

Senate Bill 36

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SUMMARY

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

Makes technical changes in Oregon tax statutes. Adjusts grammar and syntax. Repeals and deletes obsolete statutes and provisions. Conforms language and structure to existing statutes.

A BILL FOR AN ACT

1
2 Relating to the correction of erroneous material in Oregon tax law; amending ORS 308.146, 308.153,
3 308.166, 308A.362, 314.255, 314.752, 315.356, 316.147, 316.157, 316.158, 316.372, 318.031, 323.455,
4 465.015, 468.167, 468.170, 468.185 and 468.190 and section 12, chapter 855, Oregon Laws 2007,
5 section 3, chapter 868, Oregon Laws 2007, and section 19, chapter 5, Oregon Laws 2013 (special
6 session); and repealing ORS 308A.380, 314.705, 314.710, 315.304, 468.172, 468.173 and 468.183.

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

8 **SECTION 1.** ORS 308.146 is amended to read:

9 308.146. (1) The maximum assessed value of property [*shall equal*] **equals** 103 percent of the
10 property's assessed value from the prior year or 100 percent of the property's maximum assessed
11 value from the prior year, whichever is greater.

12 (2) Except as provided in subsections (3) and (4) of this section, the assessed value of property
13 to which this section applies [*shall equal*] **equals** the lesser of:

- 14 (a) The property's maximum assessed value; or
15 (b) The property's real market value.

16 (3) Notwithstanding subsections (1) and (2) of this section, the maximum assessed value and as-
17 sessed value of property [*shall*] **must** be determined as provided in ORS 308.149 to 308.166 if:

- 18 (a) The property is new property or new improvements to property;
19 (b) The property is partitioned or subdivided;
20 (c) The property is rezoned and used consistently with the rezoning;
21 (d) The property is first taken into account as omitted property;
22 (e) The property becomes disqualified from exemption, partial exemption or special assessment;

23 or

24 (f) A lot line adjustment is made with respect to the property, except that the total assessed
25 value of all property affected by a lot line adjustment [*shall*] **may** not exceed the total maximum
26 assessed value of the affected property under subsection (1) of this section.

27 (4) Notwithstanding subsections (1) and (2) of this section, if property is subject to partial ex-
28 emption or special assessment, the property's maximum assessed value and assessed value [*shall*]
29 **must** be determined as provided under the provisions of law governing the partial exemption or
30 special assessment.

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

1 (5)(a) Notwithstanding subsection (1) of this section, when a portion of property is destroyed or
2 damaged due to fire or act of God, for the year in which the destruction or damage is reflected by
3 a reduction in real market value, the maximum assessed value of the property [shall] **must** be re-
4 duced to reflect the loss from fire or act of God.

5 (b) This subsection does not apply:

6 (A) To any property that is assessed under ORS 308.505 to 308.665.

7 (B) If the damaged or destroyed property is property that, when added to the assessment and
8 tax roll, constituted minor construction for which no adjustment to maximum assessed value was
9 made.

10 (c) As used in this subsection, “minor construction” has the meaning given that term in ORS
11 308.149.

12 (6)(a) If, during the period beginning on January 1 and ending on July 1 of an assessment year,
13 any real or personal property is destroyed or damaged, the owner or purchaser under a recorded
14 instrument of sale in the case of real property, or the person assessed, person in possession or owner
15 in the case of personal property, may apply to the county assessor to have the real market and as-
16 sessed value of the property determined as of July 1 of the current assessment year.

17 (b) The person described in paragraph (a) of this subsection [shall] **must** file an application for
18 assessment under this section with the county assessor on or before the later of:

19 (A) August 1 of the current year; or

20 (B) The 60th day following the date on which the property was damaged or destroyed.

21 (c) If the conditions described in this subsection are applicable to the property, then
22 notwithstanding ORS 308.210, the property [shall] **must** be assessed as of July 1, at 1:00 a.m. of the
23 assessment year, in the manner otherwise provided by law.

24 (7)(a) Paragraph (b) of this subsection applies if:

25 (A) A conservation easement or highway scenic preservation easement is in effect on the as-
26 sessment date;

27 (B) The tax year is the first tax year in which the conservation easement or highway scenic
28 preservation easement is taken into account in determining the property’s assessed value; and

29 (C) A report has been issued by the county assessor under ORS 271.729 within 12 months pre-
30 ceding or following the date the easement was recorded.

31 (b) The assessed value of the property [shall] **must** be as determined in the report issued under
32 ORS 271.729, but may be further adjusted by changes in value as a result of any of the factors de-
33 scribed in ORS 309.115 (2), to the extent adjustments do not cause the assessed value of the property
34 to exceed the property’s maximum assessed value.

35 (8)(a) Notwithstanding subsection (1) of this section, when a building is demolished or removed
36 from property, for the year in which the [demolishment] **demolition** or removal of the building is
37 reflected by a reduction in real market value, the maximum assessed value of the property may be
38 reduced to reflect the [demolishment] **demolition** or removal of the building.

39 (b) This subsection does not apply:

40 (A) To any property that is assessed under ORS 308.505 to 308.665.

41 (B) If the demolished or removed property is property that, when added to the assessment and
42 tax roll, constituted minor construction for which no adjustment to maximum assessed value was
43 made.

44 (c) To receive the reduction in maximum assessed value of the property under this subsection,
45 the property owner must file an application with the county assessor after the [demolishment]

1 **demolition** or removal and on or before December 31 following the assessment date if the
 2 [*demolishment*] **demolition** or removal occurred:

3 (A) Before the January 1 assessment date; or

4 (B) During the period beginning January 1 and ending on the July 1 assessment date if the
 5 property owner has applied to have the real market and assessed value of the property determined
 6 under subsection (6) of this section.

7 (d) As used in this subsection:

8 (A) "Minor construction" has the meaning given that term in ORS 308.149.

9 (B) "Property owner" means an owner or purchaser under a recorded instrument of sale in the
 10 case of real property, or the person assessed, person in possession or owner in the case of personal
 11 property.

12 **NOTE:** Updates vocabulary and syntax throughout.

13 **SECTION 2.** ORS 308.153 is amended to read:

14 308.153. (1) If new property is added to the assessment roll or improvements are made to prop-
 15 erty as of January 1 of the assessment year, the maximum assessed value of the property [*shall be*]
 16 **is** the sum of:

17 (a) The maximum assessed value determined under ORS 308.146; and

18 (b) The product of the value of the new property or new improvements determined under sub-
 19 section (2)(a) of this section multiplied by the ratio, not greater than 1.00, of the average maximum
 20 assessed value over the average real market value for the assessment year.

21 (2)(a) The value of new property or new improvements [*shall equal*] **equals** the real market value
 22 of the new property or new improvements reduced (but not below zero) by the real market value
 23 of retirements from the property tax account.

24 (b) If the maximum assessed value of property is adjusted for fire or act of God or for
 25 [*demolishment*] **demolition** or removal of a building under ORS 308.146, the reduction in real market
 26 value due to fire or act of God or [*demolishment*] **demolition** or removal of the building may not be
 27 considered to be a retirement under this subsection.

28 (3) The property's assessed value for the year [*shall equal*] **equals** the lesser of:

29 (a) The property's maximum assessed value; or

30 (b) The property's real market value.

31 **NOTE:** Updates vocabulary and syntax throughout.

32 **SECTION 3.** ORS 308.166 is amended to read:

33 308.166. (1) If the maximum assessed value of property is subject to adjustment under both ORS
 34 308.153 and 308.156, the maximum assessed value [*shall*] **must** first be determined under ORS 308.153
 35 and then further adjusted under ORS 308.156.

36 (2) If the maximum assessed value of property is subject to adjustment under both ORS 308.153
 37 and 308.159, the maximum assessed value [*shall*] **must** first be determined under ORS 308.153 and
 38 then further adjusted under ORS 308.159.

39 (3) If the maximum assessed value of property is subject to adjustment under both ORS 308.156
 40 and 308.159, the maximum assessed value [*shall*] **must** first be determined under ORS 308.156 and
 41 then further adjusted under ORS 308.159.

42 (4) If the maximum assessed value of property is subject to adjustment under all of ORS 308.153,
 43 308.156 and 308.159, the maximum assessed value [*shall*] **must** first be determined under subsection
 44 (1) of this section and then further adjusted under ORS 308.159.

45 (5) If the maximum assessed value of property is subject to adjustment for fire or act of God,

1 the maximum assessed value *[shall]* **must** first be determined under ORS 308.146 (5)(a) and then may
2 be adjusted as provided in subsections (1) to (4) of this section.

3 (6) If the maximum assessed value of property is subject to adjustment for *[demolishment]* **dem-**
4 **olition** or removal of a building, the maximum assessed value *[shall]* **must** first be determined under
5 ORS 308.146 (8)(a) and then may be adjusted as provided in subsections (1) to (4) of this section.

6 **NOTE:** Updates vocabulary and syntax throughout.

7 **SECTION 4. ORS 308A.380 is repealed.**

8 **NOTE:** Repeals outdated statute.

9 **SECTION 5.** ORS 308A.362 is amended to read:

10 308A.362. (1) **As soon as possible, but not later than April 1 of the year following the year**
11 **of receipt of the application**, the State Department of Fish and Wildlife shall *[immediately]* notify
12 the county assessor and the applicant of *[its]* **the department's** approval or disapproval of an ap-
13 plication *[which shall in no event be later than April 1 of the year following the year of receipt of the*
14 *application]*. Subject to subsection (2) of this section *[and the mileage limitation of ORS 308A.380]*,
15 an application not denied by April 1 *[shall be]* **is** deemed approved, and the land that is the subject
16 of the application *[shall be]* **is** considered to be land that qualifies under ORS 308A.359.

17 (2) An application for land described in ORS 308A.359 (2)(a)(B) *[shall]* **may** be approved only if
18 **the application is** filed on or before five years after the date the land became land no longer out-
19 side adopted urban growth boundaries or planned or zoned as forest or agricultural land.

20 (3) An application for land described in ORS 308A.360 (1) may be approved only if ordinances
21 or resolutions authorizing the exemption have been adopted by the city and county in which the
22 land is located and these ordinances or resolutions are in effect on the date of application.

23 (4) The department may not approve more than 50 applications for land described in ORS
24 308A.360 (1) for any tax year. **The department shall hold** an application that is not approved be-
25 cause of the limitation imposed by this subsection *[shall be held]* for consideration for the next tax
26 year.

27 (5)(a) When the department approves land for designation as riparian under ORS 308A.359, it
28 shall enter an order of approval and file a copy of the order with the county assessor within 10 days.
29 Upon receipt of the order, the county assessor shall enter a notation on the assessment roll that the
30 land described in the order is exempt from ad valorem taxation.

31 (b) If the land is as described in ORS 308A.360 (1), the exemption *[shall apply]* **applies** only to
32 the ad valorem property taxes of the city and county that have authorized the exemption.

33 (6) On approval of an application filed under ORS 308A.356, for each year of designation the
34 assessor shall indicate on the assessment and tax roll that the property is exempt from taxation as
35 riparian land or, in the case of land described in ORS 308A.360 (1), partially exempt from taxation.
36 The assessor shall also indicate on the tax roll that the land is subject to potential additional taxes
37 as provided by ORS 308A.368, by adding the notation "designated riparian land (potential add'l
38 tax)."

39 (7) Any owner whose application for designation has been denied may appeal to the department
40 under the provisions of ORS chapter 183 governing contested cases.

41 **NOTE:** Deletes reference to repealed statute in (1). See section 4 (repealing ORS 308A.380).
42 Updates syntax.

43 **SECTION 6.** ORS 314.255 is amended to read:

44 314.255. (1) Upon receipt of notice of the revocation of a certification of a pollution control fa-
45 cility pursuant to ORS 468.185 (1), the Department of Revenue immediately shall collect any taxes

1 due by reason of such revocation, and shall have the benefit of all laws of this state pertaining to
 2 the collection of income and excise taxes. No assessment of such taxes shall be necessary and no
 3 statute of limitation shall preclude the collection of such taxes.

4 (2) No tax relief shall be allowed under ORS 307.405 [*or 315.304*] for any pollution control fa-
 5 cility constructed or used by or for the benefit of any governmental or quasi-governmental body or
 6 public corporation or form thereof, except where such facilities are used for resource recovery.

7 **NOTE:** Deletes reference to repealed statute in (2). See section 10 (repealing ORS 315.304).

8 **SECTION 7. ORS 314.705 and 314.710 are repealed.**

9 **NOTE:** Repeals outdated statutes related to former Multistate Tax Compact (repealed by section
 10 4, chapter 407, Oregon Laws 2013).

11 **SECTION 8.** ORS 314.752 is amended to read:

12 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
 13 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
 14 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
 15 allowable to the shareholders of the S corporation.

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

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

25 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 26 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 27 316.117, then that provision shall apply to the nonresident shareholder.

28 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
 29 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
 30 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
 31 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
 32 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
 33 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
 34 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
 35 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
 36 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-
 37 ties), ORS 315.213 (contributions for child care), [*ORS 315.304 (pollution control facility),*] ORS
 38 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects),
 39 ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufac-
 40 turing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic
 41 commerce), ORS 315.533 (low income community jobs initiative) and ORS 317.115 (fueling stations
 42 necessary to operate an alternative fuel vehicle).

43 **NOTE:** Deletes reference to repealed statute in (5). See section 10 (repealing ORS 315.304).

44 **SECTION 9.** Section 3, chapter 868, Oregon Laws 2007, as amended by section 45, chapter 913,
 45 Oregon Laws 2009, is amended to read:

1 **Sec. 3.** ORS 315.262 [*is repealed on*] **applies to tax years beginning before** January [2] 1, 2016.

2 **NOTE:** Conforms sunset of tax credit provision to standard legislative style.

3 **SECTION 10. ORS 315.304 is repealed.**

4 **NOTE:** Repeals outdated statute.

5 **SECTION 11.** ORS 315.356 is amended to read:

6 315.356. (1) If a taxpayer obtains a grant from the federal government in connection with a fa-
7 cility that has been certified by the Director of the State Department of Energy, the total cost of
8 the facility shall be reduced on a dollar for dollar basis. Any income or excise tax credits that the
9 taxpayer would be entitled to under ORS 285C.540 to 285C.559, 315.341, 315.354 and 469B.130 to
10 469B.169 after any reduction described in this subsection may not be reduced by the federal grant.
11 A taxpayer applying for a federal grant shall notify the Department of Revenue by certified mail
12 within 30 days after each application, and after the receipt of any grant.

13 (2) A taxpayer, or an applicant who is otherwise eligible, is eligible to participate in both this
14 tax credit program and low interest, government-sponsored loans.

15 (3) A taxpayer who receives a tax credit or property tax relief on a pollution control facility
16 or an alternative energy device under ORS 307.405[, 315.304] or 316.116 is not eligible for a tax
17 credit on the same facility or device under ORS 285C.540 to 285C.559, 315.341, 315.354 and 469B.130
18 to 469B.169.

19 **NOTE:** Deletes reference to repealed statute in (3). See section 10 (repealing ORS 315.304).

20 **SECTION 12.** Section 12, chapter 855, Oregon Laws 2007, is amended to read:

21 **Sec. 12.** (1) A personal income or corporate income or excise taxpayer is allowed a credit
22 against the taxes that are otherwise due under ORS chapter 316, 317 or 318 for the certified costs
23 of a repower of a nonroad Oregon diesel engine or retrofit of an Oregon diesel engine that occurs
24 after [*the effective date of this 2007 Act*] **September 27, 2007**, if:

25 (a) The repower or retrofit has been identified as qualifying for the credit under rules adopted
26 by the Environmental Quality Commission under [*section 8 of this 2007 Act*] **ORS 468A.799**;

27 (b) The engine will constitute an Oregon diesel engine; and

28 (c) The taxpayer has obtained a tax credit cost certification from the Department of Environ-
29 mental Quality under section 16, **chapter 855, Oregon Laws 2007**, [*of this 2007 Act*] for the cost
30 of the repower or retrofit.

31 (2) The maximum amount of the tax credit allowed under this section is limited to:

32 (a) 25 percent of the certified cost of each qualifying repower; and

33 (b) 50 percent of the certified cost of each qualifying retrofit.

34 (3) The amount of the tax credit allowed to the taxpayer under this section in any one tax year
35 may not exceed the tax liability of the taxpayer for the tax year.

36 (4) Any tax credit that is allowed under this section, but limited by subsection (3) of this section,
37 and that is not used by the taxpayer in a particular tax year may be carried forward and offset
38 against the taxpayer's tax liability as prescribed in subsection (3) of this section for the next suc-
39 ceeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
40 forward and offset against the taxpayer's tax liability as prescribed in subsection (3) of this section
41 for the second succeeding tax year. Any credit remaining unused in the second succeeding tax year
42 may be carried forward and offset against the taxpayer's tax liability as prescribed in subsection (3)
43 of this section for the third succeeding tax year, but may not be carried forward for any tax year
44 thereafter.

45 (5) The credit allowed under this section is not in lieu of any depreciation or amortization de-

1 duction for the engine to which the taxpayer otherwise may be entitled for purposes of ORS chapter
 2 316, 317 or 318. The taxpayer's adjusted basis for determining gain or loss may not be decreased by
 3 any tax credits allowed under this section.

4 (6)(a) The Department of Revenue may disallow the credit allowed under this section if the de-
 5 partment finds that the credit was obtained by fraud or misrepresentation, or if the department
 6 learns that the engine that was the subject of the qualifying repower or retrofit was destroyed by
 7 arson committed by the taxpayer, or if the engine no longer meets the requirements for obtaining
 8 the tax credit.

9 (b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or
 10 other law, all prior tax relief provided to the taxpayer shall be forfeited, the department shall pro-
 11 ceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit
 12 and the taxpayer shall be denied any further credit provided under this section.

13 (c) The department may perform activities necessary to ensure that recipients of the tax credit
 14 comply with applicable requirements.

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

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

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

24 (8) The taxpayer shall claim the credit on a form prescribed by the Department of Revenue
 25 containing the information required by the Department of Revenue. The taxpayer shall maintain the
 26 tax credit cost certification issued by the Department of Environmental Quality under section 16,
 27 **chapter 855, Oregon Laws 2007, [of this 2007 Act]** in the records of the taxpayer for the length of
 28 time prescribed by the Department of Revenue and shall provide a copy of the cost certification to
 29 the Department of Revenue if requested.

30 (9) *[A taxpayer may not claim a credit under this section and ORS 315.304 with respect to the same*
 31 *diesel engine or group of diesel engines.]* A taxpayer may claim a credit under this section and under
 32 ORS [469.185 to 469.225] **469B.130 to 469B.169** with respect to the same diesel engine or group of
 33 diesel engines if the taxpayer and diesel engines otherwise meet the requirements to be allowed a
 34 tax credit under ORS [469.185 to 469.225] **469B.130 to 469B.169**.

35 **NOTE:** Deletes reference to repealed statute in (9). See section 10 (repealing ORS 315.304).

36 **SECTION 13.** ORS 316.147 is amended to read:

37 316.147. As used in ORS 316.147 to 316.149, unless the context requires otherwise:

38 (1) "Eligible taxpayer" includes any individual who must pay taxes otherwise imposed by this
 39 chapter and:

40 (a) Who pays or incurs expenses for the care of a ["]qualified individual,["] as defined in sub-
 41 section (2) of this section, through a payment method determined by rule of the Department of Re-
 42 venue; and

43 (b) Who has a ["]household income,["] as defined by ORS 310.630, for the taxable year, not to
 44 exceed the maximum amount of household income allowed in ORS 310.640 (1989 Edition) for a
 45 homeowner or renter refund.

1 (2) "Qualified individual" includes an individual at least 60 years of age on the date that the
 2 expenses described in subsection (1)(a) of this section are paid or incurred by the eligible taxpayer:

3 (a) Whose household income, as defined by ORS 310.630, does not exceed \$7,500 for the calendar
 4 year in which the taxable year of the taxpayer begins;

5 (b) Who is eligible for authorized services as defined in ORS 410.410 under Oregon Project In-
 6 dependence;

7 (c) Who is certified by the Department of Human Services; and

8 (d) Whose care or any portion thereof is not paid for under ORS chapter 414.

9 **NOTE:** Conforms punctuation to legislative style in (1).

10 **SECTION 14.** ORS 316.157 is amended to read:

11 316.157. (1) In the case of an eligible individual, there shall be allowed as a credit against the
 12 taxes otherwise due under this chapter for the taxable year an amount equal to the lesser of the tax
 13 liability of the taxpayer or nine percent of net pension income.

14 (2) For purposes of this section:

15 (a) "Eligible individual" means any individual who is receiving pension income and who has at-
 16 tained the following age before the close of the taxable year:

17 (A) For taxable years beginning on or after January 1, 1991, and before January 1, 1993, the
 18 individual must attain 58 years of age before the close of the taxable year.

19 (B) For taxable years beginning on or after January 1, 1993, and before January 1, 1995, the
 20 individual must attain 59 years of age before the close of the taxable year.

21 (C) For taxable years beginning on or after January 1, 1995, and before January 1, 1997, the
 22 individual must attain 60 years of age before the close of the taxable year.

23 (D) For taxable years beginning on or after January 1, 1997, and before January 1, 1999, the
 24 individual must attain 61 years of age before the close of the taxable year.

25 (E) For taxable years beginning on or after January 1, 1999, the individual must attain 62 years
 26 of age before the close of the taxable year.

27 (b) "Household income" has that meaning given in ORS 310.630 except that "household
 28 income" shall not include Social Security benefits received by the taxpayer or the spouse of the
 29 taxpayer.

30 (c) "Net pension income" means:

31 (A) For eligible individuals filing a joint return, the lesser of the pension income of the eligible
 32 individuals received during the taxable year or the excess, if any, of \$15,000 over the sum of the
 33 following amounts:

34 (i) Any Social Security benefits received by the eligible individual, or by the spouse of the in-
 35 dividual, during the taxable year; and

36 (ii) The excess, if any, of household income over \$30,000.

37 (B) For an eligible individual filing a return other than a joint return, the lesser of the pension
 38 income of the eligible individual received during the taxable year or the excess, if any, of \$7,500
 39 over the sum of the following amounts:

40 (i) Any Social Security benefits received by the eligible individual during the taxable year; and

41 (ii) The excess, if any, of household income over \$15,000.

42 (d) "Pension income" means income included in Oregon taxable income from:

43 (A) Distributions from or pursuant to an employee pension benefit plan, as defined in section
 44 3(2) of the Employee Retirement Income Security Act of 1974, which satisfies the requirements of
 45 section 401 of the Internal Revenue Code;

1 (B) Distributions from or pursuant to a public retirement system of this state or a political
 2 subdivision of this state, or a public retirement system created by an Act of this state or a political
 3 subdivision of this state, or the public retirement system of any other state or local government;

4 (C) Distributions from or pursuant to a federal retirement system created by the federal gov-
 5 ernment for any officer or employee of the United States, including any person retired from service
 6 in the United States Civil Service, the Armed Forces of the United States or any agency or subdi-
 7 vision thereof;

8 (D) Distributions or withdrawals from or pursuant to an eligible deferred compensation plan
 9 which satisfies the requirements of section 457 of the Internal Revenue Code;

10 (E) Distributions or withdrawals from or pursuant to an individual retirement account, annuity
 11 or trust or simplified employee pension which satisfies the requirements of section 408 of the Inter-
 12 nal Revenue Code; and

13 (F) Distributions or withdrawals from or pursuant to an employee annuity, including custodial
 14 accounts treated as annuities, subject to section 403 (a) or (b) of the Internal Revenue Code.

15 (e) "Social Security benefits" means Social Security benefits, as defined in section 86 of the
 16 Internal Revenue Code (Title II Social Security or tier 1 railroad retirement benefits).

17 (3) If a change in the taxable year of the eligible individual occurs as described in ORS 314.085,
 18 or if the Department of Revenue terminates the tax year of the eligible individual under ORS
 19 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with
 20 ORS [316.085] **314.085**.

21 (4) If a change in the status of the eligible individual from resident to nonresident or from
 22 nonresident to resident occurs, the credit allowed by this section shall be determined in a manner
 23 consistent with subsection (1) of this section.

24 **NOTE:** Corrects typographical error in (3).

25 **SECTION 15.** ORS 316.158 is amended to read:

26 316.158. (1) It is the intent of the Legislative Assembly that no part of ORS 316.157 be the law
 27 if any part of ORS 316.157 is held to be invalid or unconstitutional. However, no amended return
 28 or payment of additional taxes shall be required for any year prior to the year in which any part
 29 of ORS 316.157 is held to be invalid or unconstitutional by a court of last resort.

30 (2) Except as provided in subsection (1) of this section, it is the intent of the Legislative As-
 31 sembly that the provisions of **this section and** ORS 238.445, 310.635, 316.087, 316.157, [316.158],
 32 316.680 and 316.695 be severable as provided in ORS 174.040.

33 **NOTE:** Conforms internal reference to legislative style in (2).

34 **SECTION 16.** ORS 316.372 is amended to read:

35 316.372. (1) **As used in this section, "parent" includes an individual who is entitled to the**
 36 **services of a minor by reason of having parental rights and duties with respect to the minor.**

37 [(1)] (2) Except as provided in subsection [(2)] (3) of this section, a minor shall file a return and
 38 include [therein] **on the return** all items of **the minor's** income, including income attributable to
 39 personal services[, and such]. Income **included on the minor's return** shall not be included on the
 40 return of the parent. All expenditures by the parent or the minor attributable to [such] **the minor's**
 41 income are considered to have been paid or incurred by the minor. However, any tax assessed
 42 against the minor[, to the extent,] **that is** attributable to income from personal services[, if] **and that**
 43 **is** not paid by the minor[, is] for all purposes [shall be] considered [as having also been] **to be**
 44 properly assessed against the parent. [For the purposes of this section the term "parent" includes an
 45 individual who is entitled to the services of a minor by reason of having parental rights and duties in

1 *respect of such minor.]*

2 [(2)] (3) If a parent is eligible to elect and elects to include the interest and dividend income
3 of a child on the parent's federal income tax return under section 1(g)(7)(B) of the Internal Revenue
4 Code, the parent shall be considered to have elected to include the interest and dividend income of
5 the child on the return filed by the parent for the same taxable period for purposes of this chapter.
6 The child need not in such case file a return for purposes of this chapter for the taxable period to
7 which the election applies.

8 **NOTE:** Conforms defined term to legislative style in (1); updates syntax and punctuation in (2).

9 **SECTION 17.** ORS 318.031 is amended to read:

10 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
11 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
12 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
13 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,
14 315.208, 315.213, [315.304,] 315.326, 315.331, 315.336, 315.507 and 315.533 (all only to the extent ap-
15 plicable to a corporation) and ORS chapter 317.

16 **NOTE:** Deletes reference to repealed statute. See section 10 (repealing ORS 315.304).

17 **SECTION 18.** ORS 323.455, as amended by section 5, chapter 114, Oregon Laws 2014, is
18 amended to read:

19 323.455. (1) All moneys received by the Department of Revenue from the tax imposed by ORS
20 323.030 (1) shall be paid over to the State Treasurer to be held in a suspense account established
21 under ORS 293.445. The department may pay expenses for administration and enforcement of ORS
22 323.005 to 323.482 out of moneys received from the tax imposed under ORS 323.030 (1). Amounts
23 necessary to pay administrative and enforcement expenses are continuously appropriated to the de-
24 partment from the suspense account. After the payment of administrative and enforcement expenses
25 and refunds, 89.65 percent shall be credited to the General Fund, 3.45 percent is appropriated to the
26 cities of this state, 3.45 percent is appropriated to the counties of this state and 3.45 percent is
27 continuously appropriated to the Department of Transportation for the purpose of financing and
28 improving transportation services for elderly individuals and individuals with disabilities as provided
29 in ORS 391.800 to 391.830.

30 (2) The moneys appropriated to cities and counties under subsection (1) of this section shall be
31 paid on a monthly basis within 35 days after the end of the month for which a distribution is made.
32 Each city shall receive such share of the money appropriated to all cities as its population, as de-
33 termined under ORS 190.510 to 190.590 last preceding such apportionment, bears to the total popu-
34 lation of the cities of the state, and each county shall receive such share of the money as its
35 population, determined under ORS 190.510 to 190.590 last preceding such apportionment, bears to the
36 total population of the state.

37 (3) The moneys appropriated to the Department of Transportation under subsection (1) of this
38 section shall be distributed and transferred to the Elderly and Disabled Special Transportation Fund
39 established by ORS 391.800 at the same time as the cigarette tax moneys are distributed to cities
40 and counties under this section.

41 (4) Of the moneys credited to the General Fund under [subsections (1) and (5)(b)] **subsection (1)**
42 of this section, 51.92 percent shall be dedicated to funding the maintenance and expansion of the
43 number of persons eligible for the medical assistance program under ORS chapter 414, or to funding
44 the maintenance of the benefits available under the program, or both, and 5.77 percent shall be
45 credited to the Tobacco Use Reduction Account established under ORS 431.832.

1 (5) All moneys received by the Department of Revenue from the tax imposed by ORS 323.030 (4)
 2 shall be paid over to the State Treasurer to be held in a suspense account established under ORS
 3 293.445. After the payment of refunds, the balance shall be credited [*as follows*]:

4 [(a) 76.92 percent] to the Oregon Health Authority Fund established by ORS 413.101[, *for the*
 5 *purpose of providing*] **and shall be used to provide** the services described in ORS 430.630.

6 [(b) 23.08 percent to the General Fund.]

7 **NOTE:** Properly sets forth transition from provisions of statute applicable until January 1, 2016,
 8 to provisions applicable thereafter.

9 **SECTION 19.** Section 19, chapter 5, Oregon Laws 2013 (special session), is amended to read:

10 **Sec. 19.** (1) The amendments to ORS 323.030 and 323.455 by sections 14 and 17, **chapter 5,**
 11 **Oregon Laws 2013 (special session),** [*of this 2013 special session Act*] apply to distributions of
 12 cigarettes occurring on or after January 1, 2014, and before January 1, 2016.

13 (2) The amendments to ORS 323.030 by section 15, **chapter 5, Oregon Laws 2013 (special**
 14 **session),** [*of this 2013 special session Act*] apply to distributions of cigarettes occurring on or after
 15 January 1, 2016, and before January 1, 2018.

16 (3) The amendments to ORS 323.030 by section 16, **chapter 5, Oregon Laws 2013 (special**
 17 **session),** [*of this 2013 special session Act*] apply to distributions of cigarettes occurring on or after
 18 January 1, 2018.

19 (4) The amendments to ORS 323.455 by section 18 [*of this 2013 special session Act*], **chapter 5,**
 20 **Oregon Laws 2013 (special session), and by section 18 of this 2015 Act** apply to distributions
 21 of cigarettes occurring on or after January 1, 2016.

22 **NOTE:** Specifies applicable date for technical fix to ORS 323.455. See section 18 (amending ORS
 23 323.455).

24 **SECTION 20.** ORS 465.015 is amended to read:

25 465.015. (1) Except as provided in subsection (2) of this section, a person shall, within 120 days
 26 after notification in writing by the Department of Environmental Quality that the person meets the
 27 definition of a toxics user, complete a toxics use reduction and hazardous waste reduction plan. At
 28 a minimum, a plan shall include:

29 (a) A written policy articulating organizational support for the toxics use reduction and haz-
 30 ardous waste reduction plan and a commitment by the organization to implement plan goals.

31 (b) A description of its scope and objectives, including the evaluation of technologies, procedures
 32 and personnel training programs to ensure unnecessary toxic substances are not used and unneces-
 33 sary waste is not generated.

34 (c) Internal analysis and periodic assessment of individual processes for toxics use and hazard-
 35 ous waste generation.

36 (d) Identification of opportunities to reduce or eliminate toxics use and hazardous waste gener-
 37 ation.

38 (e) Employee awareness and training programs that involve employees in toxics use reduction
 39 and hazardous waste reduction planning and implementation.

40 (f) Institutionalization of the plan by incorporating the plan into management practices and
 41 procedures.

42 (2)(a) A person is not required to complete a plan if the person has implemented an environ-
 43 mental management system[, *as defined in ORS 468.172*].

44 (b) **As used in this subsection, “environmental management system” means a continual**
 45 **cycle of planning, implementing, reviewing and improving the actions undertaken at the fa-**

1 **cility to meet environmental obligations and improve environmental performance that meet:**

2 **(A) The standards established by the International Organization for Standardization un-**
3 **der ISO 14001;**

4 **(B) The standards established in the Green Permit program established under ORS**
5 **468.501 to 468.521; or**

6 **(C) Other standards that meet criteria established by the Environmental Quality Com-**
7 **mission by rule.**

8 (3) A toxics user shall incorporate into the plan and associated decision-making process, the
9 costs of using toxic substances and generating hazardous waste. The costs may represent, among
10 other things, the costs of management, liability insurance, regulatory compliance and oversight.

11 (4) As part of each plan, a toxics user shall evaluate technically and economically practicable
12 toxics use reduction and hazardous waste reduction opportunities for:

13 (a) Any toxic substance for which the toxics user reports as a large user; and

14 (b) Any hazardous waste representing 10 percent or more by weight of the cumulative hazardous
15 waste stream generated per year.

16 (5) A toxics user shall explain the rationale for each toxics use reduction and waste reduction
17 opportunity specified in the plan, including any impediments, such as technical or economic barriers,
18 to toxics use reduction and hazardous waste reduction.

19 (6) A toxics use reduction and hazardous waste reduction plan developed under this section or
20 the documentation for an environmental management system shall be retained at the facility. To
21 the extent that a plan or system may be considered a public record under ORS 192.410, the infor-
22 mation contained in the plan or system is confidential and is exempt from public disclosure pursuant
23 to ORS 192.502.

24 (7) It is the policy of this state that plans developed under this section be kept current and that
25 the plans reflect changes in toxics use over time. In furtherance of this policy, a toxics user may
26 update its plan or modify its environmental management system to reflect any changes.

27 **NOTE:** Deletes reference to repealed statute in (2). See section 23 (repealing ORS 468.172). Re-
28 places reference with definition copied from repealed statute.

29 **SECTION 21.** ORS 468.167 is amended to read:

30 468.167. (1) Any person proposing to apply for certification for tax relief under ORS 468.155 to
31 468.190 may apply, before the completion of a pollution control facility, for precertification of the
32 facility with the Environmental Quality Commission.

33 (2)(a) The application shall be made in writing in a form prescribed by the Department of En-
34 vironmental Quality. The application shall contain the following information:

35 (A) A statement of the purpose of prevention, control or reduction of air, water or noise pol-
36 lution or solid or hazardous waste or recycling or appropriate disposal of used oil served or to be
37 served by the facility.

38 (B) A description of the materials for incorporation into the facility or incorporated into the
39 facility, machinery and equipment to be made or made a part of the facility and the proposed or
40 existing operational procedure of the facility.

41 (C) Any further information the Director of the Department of Environmental Quality considers
42 necessary before precertification is issued.

43 (b) The application need not contain information on the actual cost of the facility or the portion
44 of the actual cost properly allocable to the prevention, control or reduction of air, water or noise
45 pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil.

1 (c) The application shall be accompanied by a fee as provided under ORS 468.165 (5). The fee
2 may be refunded if the application for preliminary certification is rejected.

3 (3) If the commission determines that the person and the pollution control facility will be eligible
4 for tax relief under ORS 307.405 [*or 315.304*] if the facility is erected, constructed, reconstructed,
5 added to, installed, improved or used in accordance with the application for precertification, the
6 commission shall precertify the facility by approving the application.

7 (4) If the facility is erected, constructed, reconstructed, added to, installed, improved or used as
8 proposed in the application for precertification, the commission's approval of the application shall
9 be prima facie evidence that the facility is qualified for certification for tax relief under ORS
10 468.170. However, precertification shall not ensure that a facility erected, constructed, recon-
11 structed, added to, installed, improved or used by the precertified person will receive certification
12 under ORS 468.170 or tax relief under ORS 307.405 [*or 315.304*].

13 (5) If the commission fails or refuses to precertify a person and facility, the person may appeal
14 as provided in ORS 468.170 (3).

15 **NOTE:** Deletes references to repealed statute in (3) and (4). See section 10 (repealing ORS
16 315.304).

17 **SECTION 22.** ORS 468.170 is amended to read:

18 468.170. (1) The Environmental Quality Commission shall act on an application for certification
19 before the 120th day after the filing of the application under ORS 468.165. The action of the com-
20 mission shall include certification of the actual cost of the facility and the portion of the actual cost
21 properly allocable to the prevention, control or reduction of air, water or noise pollution or solid
22 or hazardous waste or to recycling or appropriately disposing of used oil. The actual cost or portion
23 of the actual cost certified may not exceed the taxpayer's own cash investment in the facility or
24 portion of the facility. Each certificate shall bear a separate serial number for each such facility.

25 (2) If the commission rejects an application for certification, or certifies a lesser actual cost of
26 the facility or a lesser portion of the actual cost properly allocable to the prevention, control or
27 reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropri-
28 ately disposing of used oil than was claimed in the application for certification, the commission shall
29 cause written notice of its action, and a concise statement of the findings and reasons therefor, to
30 be sent by registered or certified mail to the applicant before the 120th day after the filing of the
31 application.

32 (3) If the application is rejected for any reason, including the information furnished by the ap-
33 plicant as to the cost of the facility, or if the applicant is dissatisfied with the certification of actual
34 cost or portion of the actual cost properly allocable to prevention, control or reduction of air, water
35 or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil,
36 the applicant may appeal from the rejection as provided in ORS 468.110. The rejection or the certi-
37 fication is final and conclusive on all parties unless the applicant takes an appeal therefrom as
38 provided in ORS 468.110 before the 30th day after notice was mailed by the commission.

39 (4)(a) The commission shall certify a pollution control, solid waste, hazardous waste or used oil
40 facility or portion thereof, for which an application has been made under ORS 468.165, if the com-
41 mission finds that the facility:

42 (A) Was erected, constructed or installed in accordance with the requirements of ORS 468.165
43 (1);

44 (B) Is designed for, and is being operated or will operate in accordance with the requirements
45 of ORS 468.155; and

1 (C) Is necessary to satisfy the intents and purposes of ORS 454.010 to 454.040, 454.205 to 454.255,
 2 454.505 to 454.535, 454.605 to 454.755, ORS chapters 459, 459A, 466 and 467 and ORS chapters 468,
 3 468A and 468B and rules thereunder.

4 (b) No determination of the proportion of the actual cost of the facility to be certified shall be
 5 made until receipt of the application.

6 (c) If one or more facilities constitute an operational unit, the commission may certify such fa-
 7 cilities under one certificate.

8 (d) A certificate under this section is effective for purposes of tax relief in accordance with ORS
 9 307.405 *[and 315.304]* if, on or before December 31, 2007, erection, construction or installation of the
 10 facility is completed, the facility is placed in service and the application for certification is filed
 11 with the commission under ORS 468.165.

12 *[(5) A person receiving a certificate under this section may take tax relief only under ORS 315.304,*
 13 *depending upon the tax status of the person's trade or business except that:]*

14 *[(a) A corporation organized under ORS chapter 65 or any subsequent transferee of the corporation*
 15 *shall take tax relief only under ORS 307.405; and]*

16 *[(b)(A) A corporation organized under ORS chapter 62 or any predecessor to ORS chapter 62 re-*
 17 *lating to the incorporation of cooperative associations or the subsequent transferee of the corporation*
 18 *may make an irrevocable election to take the tax relief under either ORS 315.304 or 307.405. The cor-*
 19 *poration shall make the election at the time of applying for the certificate, except that a corporation*
 20 *receiving a certificate prior to December 31, 1995, may make the election at any time on or before De-*
 21 *cember 31, 1995. If a corporation elects on or before December 31, 1995, to take the tax relief under*
 22 *ORS 315.304, any income taxes, penalties or interest otherwise payable by the corporation for improv-*
 23 *erly taking the tax relief under ORS 315.304 in a taxable year prior to making the election shall be*
 24 *waived.]*

25 *[(B) In the case of a corporation making the election under subparagraph (A) of this paragraph,*
 26 *the election applies to:]*

27 *[(i) All existing or future facilities that are certified under this section, if the corporation claimed*
 28 *a credit under ORS 315.304 for a tax year beginning prior to December 31, 1995; or]*

29 *[(ii) All future facilities that are certified under this section, if the corporation did not claim a*
 30 *credit under ORS 315.304 for a tax year beginning prior to December 31, 1995.]*

31 *[(6) If the person receiving the certificate is a partnership, each partner shall be entitled to take tax*
 32 *credit relief as provided in ORS 315.304, based on that partner's pro rata share of the certified cost*
 33 *of the facility.]*

34 *[(7)]* (5) Certification under this section of a pollution control facility qualifying under ORS
 35 468.165 (1) shall be granted for a period of 10 consecutive years which 10-year period shall begin
 36 with the tax year of the person in which the facility is certified under this section, except that if
 37 ad valorem tax relief is utilized by a corporation organized under ORS chapter 62 or 65 the facility
 38 shall be exempt from ad valorem taxation for a period of 20 consecutive years.

39 *[(8)]* (6) Portions of a facility qualifying under ORS 468.165 (1)(c) may be certified separately
 40 under this section if ownership of the portions is in more than one person. Certification of such
 41 portions of a facility shall include certification of the actual cost of the portion of the facility to the
 42 person receiving the certification. The actual cost certified for all portions of a facility separately
 43 certified under this subsection may not exceed the total cost of the facility that would have been
 44 certified under one certificate. *[The provisions of ORS 315.304 (8) apply to any sale, exchange or other*
 45 *disposition of a certified portion of a facility.]*

1 [(9) A certificate issued under this section shall state the applicable percentage of the certified cost
2 of the facility, as determined under ORS 468.173.]

3 [(10) If the construction or installation of a facility is commenced after December 31, 2005, the fa-
4 cility may be certified only if the facility or applicant is described in ORS 468.173 (3). A facility de-
5 scribed in ORS 468.173 (2) for which construction or installation is commenced after December 31,
6 2005, may not be certified under this section.]

7 **NOTE:** Deletes references to repealed statutes in (4), (5), (6), (8), (9) and (10). See section 10
8 (repealing ORS 315.304) and section 23 (repealing ORS 468.173).

9 **SECTION 23. ORS 468.172, 468.173 and 468.183 are repealed.**

10 **NOTE:** Repeals outdated statutes.

11 **SECTION 24.** ORS 468.185 is amended to read:

12 468.185. (1) Pursuant to the procedures for a contested case under ORS chapter 183, the Envi-
13 ronmental Quality Commission may order the revocation of the certification issued under ORS
14 468.170 of any pollution control or solid waste, hazardous wastes or used oil facility, if it finds that:

15 (a) The certification was obtained by fraud or misrepresentation; or

16 (b) The holder of the certificate has failed substantially to operate the facility for the purpose
17 of, and to the extent necessary for, preventing, controlling or reducing air, water or noise pollution
18 or solid waste, hazardous wastes or used oil as specified in such certificate.

19 (2) As soon as the order of revocation under this section has become final, the commission shall
20 notify the Department of Revenue and the county assessor of the county in which the facility is lo-
21 cated of such order.

22 (3) If the certification of a pollution control or solid waste, hazardous wastes or used oil facility
23 is ordered revoked pursuant to subsection (1)(a) of this section, all prior tax relief provided to the
24 holder of such certificate by virtue of such certificate shall be forfeited and the Department of Re-
25 venue or the proper county officers shall proceed to collect those taxes not paid by the certificate
26 holder as a result of the tax relief provided to the holder under any provision of ORS 307.405 [*and*
27 *315.304*].

28 (4) Except as provided in subsection (5) of this section, if the certification of a pollution control
29 or solid waste, hazardous wastes or used oil facility is ordered revoked pursuant to subsection (1)(b)
30 of this section, the certificate holder shall be denied any further relief provided under ORS 307.405
31 [*or 315.304*] in connection with such facility, as the case may be, from and after the date that the
32 order of revocation becomes final.

33 (5) The commission may reinstate a tax credit certification revoked under subsection (1)(b) of
34 this section if the commission finds the facility has been brought into compliance. If the commission
35 reinstates certification under this subsection, the commission shall notify the Department of Re-
36 venue or the county assessor of the county in which the facility is located that the tax credit cer-
37 tification is reinstated for the remaining period of the tax credit, less the period of revocation as
38 determined by the commission.

39 **NOTE:** Deletes references to repealed statute in (3) and (4). See section 10 (repealing ORS
40 315.304).

41 **SECTION 25.** ORS 468.190 is amended to read:

42 468.190. (1) Subject to subsections (2)[, (3) *and* (4)] **and (3)** of this section, in establishing the
43 portion of costs properly allocable to the prevention, control or reduction of air, water or noise
44 pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil for fa-
45 cilities qualifying for certification under ORS 468.170, the Environmental Quality Commission shall

1 consider the following factors:

2 (a) If applicable, the extent to which the facility is used to recover and convert waste products
3 into a salable or usable commodity.

4 (b) The estimated annual percent return on the investment in the facility.

5 (c) If applicable, the alternative methods, equipment and costs for achieving the same pollution
6 control objective.

7 (d) Any related savings or increase in costs which occur or may occur as a result of the in-
8 stallation of the facility.

9 (e) Any other factors which are relevant in establishing the portion of the actual cost of the
10 facility properly allocable to the prevention, control or reduction of air, water or noise pollution or
11 solid or hazardous waste or to recycling or appropriately disposing of used oil.

12 (2) The portion of actual costs properly allocable shall be from zero to 100 percent in increments
13 of one percent. If zero percent, the commission shall issue an order denying certification.

14 (3) If the cost of the facility (or facilities certified under one certificate) does not exceed \$50,000,
15 the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time
16 the facility is used for prevention, control or reduction of air, water or noise pollution or solid or
17 hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the
18 facility is used for any purpose.

19 *[(4) In the case of a business described in ORS 315.304 (4)(a)(C)(i), the Environmental Quality*
20 *Commission shall consider the factors listed in subsection (1) of this section as if the person operating*
21 *the facility or conducting the trade or business that utilizes property requiring such a facility were the*
22 *applicant for the credit, regardless of whether the person is the lessee or lessor of the facility.]*

23 [(5)] (4) The commission may adopt rules establishing methods to be used to determine the por-
24 tion of costs properly allocable to the prevention, control or reduction of air, water or noise pol-
25 lution or solid or hazardous waste or to recycling or appropriately disposing of used oil.

26 **NOTE:** Updates internal reference in (1). Deletes reference to repealed statute in (4). See sec-
27 tion 10 (repealing ORS 315.304).

28