

**A-Engrossed**  
**Senate Bill 36**

Ordered by the Senate February 17  
Including Senate Amendments dated February 17

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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.

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, 316.147, 316.157, 316.158, 316.372, 323.455 and section 3, chapter 868, Oregon  
4 Laws 2007, and section 19, chapter 5, Oregon Laws 2013 (special session); and repealing ORS  
5 308A.380, 314.705 and 314.710.

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

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

8 308.146. (1) The maximum assessed value of property [*shall equal*] **equals** 103 percent of the  
9 property's assessed value from the prior year or 100 percent of the property's maximum assessed  
10 value from the prior year, whichever is greater.

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

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

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

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

17 (a) The property is new property or new improvements to property;

18 (b) The property is partitioned or subdivided;

19 (c) The property is rezoned and used consistently with the rezoning;

20 (d) The property is first taken into account as omitted property;

21 (e) The property becomes disqualified from exemption, partial exemption or special assessment;

22 or

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

26 (4) Notwithstanding subsections (1) and (2) of this section, if property is subject to partial ex-  
27 emption or special assessment, the property's maximum assessed value and assessed value [*shall*]

**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 **must** be determined as provided under the provisions of law governing the partial exemption or  
2 special assessment.

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

7 (b) This subsection does not apply:

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

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

12 (c) As used in this subsection, “minor construction” has the meaning given that term in ORS  
13 308.149.

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

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

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

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

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

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

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

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

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

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

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

41 (b) This subsection does not apply:

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

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

1 (c) To receive the reduction in maximum assessed value of the property under this subsection,  
2 the property owner must file an application with the county assessor after the [demolishment]  
3 **demolition** or removal and on or before December 31 following the assessment date if the  
4 [demolishment] **demolition** or removal occurred:

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

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

9 (d) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 308.166. (1) If the maximum assessed value of property is subject to adjustment under both ORS  
36 308.153 and 308.156, the maximum assessed value [shall] **must** first be determined under ORS 308.153  
37 and then further adjusted under ORS 308.156.

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

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

44 (4) If the maximum assessed value of property is subject to adjustment under all of ORS 308.153,  
45 308.156 and 308.159, the maximum assessed value [shall] **must** first be determined under subsection

1 (1) of this section and then further adjusted under ORS 308.159.

2 (5) If the maximum assessed value of property is subject to adjustment for fire or act of God,  
3 the maximum assessed value *[shall]* **must** first be determined under ORS 308.146 (5)(a) and then may  
4 be adjusted as provided in subsections (1) to (4) of this section.

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

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

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

10 **NOTE:** Repeals outdated statute.

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

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

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

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

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

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

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

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

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

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

45 **SECTION 6. ORS 314.705 and 314.710 are repealed.**

1       **NOTE:** Repeals outdated statutes related to former Multistate Tax Compact (repealed by section  
2 4, chapter 407, Oregon Laws 2013).

3       **SECTION 7.** Section 3, chapter 868, Oregon Laws 2007, as amended by section 45, chapter 913,  
4 Oregon Laws 2009, is amended to read:

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

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

7       **SECTION 8.** ORS 316.147 is amended to read:

8       316.147. As used in ORS 316.147 to 316.149, unless the context requires otherwise:

9       (1) “Eligible taxpayer” includes any individual who must pay taxes otherwise imposed by this  
10 chapter and:

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

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

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

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

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

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

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

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

26       **SECTION 9.** ORS 316.157 is amended to read:

27       316.157. (1) In the case of an eligible individual, there shall be allowed as a credit against the  
28 taxes otherwise due under this chapter for the taxable year an amount equal to the lesser of the tax  
29 liability of the taxpayer or nine percent of net pension income.

30       (2) For purposes of this section:

31       (a) “Eligible individual” means any individual who is receiving pension income and who has at-  
32 tained the following age before the close of the taxable year:

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

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

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

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

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

43       (b) “Household income” has that meaning given in ORS 310.630 except that “household  
44 income” shall not include Social Security benefits received by the taxpayer or the spouse of the  
45 taxpayer.

1 (c) "Net pension income" means:

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

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

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

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

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

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

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

14 (A) Distributions from or pursuant to an employee pension benefit plan, as defined in section  
15 3(2) of the Employee Retirement Income Security Act of 1974, which satisfies the requirements of  
16 section 401 of the Internal Revenue Code;

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

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

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

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

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

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

33 (3) If a change in the taxable year of the eligible individual occurs as described in ORS 314.085,  
34 or if the Department of Revenue terminates the tax year of the eligible individual under ORS  
35 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with  
36 ORS [316.085] **314.085**.

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

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

41 **SECTION 10.** ORS 316.158 is amended to read:

42 316.158. (1) It is the intent of the Legislative Assembly that no part of ORS 316.157 be the law  
43 if any part of ORS 316.157 is held to be invalid or unconstitutional. However, no amended return  
44 or payment of additional taxes shall be required for any year prior to the year in which any part  
45 of ORS 316.157 is held to be invalid or unconstitutional by a court of last resort.

1 (2) Except as provided in subsection (1) of this section, it is the intent of the Legislative As-  
 2 sembly that the provisions of **this section and** ORS 238.445, 310.635, 316.087, 316.157, [316.158],  
 3 316.680 and 316.695 be severable as provided in ORS 174.040.

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

5 **SECTION 11.** ORS 316.372 is amended to read:

6 316.372. (1) **As used in this section, “parent” includes an individual who is entitled to the**  
 7 **services of a minor by reason of having parental rights and duties with respect to the minor.**

8 [(1)] (2) Except as provided in subsection [(2)] (3) of this section, a minor shall file a return and  
 9 include [therein] **on the return** all items of **the minor’s** income, including income attributable to  
 10 personal services[, and such]. Income **included on the minor’s return** shall not be included on the  
 11 return of the parent. All expenditures by the parent or the minor attributable to [such] **the minor’s**  
 12 income are considered to have been paid or incurred by the minor. However, any tax assessed  
 13 against the minor[, to the extent,] **that is** attributable to income from personal services[, if] **and that**  
 14 **is** not paid by the minor[, is] for all purposes [shall be] considered [as having also been] **to be**  
 15 properly assessed against the parent. [For the purposes of this section the term “parent” includes an  
 16 individual who is entitled to the services of a minor by reason of having parental rights and duties in  
 17 respect of such minor.]

18 [(2)] (3) If a parent is eligible to elect and elects to include the interest and dividend income  
 19 of a child on the parent’s federal income tax return under section 1(g)(7)(B) of the Internal Revenue  
 20 Code, the parent shall be considered to have elected to include the interest and dividend income of  
 21 the child on the return filed by the parent for the same taxable period for purposes of this chapter.  
 22 The child need not in such case file a return for purposes of this chapter for the taxable period to  
 23 which the election applies.

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

25 **SECTION 12.** ORS 323.455, as amended by section 5, chapter 114, Oregon Laws 2014, is  
 26 amended to read:

27 323.455. (1) All moneys received by the Department of Revenue from the tax imposed by ORS  
 28 323.030 (1) shall be paid over to the State Treasurer to be held in a suspense account established  
 29 under ORS 293.445. The department may pay expenses for administration and enforcement of ORS  
 30 323.005 to 323.482 out of moneys received from the tax imposed under ORS 323.030 (1). Amounts  
 31 necessary to pay administrative and enforcement expenses are continuously appropriated to the de-  
 32 partment from the suspense account. After the payment of administrative and enforcement expenses  
 33 and refunds, 89.65 percent shall be credited to the General Fund, 3.45 percent is appropriated to the  
 34 cities of this state, 3.45 percent is appropriated to the counties of this state and 3.45 percent is  
 35 continuously appropriated to the Department of Transportation for the purpose of financing and  
 36 improving transportation services for elderly individuals and individuals with disabilities as provided  
 37 in ORS 391.800 to 391.830.

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

45 (3) The moneys appropriated to the Department of Transportation under subsection (1) of this

1 section shall be distributed and transferred to the Elderly and Disabled Special Transportation Fund  
2 established by ORS 391.800 at the same time as the cigarette tax moneys are distributed to cities  
3 and counties under this section.

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

9 (5) All moneys received by the Department of Revenue from the tax imposed by ORS 323.030 (4)  
10 shall be paid over to the State Treasurer to be held in a suspense account established under ORS  
11 293.445. After the payment of refunds, the balance shall be credited [as follows:]

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

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

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

17 **SECTION 13.** Section 19, chapter 5, Oregon Laws 2013 (special session), is amended to read:

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

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

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

27 (4) The amendments to ORS 323.455 by section 18 [*of this 2013 special session Act*], **chapter 5,**  
28 **Oregon Laws 2013 (special session), and by section 12 of this 2015 Act** apply to distributions  
29 of cigarettes occurring on or after January 1, 2016.

30 **NOTE:** Specifies applicable date for technical fix to ORS 323.455. See section 12 (amending ORS  
31 323.455).

32