

Requested by Representative ZIKA

**PROPOSED AMENDMENTS TO
SENATE BILL 278**

1 On page 1 of the printed bill, line 2, delete “amending ORS 456.608” and
2 insert “creating new provisions; amending ORS 314.772, 316.680 and 318.031;
3 and prescribing an effective date”.

4 Delete lines 4 through 30 and delete pages 2 and 3 and insert:

5 **“SECTION 1. Section 2 of this 2021 Act is added to and made a part**
6 **of ORS chapter 315.**

7 **“SECTION 2. (1) A credit against taxes imposed by ORS chapter 316**
8 **or, if the taxpayer is a corporation, under ORS chapter 317 or 318 is**
9 **allowed to a taxpayer that is a residential landlord for the amount of**
10 **unpaid rent the taxpayer has forgiven under section 2 (1)(d), chapter**
11 **3, Oregon Laws 2020 (third special session).**

12 **“(2)(a) Prior to claiming the credit allowed under this section, a**
13 **taxpayer is required to receive written certification of eligibility from**
14 **the Housing and Community Services Department. The amount cer-**
15 **tified by the department shall equal the portion of unpaid rent the**
16 **taxpayer forgave under section 2 (1)(d), chapter 3, Oregon Laws 2020**
17 **(third special session), as a condition of receiving a distribution under**
18 **section 2, chapter 3, Oregon Laws 2020 (third special session).**

19 **“(b) The department may not issue a certificate of eligibility to a**
20 **taxpayer that has not complied with the requirements of section 2,**
21 **chapter 3, Oregon Laws 2020 (third special session), or the terms of the**

1 application for a distribution under section 2, chapter 3, Oregon Laws
2 2020 (third special session), submitted by the taxpayer to the depart-
3 ment.

4 “(c) The department may adopt rules for issuing certificates of el-
5 igibility under this section.

6 “(3)(a) A taxpayer may not claim a credit under this section for the
7 portion of unpaid rent for which the taxpayer received a distribution
8 under section 2, chapter 3, Oregon Laws 2020 (third special session).

9 “(b) A credit allowed under this section is not a payment of unpaid
10 rent from or on a tenant’s behalf under section 2 (1)(e), chapter 3,
11 Oregon Laws 2020 (third special session), and a taxpayer that claims
12 a credit under this section does not violate the program requirements
13 for a distribution under section 2, chapter 3, Oregon Laws 2020 (third
14 special session).

15 “(4) The credit allowed under this section in each of five consec-
16 utive tax years shall be 20 percent of the amount certified by the
17 Housing and Community Services Department under subsection (2) of
18 this section but may not exceed the tax liability of the taxpayer.

19 “(5) Any tax credit otherwise allowable under this section that is
20 not used by the taxpayer in a particular year may be carried forward
21 and offset against the taxpayer’s tax liability for the next succeeding
22 tax year. Any credit remaining unused in that next succeeding tax
23 year may be carried forward and used in the second succeeding tax
24 year, and likewise, any credit not used in that second succeeding tax
25 year may be carried forward and used in the third succeeding tax year,
26 and likewise, any credit not used in that third succeeding tax year
27 may be carried forward and used in the fourth succeeding tax year,
28 and likewise, any credit not used in that fourth succeeding tax year
29 may be carried forward and used in the fifth succeeding tax year but
30 may not be carried forward for any tax year thereafter.

1 **“(6) The taxpayer’s adjusted basis for determining gain or loss may**
2 **not be decreased by any tax credit allowed under this section.**

3 **“(7) In the case of a credit allowed under this section:**

4 **“(a) A nonresident shall be allowed the credit under this section in**
5 **the proportion provided in ORS 316.117.**

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

10 **“(c) If a change in the taxable year of a taxpayer occurs as de-**
11 **scribed in ORS 314.085, or if the Department of Revenue terminates a**
12 **taxpayer’s taxable year under ORS 314.440, the credit allowed under**
13 **this section shall be prorated or computed in a manner consistent with**
14 **ORS 314.085.**

15 **“(8) The credit shall be claimed on a form prescribed by the De-**
16 **partment of Revenue that contains the information required by the**
17 **department.**

18 **“(9) A housing authority created under ORS 456.075 or a nonprofit**
19 **organization that has received a certificate of eligibility for a tax**
20 **credit under this section may transfer the credit to a taxpayer subject**
21 **to tax under ORS chapter 316, 317 or 318. The transfer must comply**
22 **with ORS 315.056.**

23 **“(10) The Housing and Community Services Department shall pro-**
24 **vide information to the Department of Revenue about all certificates**
25 **of eligibility issued under this section, if required by ORS 315.058.**

26 **“(11) The Director of the Housing and Community Services Depart-**
27 **ment may order the suspension or revocation of a certificate of eligi-**
28 **bility issued under this section, as provided in ORS 315.061.**

29 **“SECTION 3. ORS 316.680, as amended by section 131, chapter 1, Oregon**
30 **Laws 2021 (Ballot Measure 109 (2020)), is amended to read:**

1 “316.680. (1) There shall be subtracted from federal taxable income:
2 “(a) The interest or dividends on obligations of the United States and its
3 territories and possessions or of any authority, commission or
4 instrumentality of the United States to the extent includable in gross income
5 for federal income tax purposes but exempt from state income taxes under
6 the laws of the United States. However, the amount subtracted under this
7 paragraph shall be reduced by any interest on indebtedness incurred to carry
8 the obligations or securities described in this paragraph, and by any expenses
9 incurred in the production of interest or dividend income described in this
10 paragraph to the extent that such expenses, including amortizable bond pre-
11 miums, are deductible in determining federal taxable income.
12 “(b) The amount of any federal income taxes accrued by the taxpayer
13 during the taxable year as described in ORS 316.685, less the amount of any
14 refunds of federal taxes previously accrued for which a tax benefit was re-
15 ceived.
16 “(c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the
17 Internal Revenue Code to the extent that the taxpayer does not elect under
18 section 642(g) of the Internal Revenue Code to reduce federal taxable income
19 by those amounts.
20 “(d) Any supplemental payments made to JOBS Plus Program participants
21 under ORS 411.892.
22 “(e)(A) Federal pension income that is attributable to federal employment
23 occurring before October 1, 1991. Federal pension income that is attributable
24 to federal employment occurring before October 1, 1991, shall be determined
25 by multiplying the total amount of federal pension income for the tax year
26 by the ratio of the number of months of federal creditable service occurring
27 before October 1, 1991, over the total number of months of federal creditable
28 service.
29 “(B) The subtraction allowed under this paragraph applies only to federal
30 pension income received at a time when:

1 “(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are
2 in effect; or

3 “(ii) Public Employees Retirement System benefits received for service
4 prior to October 1, 1991, are exempt from state income tax.

5 “(C) As used in this paragraph:

6 “(i) ‘Federal creditable service’ means those periods of time for which a
7 federal employee earned a federal pension.

8 “(ii) ‘Federal pension’ means any form of retirement allowance provided
9 by the federal government, its agencies or its instrumentalities to retirees
10 of the federal government or their beneficiaries.

11 “(f) Any amount included in federal taxable income for the tax year that
12 is attributable to the conversion of a regular individual retirement account
13 into a Roth individual retirement account described in section 408A of the
14 Internal Revenue Code, to the extent that:

15 “(A) The amount was subject to the income tax of another state or the
16 District of Columbia in a prior tax year; and

17 “(B) The taxpayer was a resident of the other state or the District of
18 Columbia for that prior tax year.

19 “(g) Any amounts awarded to the taxpayer by the Public Safety Memorial
20 Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has
21 not taken the amount as a deduction in determining the taxpayer’s federal
22 taxable income for the tax year.

23 “(h) If included in taxable income for federal tax purposes, the amount
24 withdrawn during the tax year in qualified withdrawals from a savings net-
25 work account for higher education established under ORS 178.300 to 178.360.

26 “(i) Any federal deduction that the taxpayer would have been allowed for
27 the production, processing or sale of marijuana items authorized under ORS
28 475B.010 to 475B.545 or 475B.785 to 475B.949 but for section 280E of the
29 Internal Revenue Code.

30 “(j) Any federal deduction that the taxpayer would have been allowed for

1 the manufacturing or sale of psilocybin products or the provision of
2 psilocybin services authorized under sections 3 to 129, chapter 1, Oregon
3 Laws 2021 (Ballot Measure 109 (2020)), but for section 280E of the Internal
4 Revenue Code.

5 “(k) If included in taxable income for federal tax purposes, any distrib-
6 utions from an ABLE account that do not exceed the qualified disability
7 expenses of the designated beneficiary as provided in ORS 178.375 and 178.380
8 and rules adopted by the Oregon 529 Savings Board.

9 **“(L) If included in taxable income for federal tax purposes, any**
10 **amount of a tenant’s discharge of indebtedness income attributable to**
11 **the forgiveness of unpaid rent under section 2 (1)(d), chapter 3, Oregon**
12 **Laws 2020 (third special session).**

13 “(2) There shall be added to federal taxable income:

14 “(a) Interest or dividends, exempt from federal income tax, on obligations
15 or securities of any foreign state or of a political subdivision or authority
16 of any foreign state. However, the amount added under this paragraph shall
17 be reduced by any interest on indebtedness incurred to carry the obligations
18 or securities described in this paragraph and by any expenses incurred in the
19 production of interest or dividend income described in this paragraph.

20 “(b) Interest or dividends on obligations of any authority, commission,
21 instrumentality and territorial possession of the United States that by the
22 laws of the United States are exempt from federal income tax but not from
23 state income taxes. However, the amount added under this paragraph shall
24 be reduced by any interest on indebtedness incurred to carry the obligations
25 or securities described in this paragraph and by any expenses incurred in the
26 production of interest or dividend income described in this paragraph.

27 “(c) The amount of any federal estate taxes allocable to income in respect
28 of a decedent not taxable by Oregon.

29 “(d) The amount of any allowance for depletion in excess of the taxpayer’s
30 adjusted basis in the property depleted, deducted on the taxpayer’s federal

1 income tax return for the taxable year, pursuant to sections 613, 613A, 614,
2 616 and 617 of the Internal Revenue Code.

3 “(e) For taxable years beginning on or after January 1, 1985, the dollar
4 amount deducted under section 151 of the Internal Revenue Code for personal
5 exemptions for the taxable year.

6 “(f) The amount taken as a deduction on the taxpayer’s federal return for
7 unused qualified business credits under section 196 of the Internal Revenue
8 Code.

9 “(g) The amount of any increased benefits paid to a taxpayer under
10 chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon
11 Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not
12 includable in the taxpayer’s federal taxable income under the Internal Rev-
13 enue Code.

14 “(h) The amount of any long term care insurance premiums paid or in-
15 curred by the taxpayer during the tax year if:

16 “(A) The amount is taken into account as a deduction on the taxpayer’s
17 federal return for the tax year; and

18 “(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax
19 year.

20 “(i) Any amount taken as a deduction under section 1341 of the Internal
21 Revenue Code in computing federal taxable income for the tax year, if the
22 taxpayer has claimed a credit for claim of right income repayment adjust-
23 ment under ORS 315.068.

24 “(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS
25 178.300, from a savings network account for higher education established
26 under ORS 178.300 to 178.360, the amount of the withdrawal that is attrib-
27 utable to contributions that were subtracted from federal taxable income
28 under ORS 316.699.

29 “(k) If a taxpayer makes a withdrawal from a savings network account
30 for higher education established under ORS 178.300 to 178.360 to pay ex-

1 penses in connection with enrollment or attendance at an elementary or
2 secondary school, the amount of the withdrawal that is attributable to con-
3 tributions that were subtracted from federal taxable income under ORS
4 316.699 and the amount of the withdrawal that is attributable to previously
5 untaxed earnings and gains.

6 “(L) If the taxpayer makes a distribution from an ABLE account that is
7 not a qualified disability expense of the designated beneficiary as provided
8 in ORS 178.375 and 178.380 and rules adopted by the Oregon 529 Savings
9 Board, the amount of the distribution that is attributable to contributions
10 that were subtracted from federal taxable income under ORS 316.699.

11 “(3) Discount and gain or loss on retirement or disposition of obligations
12 described under subsection (2)(a) of this section issued on or after January
13 1, 1985, shall be treated for purposes of this chapter in the same manner as
14 under sections 1271 to 1283 and other pertinent sections of the Internal
15 Revenue Code as if the obligations, although issued by a foreign state or a
16 political subdivision of a foreign state, were not tax exempt under the
17 Internal Revenue Code.

18 **“SECTION 4.** ORS 314.772 is amended to read:

19 “314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits al-
20 lowed or allowable to a C corporation for purposes of ORS chapter 317 or
21 318 shall not be allowed to an S corporation. The business tax credits al-
22 lowed or allowable for purposes of ORS chapter 316 shall be allowed or are
23 allowable to the shareholders of the S corporation.

24 “(2) In determining the tax imposed under ORS chapter 316, as provided
25 under ORS 314.763, on income of the shareholder of an S corporation, there
26 shall be taken into account the shareholder’s pro rata share of business tax
27 credit (or item thereof) that would be allowed to the corporation (but for
28 subsection (1) of this section) or recapture or recovery thereof. The credit (or
29 item thereof), recapture or recovery shall be passed through to shareholders
30 in pro rata shares as determined in the manner prescribed under section

1 1377(a) of the Internal Revenue Code.

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

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

10 “(5) As used in this section, ‘business tax credit’ means the following
11 credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish
12 screening, by-pass devices, fishways), ORS 315.141 (biomass production for
13 biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
14 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent
15 care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (con-
16 tributions for child care), ORS 315.237 (employee and dependent scholar-
17 ships), ORS 315.271 (individual development accounts), ORS 315.304
18 (pollution control facility), ORS 315.326 (renewable energy development con-
19 tributions), ORS 315.331 (energy conservation projects), ORS 315.336 (trans-
20 portation projects), ORS 315.341 (renewable energy resource equipment
21 manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation fa-
22 cilities), ORS 315.506 (tribal taxes on reservation enterprise zones and res-
23 ervation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514
24 (film production development contributions), ORS 315.523 (employee training
25 programs), ORS 315.533 (low income community jobs initiative), ORS 315.593
26 (short line railroads), ORS 315.640 (university venture development funds),
27 ORS 315.643 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for
28 Cultural Development Account contributions), ORS 317.097 (loans for af-
29 fordable housing), ORS 317.124 (long term enterprise zone facilities), ORS
30 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-

1 search expenses) and ORS 317.154 (alternative qualified research expenses)
2 and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle con-
3 tributions), **and section 2 of this 2021 Act (unpaid rent forgiveness).**

4 **“SECTION 5.** ORS 318.031 is amended to read:

5 “318.031. It being the intention of the Legislative Assembly that this
6 chapter and ORS chapter 317 shall be administered as uniformly as possible
7 (allowance being made for the difference in imposition of the taxes), ORS
8 305.140 and 305.150, ORS chapter 314 and the following sections are incor-
9 porated into and made a part of this chapter: ORS 315.104, 315.141, 315.156,
10 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506,
11 315.507, 315.523, 315.533, 315.593 and 315.643 **and section 2 of this 2021 Act**
12 (all only to the extent applicable to a corporation) and ORS chapter 317.

13 **“SECTION 6. (1) Except as provided in subsection (2) of this section,**
14 **section 2 of this 2021 Act applies to tax years beginning on or after**
15 **January 1, 2021, and before January 1, 2022.**

16 **“(2) A taxpayer that claims a credit allowed under section 2 of this**
17 **2021 Act for a tax year described in subsection (1) of this section may**
18 **likewise claim the credit for each of the four succeeding tax years.**

19 **“SECTION 7. The amendments to ORS 316.680 by section 3 of this**
20 **2021 Act apply to tax years beginning on or after January 1, 2021, and**
21 **before January 1, 2022.**

22 **“SECTION 8. This 2021 Act takes effect on the 91st day after the**
23 **date on which the 2021 regular session of the Eighty-first Legislative**
24 **Assembly adjourns sine die.”.**

25