any tax year for which the credit is allowed. 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 90 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 [*\$14 million*] **\$20 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 [~~\$14 million~~] **\$20 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, [~~2024~~] **2030**.

(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 32. The amendments to ORS 315.514 by section 31 of this 2021 Act apply to fiscal years beginning on or after July 1, 2021.

SECTION 33. Section 1a, chapter 559, Oregon Laws 2005, as amended by section 16, chapter 730, Oregon Laws 2011, and section 2, chapter 38, Oregon Laws 2017, is amended to read:

Sec. 1a. The Oregon Film and Video Office may not issue a qualifying film production labor rebate certificate under section 1, chapter 559, Oregon Laws 2005, on or after January 1, [~~2024~~] **2030**.

SECTION 34. Section 77, chapter 736, Oregon Laws 2003, as amended by section 1, chapter 913, Oregon Laws 2009, section 17, chapter 730, Oregon Laws 2011, and section 42, chapter 701, Oregon Laws 2015, is amended to read:

Sec. 77. ORS 315.514 applies to tax years beginning on or after January 1, 2005, and before January 1, [~~2024~~] **2030**, and to tax credit certifications issued by the Oregon Film and Video Office on or after July 1, 2005.

SECTION 35. Section 36 of this 2021 Act is added to and made a part of ORS chapter 316.

SECTION 36. (1) There shall be subtracted from federal taxable income amounts received as a national service educational award under 42 U.S.C. 12602, following completion of the required term of service in 42 U.S.C. 12593(b).

(2) A subtraction may not be allowed under this section if the amounts described in subsection (1) of this section:

(a) Are not included in the taxpayer's federal gross income for the tax year; or

(b) Are taken into account as a deduction on the taxpayer's federal income tax return for the tax year.

SECTION 37. Section 36 of this 2021 Act applies to amounts received in tax years beginning on or after January 1, 2021, and before January 1, 2027.

NOTE: Sections 38 through 43 were deleted by amendment. Subsequent sections were not renumbered.

SECTION 44. ORS 475B.707 applies to retail sales of marijuana items occurring on or after January 1, 2016, and before January 1, 2028.

SECTION 45. ORS 320.308 is amended to read:

320.308. The following are exempt from the state transient lodging tax:

(1) A dwelling unit in a hospital, health care facility, long term care facility or any other residential facility that is licensed, registered or certified by the Department of Human Services or the Oregon Health Authority.

(2) A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment.

(3) A dwelling unit that is used by members of the general public for temporary human occupancy for fewer than 30 days per year. The exemption granted under this subsection does not apply to a dwelling unit that is rented out as transient lodging using a platform of any kind provided in any manner by a transient lodging intermediary.

(4) A dwelling unit, the consideration for which is funded through a contract with a government agency and the purpose of which is to provide emergency or temporary shelter.

(5) A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility.

(6) A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of 30 days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period, if:

(a) All dwelling units occupied are within the same facility; and

(b) The person paying consideration for the transient lodging is the same person throughout the consecutive period.

(7) Barracks, quarters or other facilities or space located on installations owned, operated or controlled by the Oregon Military Department that are used for temporary overnight human occupancy by:

(a) Active or retired members or service veterans of the Armed Forces of the United States or the National Guard or other reserve component of the Armed Forces of the United States; or

(b) Employees or agents of the Oregon Military Department.

SECTION 46. Section 47 of this 2021 Act is added to and made a part of ORS 320.300 to 320.365.

SECTION 47. Barracks, quarters or other facilities or space located on installations owned, operated or controlled by the Oregon Military Department are exempt from any local transient lodging tax if the facilities or space are used for temporary overnight human occupancy by:

(1) Active or retired members or service veterans of the Armed Forces of the United States or the National Guard or other reserve component of the Armed Forces of the United States; or

(2) Employees or agents of the department.

SECTION 48. Section 47 of this 2021 Act and the amendments to ORS 320.308 by section 45 of this 2021 Act apply to occupancy described in ORS 320.308 (7) and section 47 of this 2021 Act that occurs before, on or after the effective date of this 2021 Act.

SECTION 49. ORS 315.266 is amended to read:

315.266. (1)(a) In addition to any other credit available for purposes of ORS chapter 316, an eligible resident individual shall be allowed a credit against the tax otherwise due under ORS chapter 316 for the tax year in an amount equal to nine percent of the earned income credit allowable to the individual for the same tax year under section 32 of the Internal Revenue Code.

(b) Notwithstanding paragraph (a) of this subsection, for a taxpayer with a dependent under the age of three at the close of the tax year, the credit allowed under this section shall be in an amount equal to 12 percent of the earned income credit allowable to the individual for the same tax year under section 32 of the Internal Revenue Code.

(2) A resident individual may claim a credit under this section, using either a Social Security number or an individual taxpayer identification number, if, but for section 32(m) of

the Internal Revenue Code, the individual would otherwise be eligible to claim a credit under section 32 of the Internal Revenue Code. The credit allowed as provided in this subsection shall equal the percentage, as stated in subsection (1) of this section, of the amount that would be allowed on a federal return, based on the amount of the individual's earned income and the other provisions of section 32 of the Internal Revenue Code.

[(2)] (3) An eligible 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) **or (2)** of this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

[(3)] (4) 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.

[(4)] (5) 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.

[(5)] (6) 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.

[(6)] (7) The Department of Revenue may adopt rules for purposes of this section, including but not limited to rules relating to proof of eligibility [*and*], the furnishing of information regarding the federal earned income credit claimed by the taxpayer for the tax year **and policies and guidelines for the determination of the amount of credit allowed under subsection (2) of this section.**

[(7)] (8) Refunds attributable to the earned income credit allowed under this section do not bear interest.

SECTION 50. The amendments to ORS 315.266 by section 49 of this 2021 Act apply to tax years beginning on or after January 1, 2022, and before January 1, 2026.

SECTION 51. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by House June 17, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 24, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State