REVENUE IMPACT OF PROPOSED LEGISLATION

81st Oregon Legislative Assembly
2021 Regular Session
Legislative Revenue Office

Bill Number:	**HB 2433 - 6**
Revenue Area:	**Income Tax/Transient Lodging Tax/Marijuana Tax**
Economist:	**Kyle Easton / Mazen Malik**
Date:	**6/14/2021**

Only Impacts on Original or Engrossed Versions are Considered Official

---

Measure Description:

This measure extends, modifies, and creates tax expenditures.

Revenue Impact (in $Millions):

	Biennium		
Policy	**2021-23**	**2023-25**	**2025-27**
Child with a disability credit	-$4.9	-$10.2	-$10.6
Severe disability credit	-$4.8	-$9.7	-$9.7
Rural medical providers credit	-$1.2	-$4.4	-$6.1
University Venture Development contribution credit	-$0.3	-$0.5	-$0.4
Working family household and dependent care credit	-$33.2	-$66.3	-$66.3
Individual development account contribution credit	-$6.6	-$13.6	-$13.9
Oregon Life & Health Insurance Guaranty Assoc. credit	-$0.7	-$0.9	-$0.5
Oregon Veterans' Home physician credit	Minimal	-$0.1	-$0.1
Agriculture workforce housing credit	-$0.5	-$2.7	-$5.0
Affordable housing lender credit	$0.0	-$4.1	-$6.4
Film production development contributions credit	-$11.5	-$26.3	-$39.0
Greenlight Oregon film production labor rebate	$0.0	-$4.8	-$9.8
Labor rebate subtraction	$0.0	-$0.4	-$0.8
AmeriCorps national service educ. awards subtraction	-$0.2	-$0.2	-$0.2
Oregon earned income tax credit	-$5.7	-$11.9	-$6.1
Total General Fund	**-$69.6**	**-$156.0**	**-$174.8**
Fund Receipts			
Greenlight OR Labor Rebate (GOLR)	$0.0	$4.8	$9.8
Oregon Production Investment Fund (OPIF)	$10.9	$23.6	$36.3
Enacts express sunset for exemption of medical marijuana from retail marijuana tax			
State Revenue	-$24.1	-$32.0	-$30.9
Local Revenue	-$4.0	-$5.0	-$4.8
Exempt barracks and other military quarters from transient lodging tax	Minimal		

State Capitol Building
900 Court St NE
Salem, Oregon 97301-1347

Phone (503) 986-1266
Fax (503) 986-1770
https://www.oregonlegislature.gov/lro

Impact Explanation:

Sunset extensions & modifications (income tax expenditures)
Revenue impact estimates were made based on analysis of historic tax expenditure usage as reported on personal and corporate income tax returns. When available, estimates were also informed by tax expenditure certification data and other informative non-tax return information.

The following income tax expenditures have their sunsets extended for six years without policy modification:

- Child with a disability credit
- Severe disability credit
- Public University Venture Development Funds contribution credit
- Oregon Life and Health Insurance Guaranty Association credit
- Oregon Veterans' Home physician credit
- Greenlight Oregon film production labor rebate

The following income tax expenditures are modified:

- Rural medical providers tax credit
- Working family household and dependent care credit
- Individual development account contributions credit
- Oregon earned income tax credit
- Agriculture workforce housing credit
- Affordable housing lenders credit
- Film production development contributions credit

The following income tax subtraction is newly created:

- AmeriCorps national service educational awards

The following provisions are non General Fund revenue related:

- Exempt barracks and other military quarters from transient lodging tax
- Enacts express sunset for exemption of medical marijuana from retail marijuana tax

Modified income tax expenditures
<u>Rural medical providers tax credit</u>
Extends sunset, from January 1, 2022 to January 1, 2028, of tax credit available to certain medical providers practicing in rural areas. For taxpayers meeting credit eligibility requirements in tax year 2027, extends sunset from January 1, 2031 to January 1, 2037. Specifies that a physician who practices emergency medicine in a frontier rural practice county is not subject to adjusted gross income limit of $300,000 for purposes of qualifying for credit.

<u>Working family household and dependent care credit</u>
Extends sunset of credit from January 1, 2022 to January 1, 2028.

Modifies and expands provisions of working family household and dependent care expenses income tax credit. Requires a nonmarried taxpayer to attend school as an enrolled degree seeking student in order to claim credit. For purposes of determining employment-related expenses, limits expenses to the least of: combination of earned income taxable by Oregon and reportable on the taxpayer's return and imputed income, lesser amount attributable to either spouse of the combination of the spouse's imputed income and the spouse's earned income subject to taxation by Oregon. For purposes of calculating credit percentage, provides imputed income for a student claiming the credit. For students with adjusted gross income as a percentage of federal poverty level less than 110 percent, provides highest possible credit percentage multiplied by applicable school ratio. Specifies school ratio equal to 100 percent for a month when a student is a full-time student or 70 percent when student is a part-time student. Modifications apply to tax years beginning on or after January 1, 2022 and before January 1, 2028.

Estimated impacts were derived from a combination of sources relating to dependent care expenses and income amount for students with children.

<u>Individual development account contributions credit</u>
Extends sunset, from January 1, 2022 to January 1, 2028, of tax year in which tax credit for donations made to a fiduciary organization for distribution to individual development accounts is available. Allows credit to be claimed for a donation made not later than April 15 following December 31 of the tax year for which the credit is allowed. To qualify for credit, requires donations to be made prior to April 15, 2028.

Individuals or businesses donating to the state-selected fiduciary agency (currently the Neighborhood Partnership Fund) for individual development accounts (IDAs) are allowed a tax credit equal to a percentage of the amount donated. The credit percentage is determined by the fiduciary agency but may not exceed 90 percent of the amount donated. The total credits allowed to all taxpayers in any tax year are limited to $7.5 million.

Based on an analysis of recent year donation patterns, the estimated revenue loss resulting from credit sunset extension is expected to be about $6.5 to $7 million per year. However, individual year donation patterns can be influenced by federal and Oregon tax law, the potential realization of capital gain income by taxpayers, and the solicitation and marketing of IDA donation tax credits.

<u>Oregon earned income tax credit</u>
Allows otherwise qualified resident or nonresident individual to claim Oregon earned income tax credit using Individual Taxpayer Identification Number in lieu of Social Security Number. Applies to tax years beginning on or after January 1, 2022 and before January 1, 2026.

Oregon's earned income tax credit (EITC) is a percentage of the federal credit and is equal to 9% of the federal credit amount, or 12% for taxpayers with a dependent under the age of three at the close of the tax year. As Oregon’s credit is a percentage of the federal credit, Oregon’s credit inherently reflects the design of the federal EITC.

To qualify for the EITC, taxpayers must meet a number of requirements including providing Social Security numbers for specified individuals reported on the tax return. Individual Taxpayer Identification Numbers (ITINs) cannot be used to qualify for the federal EITC and as Oregon's EITC is a percentage of the federal credit, taxpayers using an ITIN do not presently qualify for the Oregon EITC or may qualify for a lesser amount.

Measure allows otherwise qualified taxpayers to claim the Oregon portion of the EITC using an ITIN. To determine amount of the credit, taxpayers will compute amount of federal EITC taxpayer would qualify for but for the ITIN

State Capitol Building
900 Court St NE
Salem, Oregon 97301-1347

Phone (503) 986-1266
Fax (503) 986-1770
https://www.oregonlegislature.gov/lro

limitation and multiply that amount by the appropriate Oregon credit rate (9% or 12%). Allowing ITINs to be used to qualify for the Oregon EITC is expected to expand qualification of the credit by about 18,000 taxpayers per year. Average benefit to taxpayers is expected to be about $315 with the average benefit amount increasing in later years reflective of credit's adjustments to inflation.

Revenue impact estimate was informed by an analysis of historical tax returns filed containing an ITIN and potential EITC qualification of such tax returns. Estimate reflects EITC current law sunset of January 1, 2026.

Agriculture workforce housing tax credit
Modifies existing annual limit on eligible agriculture workforce housing construction tax credits from $3.625 million per year, to no more than $16.75 million in total potential credits claimed in a biennium.

Modification of agriculture workforce housing tax credit from an annual certification limit equal to $3.625 million in credits, to a biennial limit equal to no more than $16.75 million in credits, is expected to increase use of the credit in future years. Increased credit limit becomes effective beginning with the 2021-23 biennium. Estimate reflects existing sunset of credit, which specifies that credit may not be claimed for agriculture workforce housing projects completed in tax years beginning on or after January 1, 2026.

While increasing the tax credit limit is expected to increase credit use, impact on General Fund revenue is expected to be gradual as amount of the credit used to reduce tax liability is spread out over a minimum of five years.

Analysis of historic credit use patterns indicates use of credit can be spread out over many years due to the minimum five-year use requirement, potential tax liability of credit beneficiaries, and the availability of a nine-year credit carryforward. Estimate is based on a historical analysis of credit use and the potential construction, rehabilitation, or acquisition of agriculture workforce housing in Oregon. Input received from the Oregon Housing and Community Services Department helped to inform the baseline estimate of future qualified agriculture workforce housing.

Affordable housing lenders credit
Increases limit on total amount of outstanding affordable housing lender tax credits allowed in any fiscal year from $25 million to $35 million.

Expands qualification for credit to include loan proceeds used to finance certified construction, development, acquisition, or rehabilitation of housing if such preserved housing is or will be occupied by households earning less than 80 percent of area median income and subject to a rental assistance contract limiting tenant's rent to no more than 30 percent of their income. In specified circumstances, increases limit on period during which the tax credit is allowed for the qualified loan from 20 years to 30 years. Expands qualified purchase of bonds to include such qualified bonds issued on behalf of a housing authority.

The limit on the affordable housing lenders tax credit (AHLTC) functions in a revolving manner. New loans qualifying for the credit increase the amount of outstanding tax credits while expiring loans create more room under the limit. Loan amortization causes interest to be greatest in the early years of a loan, with interest (and therefore credit benefit) subsequently decreasing in later years.

State Capitol Building
900 Court St NE
Salem, Oregon 97301-1347

Phone (503) 986-1266
Fax (503) 986-1770
https://www.oregonlegislature.gov/lro

Currently, the affordable housing lender tax credit program is operating below existing law limit of $25 million. For increase in limit to have an impact on General Fund revenue, current $25 million limit must be limiting or expected to limit use of credit in future years. At present, over $10 million in room under the existing cap is available. However, use of the credit is expected to increase in the coming years. Revenue impact estimate assumes existing credit limit would begin to reduce potential use of the credit beginning in the 2023-25 biennium if the limit is not increased.

<u>Film development and contributions credit</u>
Increases maximum amount of tax credits that may be auctioned in a fiscal year, from $14 million to $20 million, for certified film production development contributions. Applies to fiscal years beginning on or after July 1, 2021. Extends sunset of tax credit for certified film production development contributions from January 1, 2024 to January 1, 2030.

Estimate for Oregon Production Investment Fund (OPIF) auction credit reflects income tax credits available to individuals or corporations that purchase tax credits at an auction conducted by the Department of Revenue. Proceeds of the tax credit auction go to the OPIF. OPIF funds are used to reimburse qualified expenses of qualified film and video productions in Oregon. Under current law, the maximum annual amount of credits that may be auctioned is $14 million per fiscal year. Measure increases fiscal year limit to $20 million per fiscal year beginning with the 2021-22 fiscal year.

In recent auctions, full allotment of tax credits has been successfully sold at an average price of 91% of credit face value. As credits are auctioned in $500 increments, this converts to an average purchase price of $455 for a $500 credit (minimum allowed purchase price is $450). The difference in credit face value and amount paid for credit at auction causes the difference between reduction in General Fund revenue and funding provided to OPIF.

Estimate reflects historic credit amounts used in tax year of credit auction, as well as subsequent tax year use resulting from unused credits being carried forward.

Recent demand for tax credits auctioned for the OPIF has been sufficient to sell full allotment of credits. Recent OPIF auctions also suggest sufficient demand exists for OPIF auctions to be successful in auctioning full allotment of credits if limit is increased to $20 million per fiscal year. However, a tax credit auction is generally held in months following the OPIF auction to support funding for Oregon's Opportunity Grant Fund. Recent results for both credit auctions suggest expansion of OPIF auction could reduce purchases of auctioned credits for the Opportunity Grant Fund. This may require multiple auctions to be held for the Opportunity Grant in order to sell full allotment of credits. As auction credits are purchased by a relatively small number of high-income taxpayers, and many such high-income taxpayers are not already purchasing credits, revenue impact estimate assumes full auction success for both auctions. However, there is risk to the estimate that by expanding the OPIF auction amount, some amount of auction derived funding is essentially shifted from the Opportunity Grant to the OPIF.

The OPIF auction credit functions as a funding source for the Oregon Production Investment Fund (OPIF). Funds raised from credit auction are distributed to OPIF and are reflected as a positive fund receipts in the impact table.

<u>Greenlight Oregon film production labor rebate</u>
Extends sunset of the Greenlight Oregon Labor Rebate program from January 1, 2024 to January 1, 2030.

Greenlight Labor Rebate displays estimated impact of the redirection of withholding tax dollars from the General Fund to the GOLR fund with amounts subsequently distributed to qualifying film and video productions in Oregon. Amounts transferred to GOLR account are displayed as positive amounts under fund receipts in the impact table. GOLR distributions are considered taxable under federal income tax laws. Oregon law allows the recipients to subtract such distributions for Oregon income tax purposes.

New income tax expenditures

Income tax subtraction for AmeriCorps national service educational awards

Creates personal income tax subtraction from federal taxable income for amounts received as AmeriCorps national service educational awards. Applies to tax years beginning on or after January 1, 2021 and before January 1, 2027.

Taxpayers receiving AmeriCorps national service educational awards will be allowed a personal income tax subtraction equal to the amount of the education award received by the taxpayer. Education awards can be used to pay current educational expenses at eligible schools or used to repay qualified student loans. Subtraction is not allowed if such education award amount is not included in the taxpayer's federal gross income.

In the most recent five years for which reporting is available, AmeriCorps participation in Oregon has averaged about 975 participants per year. For the same time period, total education awards for all such Oregon participants has averaged about $3.9 million per year. This equates to an average education award per participant of about $4,000. However, roughly half of all participant education award amounts are not used.

Estimate assumes use of education award increases slightly with an average tax benefit per individual of about $200. The revenue impact estimate was made using an analysis of historic AmeriCorps education awards and related education payments received in Oregon. Impact estimate was also informed by Minnesota's state income tax subtraction for such AmeriCorps awards.

Non-General Fund revenue related

Medical marijuana

Enacts express sunset for exemption of medical marijuana registry cardholder or primary caregiver from tax imposed on retail sale of marijuana items. Sunset change results in change from implicit sunset to an explicit six-year sunset cycle. More than 23,000 people held a medical marijuana patient card as of July 2020, and nearly 8,800 people held a caregiver card. The tax expenditure report estimates the impact of medical Marijuana exemption at $28 million for the coming biennium (18 months impact), and about $37 million per biennium thereafter until the next sunset date January 1, 2028. The state revenue is distributed according to the marijuana account percentages, and the local revenue is for jurisdictions that impose their own taxes. The governor's tax expenditure recommendations list includes this expenditure for renewal.

Creates, Extends, or Expands Tax Expenditure: Yes ☒ No ☐

Child with a disability credit

The policy purpose of this credit is to provide financial relief and offset costs associated with a child's disability.

State Capitol Building
900 Court St NE
Salem, Oregon 97301-1347

Phone (503) 986-1266
Fax (503) 986-1770
https://www.oregonlegislature.gov/lro

Severe disability credit
The policy purpose of the tax credit is to provide financial relief and offset costs associated with a taxpayer's disability.

Rural medical providers credit
The policy purpose of this credit is to support the recruitment and retention of certain medical professionals in rural areas, thereby improving access in rural areas to such health care providers.

Public University Venture Development Funds contribution credit
The policy purpose of this credit is to encourage contributions to respective university venture development funds.

Working family household and dependent care credit
The policy purpose of the credit is to enable low-income working families to care for young children and disabled dependents by offsetting care costs so that they may be gainfully employed or attending school.

Individual development account contributions credit
The policy purpose of this credit is to fund an asset-based antipoverty strategy that promotes personal financial management, investment, and savings for key assets.

Oregon Life and Health Insurance Guaranty Association credit
The policy purpose of this credit is to offset the cost of insurance guarantee assessments with General Fund resources.

Oregon Veterans' Home physician credit
The policy purpose of this tax credit is to increase the number of health care professionals providing long-term care to Oregon veterans, thereby increasing the number of veterans receiving such care.

Agriculture workforce housing tax credit
The policy purpose of this credit is to provide support for the construction or rehabilitation of agriculture workforce housing, thereby supporting the goal of ensuring adequate agricultural labor housing through a collaboration of the public, private, and nonprofit sectors.

Affordable housing lenders credit
The policy purpose of this credit is to support the development of housing affordable to households with incomes up to 80 percent of area median income, the preservation of housing with federal rent subsidy contracts, and the preservation of manufactured dwelling parks.

Film development and contributions credit
The policy purpose of the credit is to provide a financial return for qualified contributions to the Oregon Production Investment Fund thereby encouraging film and video production in Oregon and strengthening Oregon's film and video industry infrastructure by bringing in more production spending.

Greenlight Oregon film production labor rebate
The policy purpose of the labor rebate is to increase funding for the Oregon Production Investment Fund. The policy purpose of the subtraction is to maximize the value of the Greenlight Oregon Labor Rebate Fund.

AmeriCorps national service educational awards
The policy purpose of this measure is to eliminate a tax burden on AmeriCorps members when using their education award, causing a subsequent increase in use of such awards, and acting as an incentive for AmeriCorps members of other states to attend school in Oregon.

Oregon earned income tax credit
The policy purpose of this measure is to make the earned income tax credit more equitable by eliminating the distinction between taxpayers filing with a Social Security Number and those filing with an Individual Taxpayer Identification Number.

Exemption of medical marijuana from retail marijuana tax
The policy purpose of this measure is to preserve access to medical marijuana in a similar manner as it was available prior to the legalization of recreational marijuana.