

# Enrolled Senate Bill 350

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CHAPTER .....

AN ACT

Relating to economic development; creating new provisions; amending ORS 184.632, 196.620, 238.015, 238A.005, 284.540, 284.706, 285A.010, 285A.020, 285A.040, 285A.045, 285A.050, 285A.055, 285A.070, 285A.075, 285A.188, 285A.206, 285A.224, 285A.227, 285A.340, 285A.346, 285A.349, 285A.600, 285A.603, 285A.615, 285A.627, 285A.654, 285A.657, 285A.660, 285A.666, 285A.708, 285A.709, 285B.050, 285B.053, 285B.056, 285B.059, 285B.062, 285B.083, 285B.089, 285B.092, 285B.093, 285B.123, 285B.126, 285B.129, 285B.132, 285B.135, 285B.138, 285B.147, 285B.165, 285B.168, 285B.174, 285B.178, 285B.179, 285B.200, 285B.203, 285B.206, 285B.209, 285B.215, 285B.218, 285B.230, 285B.236, 285B.239, 285B.242, 285B.245, 285B.260, 285B.263, 285B.264, 285B.320, 285B.323, 285B.326, 285B.329, 285B.410, 285B.440, 285B.455, 285B.482, 285B.551, 285B.563, 285B.740, 285B.743, 285B.746, 285B.749, 286.585, 777.760 and 777.953; repealing ORS 285A.085, 285A.090, 285A.095, 285A.100, 285A.105, 285A.110, 285A.112, 285A.114, 285A.125, 285A.131, 285A.133, 285A.136, 285A.139, 285A.141, 285A.203, 285A.209, 285A.606, 285A.609, 285A.612, 285A.618, 285A.624, 285A.630, 285A.633, 285B.071, 285B.074, 285B.077, 285B.095, 285B.139, 285B.144, 285B.150, 285B.159, 285B.162, 285B.166, 285B.183, 285B.212, 285B.254, 285B.257, 285B.332, 285B.752 and 285B.755 and sections 97 and 97a, chapter \_\_\_, Oregon Laws 2007 (Enrolled House Bill 3265); appropriating money; and declaring an emergency.

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

**SECTION 1.** ORS 285A.010 is amended to read:

285A.010. As used in ORS chapters 285A, 285B and 285C, unless the context requires otherwise:

- (1) "Commission" means the Oregon Economic and Community Development Commission.
- (2) "Community" means an area or locality in which the body of inhabitants has common economic or employment interests. The term is not limited to a city, county or other political subdivision and need not, but may be, limited by political boundaries.
- (3) "Department" means the Economic and Community Development Department.
- (4) "Director" means the Director of the Economic and Community Development Department.
- (5) "Distressed area" means a county, city, community or other geographic area that is designated as a distressed area by the department, based on indicators of economic distress or dislocation, including but not limited to unemployment, poverty and job loss.
- (6) "International trade" means the export and import of products and services and the movement of capital for the purpose of investment.

(7) "Rural area" means an area located entirely outside of the acknowledged Portland Metropolitan Area Regional Urban Growth Boundary and the acknowledged urban growth boundaries of [the] cities **with populations** of 30,000 or more [in population, including Albany, Bend, Corvallis, Eugene, Springfield, Salem, Keizer or Medford].

[ (8) "Rural community" means a community located in a rural area.]

[ (9) ] **(8)** "Traded sector" means industries in which member firms sell their goods or services into markets for which national or international competition exists.

**(9) "Small business" means a business having 100 or fewer employees.**

**SECTION 2.** ORS 285A.020 is amended to read:

285A.020. (1) The Legislative Assembly finds that:

[ (a) Oregon's economy continues to experience change and adjustment that greatly affect the well-being of its citizens.]

[ (b) The state has a need for continuing economic development to help provide the jobs for its citizens that lead to community vitality and a high quality of life.]

[ (2) The Legislative Assembly further finds that:]

[ (a) Oregon's human resources constitute a major asset in the state's effort to promote economic expansion and improvement.]

[ (b) Oregon's natural resources provide ample opportunities for productive and beneficial economic enterprise.]

[ (c) Oregon's location on the growing economy of the Pacific Rim provides substantial opportunities and challenges in international trade.]

[ (d) Oregon's special heritage, its respect for and cultivation of its environment and its quality of life are a unique and sustaining virtue that will both guide and assist in maintaining the state's economic health.]

**(a) Oregon possesses many unique and sustaining virtues that will guide and assist in maintaining the state's economic health, including but not limited to Oregon's:**

**(A) Special heritage;**

**(B) Respect for and cultivation of the environment; and**

**(C) Attention to quality of life issues that are important to the state's economic development, including but not limited to access to quality, affordable child care for all children in Oregon.**

**(b) Oregon is strategically placed to compete and succeed in the global community.**

**(c) All regions of the state should share in Oregon's economic recovery.**

**(d) Creating and retaining quality jobs is vital to the state's continued economic development.**

**(e) Oregon's agriculture and natural resource industries provide opportunities for beneficial economic enterprise, including sustainable economic development activities.**

**(f) A well educated and trained workforce is necessary to advance in today's global economy.**

**(g) The ability of existing businesses to grow and prosper is critical to Oregon's economy.**

**(h) Utilizing the state's competitive advantages is essential to retain existing businesses and attract new companies and investment into the state.**

**(i) Continued economic development depends on strengthening traded sector industries.**

**(j) International trade development and promotion is invaluable for future economic development opportunities.**

**(k) Small businesses remain a critical element of the state's economic development, comprising more than 90 percent of Oregon's businesses.**

**(L) Capacity building in rural and distressed areas is a key component of economic development and revitalization efforts.**

**(m) Oregon's ports are important partners in the state's economic development efforts and are key components of local and state economic development strategies.**

(n) Improving and enhancing infrastructure is necessary to the state's future economic development.

(o) Federal, state and local agencies working together will continue to enhance industrial site development and other economic development activities.

(p) The Economic and Community Development Department should be encouraged to convene community development partners to explore the prospect of making loans to private industrial landowners from the Brownfields Redevelopment Fund for future development opportunities.

[(3)] (2) It is the purpose of ORS chapters 285A, 285B and 285C to *[promote the improvement of Oregon's economy to better provide for the well-being of its citizens]* **advance Oregon's economy.**

(3) The Legislative Assembly declares that it is the immediate economic strategy of the state to:

(a) Promote a favorable investment climate to strengthen businesses, create jobs and raise real wages;

(b) Improve the national and global competitiveness of Oregon companies; and

(c) Assist Oregon communities in building capacity to retain, expand and attract businesses.

(4) To *[that end]* **promote the advancement of the Oregon economy and implement the immediate economic strategy of the state**, the Economic and Community Development Department shall invest resources in accordance with the following principles:

(a) *[Structures and processes for making public investments and dealing with local and regional]* **Processes for making public investments and working with local and regional** issues must be designed *[flexibly]* **for flexibility** so that actions can adapt to the constantly changing conditions and demands under which communities and businesses operate.

*[(b) Partnerships among local, state and federal, public and private players should be used to set direction, develop projects and set priorities.]*

**(b) Partnerships among local, state and federal governments and public and private organizations and entities should be strengthened to further the economic strategy of the state.**

(c) The expected impact of public *[investments at all levels should be explicitly]* **investment and assistance shall be** identified, in terms of measurable outcomes, whenever possible.

(d) State, federal and community goals, constraints and obligations should be identified at the beginning of the *[public investment]* planning process, and the state should work actively with *[communities and regions to]* **community partners, regions and state and local agencies to address and** accomplish their mutual objectives.

*[(4) The Legislative Assembly declares that it is the immediate economic strategy of the state to:]*

*[(a) Focus on Oregonians in communities that are rural, economically distressed or lack diverse employment opportunities, including providing assistance in recruiting jobs from outside the community or state and financing necessary infrastructure;]*

*[(b) Assist Oregonians who are underemployed or in low income jobs;]*

*[(c) Assist start-up companies and companies already doing business in Oregon;]*

*[(d) Help regions that are committed to making strong progress toward an integrated structure and process for strategic planning and project development; and]*

*[(e) Focus on strategies and investments that maximize the economic benefit to the state of the global shift to an information, science and technology driven economy and on industries and companies that make significant use of the high-capacity telecommunications, science and technology-related manufacturing processes or knowledge transfer typical of these emerging economic sectors.]*

**(5) When the department provides funds or assistance for projects, programs, technical support or other authorized activities pursuant to ORS 329.905 to 329.975 and ORS chapters 285A, 285B and 285C, the department shall give priority to projects, programs and activities that:**

(a) Retain and create jobs and raise real wages;

- (b) Promote capacity building, emphasizing rural and distressed areas;
- (c) Assist small business creation and expansion;
- (d) Invest and engage in training a skilled workforce;
- (e) Retain and expand existing companies and recruit new investment to Oregon;
- (f) Capitalize on Oregon's competitive advantages and strategically invest resources to offset competitive disadvantages;
- (g) Support innovation and research;
- (h) Assist industry clusters to succeed;
- (i) Market Oregon's advantages;
- (j) Promote international trade and attract foreign direct investment;
- (k) Support the development of industrial and commercial lands;
- (L) Advance the efforts of ports to promote economic development activities; and
- (m) Build capacity in Oregon's arts and cultural organizations, creative businesses and individual artists.

**SECTION 3.** ORS 285A.040 is amended to read:

285A.040. (1) There is established the Oregon Economic and Community Development Commission consisting of *[seven]* **nine** members appointed as follows:

(a) One nonvoting, ex officio member appointed from among the members of the Senate by the President of the Senate;

(b) One nonvoting, ex officio member appointed from among the members of the House of Representatives by the Speaker of the House of Representatives; and

(c) *[Five]* **Seven** members appointed by the Governor, subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565. The Governor shall appoint members of the commission in compliance with all of the following:

(A) Members shall be appointed with *[due]* consideration given to representation of the different geographic regions of the state, and at least one member shall be a resident of the area east of the Cascade Range.

(B) Not more than *[three]* **five** members *[shall]* **may** belong to one political party. Party affiliation shall be determined by the appropriate entry on official election registration cards.

(C) *[At least one member shall be an individual with substantial experience or training in international trade or an individual who, at the time of appointment, is involved in international trade. The member's experience or involvement in international trade may include importing or exporting goods into or from the State of Oregon.]* **Members shall be appointed with consideration given to representation of the following areas of expertise or training:**

- (i) **International trade;**
- (ii) **Small business needs and issues;**
- (iii) **Local government needs and issues;**
- (iv) **Marketing and branding;**
- (v) **Arts and culture;**
- (vi) **Finance;**
- (vii) **Innovation;**
- (viii) **Telecommunications; or**
- (ix) **Other areas of training or expertise identified by the commission.**

(2)(a) The term of office of each member appointed by the Governor is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member appointed by the Governor, the Governor shall appoint a successor whose term begins on July 1 *[next following]* **of the following year**. A member appointed by the Governor is eligible for reappointment. In case of a vacancy among the members appointed by the Governor for any cause, the Governor shall appoint a person to fill the office for the unexpired term.

(b) The term of office of the member appointed by the President of the Senate is four years. In case of a vacancy for any cause, the President of the Senate shall appoint a Senator to fill the office for the unexpired term.

(c) The term of office of the member appointed by the Speaker of the House of Representatives is two years. In case of a vacancy for any cause, the Speaker of the House of Representatives shall appoint a Representative to fill the office for the unexpired term.

(3) A member of the commission who is appointed by the Governor is entitled to compensation and expenses as provided by ORS 292.495. **Ex officio members of the commission are prohibited from receiving compensation and reimbursement for expenses.**

(4) **Subject to confirmation by the Senate**, the Governor shall appoint one of the voting commissioners as presiding officer of the commission. The presiding officer shall have duties and powers as the commission determines are necessary for the office.

(5) [*Three*] **Five** voting members of the commission constitute a quorum for the transaction of business.

(6) The commission shall meet at least quarterly at a time and place determined by the commission. The commission shall also meet at [*such*] other times and places as are specified by the call of the presiding officer or **by the call** of a majority of the voting members of the commission.

(7) A vacancy among the voting members of the commission does not impair the right of the remaining voting commissioners to exercise all the powers of the commission. If the remaining voting commissioners are unable to agree, the Governor shall have the right to vote as a member of the commission.

**SECTION 4.** ORS 285A.045 is amended to read:

285A.045. (1) As its primary duty, the Oregon Economic and Community Development Commission shall develop and maintain an economic and community development policy for this state that implements the strategy declared in ORS 285A.020 [(4)] (3). [*and that includes policies that:*]

[(a) *Maintain and create jobs that raise real wage levels of Oregon workers.*]

[(b) *Increase the skill levels of the Oregon workforce.*]

[(c) *Improve the competitiveness of this state's traded sector industries, including industries characterized by significant use of high-capacity telecommunications, science and technology-related manufacturing processes or knowledge transfer, and achieve benchmarks for those industries established by the Oregon Progress Board.*]

[(d) *Invest public moneys in a manner that produces the greatest possible return on investment.*]

[(e) *Support statewide and regional strategies to develop and maintain the infrastructure necessary to support and strengthen the economy of this state.*]

[(f) *Identify and eliminate barriers that impede the competitiveness of Oregon businesses.*]

[(g) *Encourage expansion of existing Oregon businesses and the attraction of new business and industry to those communities that desire such development, with particular attention to industries characterized by significant use of high-capacity telecommunications, science and technology-related manufacturing processes or knowledge transfer.*]

[(h) *Encourage investment in infrastructure projects, including electronic, communications and financial resource projects, that benefit Internet-based entities and employees and encourage the entities and employees to relocate to or remain in Oregon.*]

[(i) *Assist in the development of microenterprise businesses in Oregon, including increasing the availability of training and technical assistance available to serve microenterprises.*]

[(2) *It is the function of the Oregon Economic and Community Development Commission to establish the policies for economic and community development in this state in a manner consistent with the policies and purposes set forth in this section and ORS 285A.050. In addition, the commission shall perform any other duty vested in it by law.*]

**(2) The commission shall provide oversight and direction to the Economic and Community Development Department in carrying out the duties and creating policies to further the economic strategy set forth in ORS 285A.020. In addition, the commission may perform any other duty vested in the commission by law.**

(3) The commission shall keep complete and accurate records of all the meetings, transactions and business of the commission at the office of the Economic and Community Development Department.

(4) When a power, duty or function is vested in the commission, the commission may designate department officers, agents, employees or committee members to exercise the power, duty or function of the commission. When the commission designates a person in writing to exercise a power, duty or function of the commission, the person may exercise the power, duty or function.

*[(4) The commission shall set policy for and monitor programs relating to economic development and rural and community development and such other programs related to economic and community development that may be assigned by law to the department.]*

(5) In carrying out its duties under subsection (1) of this section, the commission shall[:]

*[(a) Place priority on those policies that achieve benchmarks established by the Oregon Progress Board; and]*

*[(b) Coordinate its activities with the policies of the Education and Workforce Policy Advisor and the policymaking bodies of the Housing and Community Services Department, the Department of Transportation, the Department of Environmental Quality, the Department of Land Conservation and Development and the Employment Department, as well as other appropriate state and federal agencies.]* **coordinate its activities with federal, state and local agencies, community partners and regions, when appropriate.**

**SECTION 5.** ORS 285A.050 is amended to read:

285A.050. (1) The Oregon Economic and Community Development Commission shall report *[annually]* **biennially** to the Governor and the Legislative Assembly on the success of economic development efforts. The report<sup>[,]</sup> **shall include the progress toward achievement of performance measures for the Economic and Community Development Department as adopted by the Legislative Assembly.** At a minimum, **the report** shall include the following:

(a) For the overall Economic and Community Development Department *[effort]* and for each identifiable program and *[significant project or service]* **funding source:**

*[(A) The impact of that program on the competitiveness of traded sector industries and the skill levels of the Oregon workforce;]*

*[(B)] (A) The *[impact on the]* number of jobs<sup>[,]</sup> *[including jobs]* created and retained;*

*[(C)] (B) The *[impact on the]* average wage levels of *[Oregon workers, including increases in wage levels]* **jobs created and retained; and***

*[(D)] (C) *[The actual or anticipated impact of public investments at all levels, in terms of measurable outcomes wherever possible; and]* **Other measures identified by the commission.***

*[(E) The impact of that program on the Internet-based entities and employees in Oregon.]*

(b) The status of the Oregon economy *[related to:]* **as it relates to the economic strategy outlined in ORS 285A.020.**

*[(A) Changes in employment and wage levels in Oregon industries;]*

*[(B) Changes in employment, wage levels and competitiveness of traded sector industries; and]*

*[(C) Barriers that have been identified as impeding business competitiveness and productivity in this state.]*

*[(c) Progress made toward achievement of the Oregon Benchmarks.]*

*[(d) Recommendations for removing identified barriers and additional suggestions for improving the performance of Oregon's economy.]*

*[(e) Recommendations on this state's investment in its public ports, on this state's response to policy issues that affect ports and for the strategic development of port facilities that promote maritime commerce, recreational opportunities and the economy of Oregon.]*

*[(f) Progress made toward elimination of economically distressed areas of this state.]*

*[(g) Recommendations regarding improving the international competitiveness of Oregon.]*

*[(h) Progress made in serving microenterprise businesses and recommendations for increasing the success of microenterprises.]*

**(c) Other issues identified by the commission.**

(2) Whenever a power is granted to the commission, the power may be exercised by such officers, employees or commission-appointed committees as are designated in writing by the commission.]

[3] (2) Reports to the Legislative Assembly required under this section shall be made in accordance with ORS 192.245.

**SECTION 6.** ORS 285A.055 is amended to read:

285A.055. Prior to the approval of bond financing of economic development projects under ORS 285B.320 to 285B.371, the making of a loan under ORS 285A.666 to 285A.732 or the making of any loan or the granting of any moneys from any source, the Oregon Economic and Community Development Commission, **or the Economic and Community Development Department as the designee of the commission**, shall:

(1) Determine that the action is cost effective, considering both major public expenses and major public benefits;

(2) Find that the project will produce goods or services which are sold in markets for which national or international competition exists or, if the project is to be constructed and operated by a nonprofit organization, that the project will not compete with local for-profit businesses;

(3) Determine that the action is the best use of the moneys involved, considering other pending applications for those moneys;

(4) Find that the project involved is consistent with the Economic and Community Development Department's comprehensive policy and programs; **and**

(5) Find that the project involved is consistent with applicable adopted local economic development plans[; *and*].

[6] *Provide for public notice of, and public comment on, the action.*]

**SECTION 7.** ORS 285A.070 is amended to read:

285A.070. (1) The Economic and Community Development Department is [*continued, but reorganized as provided in this section*] **established.**

[2] *The Economic and Community Development Department shall be organized by the Director of the Economic and Community Development Department in whatever manner the director considers necessary to conduct the work of the department efficiently and effectively, subject to approval by the Oregon Economic and Community Development Commission.*]

[3] (2) The department shall be under the supervision of the Director **of the Economic and Community Development Department**, who shall be appointed by and shall hold office at the pleasure of the Governor.

[4] (3) The appointment of the director shall be subject to confirmation by the Senate in the manner provided by ORS 171.562 and 171.565.

(4) **Subject to policy direction by the Oregon Economic and Community Development Commission, the director shall:**

(a) **Be the administrative head of the department;**

(b) **Administer the laws of the state relating to economic development; and**

(c) **Intervene, as authorized by the commission, pursuant to the rules of practice and procedure, in the proceedings of state and federal agencies that may substantially affect economic development within Oregon.**

(5) **In addition to duties otherwise required by law, and subject to policy direction by the commission, the director shall prescribe rules for the government of the department, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property, based on best managerial practices as determined by the director and in a manner consistent with applicable law.**

(6) **The director shall organize the department in whatever manner the director considers necessary to conduct the work of the department efficiently and effectively, subject to approval by the commission.**

[5] (7) The director may appoint all subordinate officers and employees of the department and may prescribe their duties, assignments and reassignments and fix their compensation, subject to any applicable provisions of the State Personnel Relations Law. Subject to any other applicable law regulating travel expenses, the officers and employees of the department shall be allowed such rea-

sonable and necessary travel and other expenses as may be incurred in the performance of their duties.

**(8) The director may delegate the exercise or discharge of any power, duty or function that is vested in or imposed by law upon the director to any department employee for the purpose of conducting an official act in the name of the director. The official act of any person acting in the name of the director by the authority of the director is an official act of the director.**

**(9) The director may require a fidelity bond of any officer or employee of the department who has charge of, handles or has access to any state money or property, and who is not otherwise required by law to give a bond. The director shall fix the amount of the bond, except as otherwise provided by law, and approve the sureties. The department shall pay the premiums on the bond.**

~~[(6)]~~ **(10) The Oregon Economic and Community Development Commission shall report periodically to the Governor on the director's performance and make appropriate recommendations.**

**SECTION 8.** ORS 285A.075 is amended to read:

*285A.075. [(1) The Economic and Community Development Department, through research, promotion and coordination of activities in this state, shall foster the most desirable growth and geographical distribution of agriculture, industry and commerce in the state. The department shall serve as a central coordinating agency and clearinghouse for activities and information concerning the resources and economy of the state.]*

**(1) The Economic and Community Development Department shall:**

**(a) Implement programs and adopt rules in accordance with applicable provisions of ORS chapter 183 that are consistent and necessary to carry out the policies established by the Oregon Economic and Community Development Commission and the duties, functions and powers vested by law in the department.**

**(b) Act as the official state liaison agency for persons interested in locating industrial or business firms in the state and for state and local groups seeking new industry or business, and maintain the confidentiality of negotiations conducted pursuant to this paragraph, if requested.**

**(c) Coordinate state and federal economic and community development programs.**

**(d) Administer the state's participation in the federal Community Development Block Grant funding program authorized by 42 U.S.C. 5301 et seq.**

**(e) Actively recruit domestic and international business firms to those communities desiring business recruitment.**

**(f) Consult with local governments to establish regions for the purpose of job development and community assistance to facilitate economic activities in the region. Regions established for this purpose need not be of the same size in geographic area or population.**

**(g) Establish and operate foreign trade offices in foreign countries in which the department considers a foreign trade office necessary. The department shall use department employees, contracts with public or private persons or a combination of employees and contractors to establish and operate foreign trade offices. Department employees, including managers, who are assigned to work in a foreign trade office shall be in the unclassified service, and the director shall set the salaries of such employees. ORS 276.428, 279A.120, 279A.140, 279A.155, 279A.275, 279B.025, 279B.235, 279B.270, 279B.280, 279C.370, 279C.500 to 279C.530, 279C.540, 279C.545, 279C.800 to 279C.870, 282.020, 282.050, 282.210, 282.220, 282.230, 283.140, 459A.475, 459A.490, 653.268 and 653.269 do not apply to the department's operation of foreign trade offices outside the state.**

**(h) Consult with other state agencies and with local agencies and officials prior to defining or designating distressed areas for purposes of ORS 285A.020.**

**(i) Budget moneys for travel and various other expenses of industrial or commercial site location agents, film or video production location agents, business journal writers, elected state officials or other state personnel to accomplish the purposes of ORS 329.905 to 329.975**



and ORS chapters 285A, 285B and 285C. The department may expend moneys duly budgeted to pay the travel and other expenses of such persons if the director determines the expense may promote the purposes of this subsection.

(j) Promulgate rules to govern contracts.

(k) Develop strategies to address issues that are necessary and appropriate to Oregon's future and adopt goals that include measurable indicators of success (Oregon benchmarks) that show the extent to which each goal is being achieved.

(L) Use practices and procedures that the department determines are the best practices for carrying out the duties of the department.

(2) The department shall have no regulatory power over the activities of private persons. Its functions shall be solely advisory, coordinative and promotional.

*[(3) The department shall Administer the state's participation in the federal Community Development Block Grant funding program authorized by 42 U.S.C. 5301 et seq.]*

*[(4) In order to accomplish the purposes of ORS chapters 285A, 285B and 285C and ORS 329.905 to 329.975, the department may expend moneys duly budgeted to pay the travel and various other expenses of industrial or commercial site location agents, film or video production location agents, business journal writers, elected state officials or other state personnel whom the Director of the Economic and Community Development Department determines may promote the purposes of this subsection.]*

*[(5) In accordance with applicable provisions of ORS chapter 183, the department may adopt rules necessary for the administration of laws that the department is charged with administering.]*

*[(6) ORS 276.428, 279A.120, 279A.140, 279A.155, 279A.275, 279B.025, 279B.235, 279B.270, 279B.280, 279C.370, 279C.500 to 279C.530, 279C.540, 279C.545, 279C.800 to 279C.870, 282.020, 282.050, 282.210, 282.220, 282.230, 283.140, 459A.475, 459A.490, 653.268 and 653.269 do not apply to the department's operation of foreign trade offices outside the state.]*

*[(7)] (3) Notwithstanding ORS 279A.140, the department may **award grants or** enter into contracts *[for personal services]* as necessary or appropriate to carry out the duties, functions and powers vested in the department by law.*

*[(8)(a) The department may contract directly with the Oregon Downtown Development Association, or its successor entity, to provide downtown development and redevelopment assistance and similar services to municipalities in Oregon.]*

*[(b) The department may contract directly with Rural Development Initiatives, or its successor entity, to provide training, technical assistance, planning assistance and other support and services to municipalities in Oregon to build economic and community development capacity.]*

*[(c) Contracts entered into under this subsection are exempt from the requirements of ORS 279.835 to 279.855 and ORS chapters 279A, 279B and 279C.]*

*[(9) If the director determines that moneys are available, the department may transfer funds from the Special Public Works Fund created under ORS 285B.455 or from the Water Fund established under ORS 285B.563 to a state agency to provide financial assistance in the delivery of technical assistance or other services to one or more water systems for evaluation of water quality or services or for planning the improvement of water quality or services. The department may structure the financial assistance under this subsection in the form of an interagency grant or loan or in any other manner the director considers necessary or appropriate.]*

**SECTION 9.** ORS 285A.206 is amended to read:

285A.206. (1) In each calendar year, the Economic and Community Development Department shall prepare, in accordance with generally accepted governmental accounting principles, a financial statement **for individual funding programs as required by law.** *[relating to each of the following funds:]*

*[(a) The Special Public Works Fund created by ORS 285B.455;]*

*[(b) The Title I Bank Fund established by ORS 285A.306;]*

*[(c) The Oregon Business Development Fund created by ORS 285B.092;]*

*[(d) The Oregon Port Revolving Fund created by ORS 285A.708; and]*

*[(e) Any other fund or account that is used by the department or Oregon Economic and Community Development Commission to make loans or loan guarantees or to provide other financial assistance to private business firms organized for profit.]*

(2) The financial statements required by this section shall record and summarize all the financial transactions during the reporting period that involved moneys credited to a fund or account and shall describe the financial condition of the fund or an account at the end of the reporting period. The reporting period for financial statements required by this section shall be the fiscal year commencing on July 1 and ending on June 30.

(3) The financial statements required by this section shall be in a form prescribed by the Secretary of State.

(4) Each financial statement required by this section shall describe the financial transactions and condition of a single fund and shall be submitted to the Governor, the President of the Senate and the Speaker of the House of Representatives not later than December 31 in each year.

## OREGON COMMUNITY DEVELOPMENT FUND

**SECTION 10.** ORS 285A.227 is amended to read:

285A.227. (1) There is created within the State Treasury, separate and distinct from the General Fund, the Oregon Community Development Fund. The fund is created to provide a flexible funding source for financing those programs and projects that are determined by the Oregon Economic and Community Development Commission under the policies, criteria and standards set forth in ORS 285A.020, 285A.045 and 285A.055 to further economic and community development. The Economic and Community Development Department may finance programs and projects determined by the commission to further economic and community development by making grants or loans using moneys in the fund. Notwithstanding ORS 279A.140, the department may enter into contracts *[for personal services]* as necessary or appropriate to implement programs and projects determined by the commission to further economic and community development using moneys in the fund. The Oregon Community Development Fund shall consist of all moneys credited to the fund, including moneys from the Administrative Services Economic Development Fund, federal funds collected or received, and fees, moneys or other revenues, including Miscellaneous Receipts, collected or received by the Economic and Community Development Department, and all interest earnings that accrue to the fund. The moneys in the Oregon Community Development Fund are continuously appropriated to the Economic and Community Development Department to promote economic and community development.

(2) The Oregon Economic and Community Development Commission, by rule, shall adopt standards, objectives and criteria for use of the moneys in the Oregon Community Development Fund.

## BROWNFIELDS REDEVELOPMENT FUND

**SECTION 11.** ORS 285A.188 is amended to read:

285A.188. (1) As used in this section:

(a) "Environmental action" means activities undertaken to:

(A) Determine if a release has occurred[,], **or may occur**, if the release **or potential release** poses a significant threat to human health or the environment or if additional remedial actions may be required at the site;

(B) Conduct a **remedial investigation and a** feasibility study;

(C) Plan for remedial action or removal **action**; or

(D) Conduct a remedial action or removal **action** at a site.

(b) "Facility," "hazardous substance," "release," "remedial action" and "removal" have the meanings given those terms in ORS 465.200.

(c) "Substantial public benefit" includes, but is not limited to:

(A) The generation of funding or other resources facilitating substantial remedial action at a facility in accordance with this section;

(B) A commitment to perform substantial remedial action at a facility in accordance with this section;

(C) Productive reuse of a vacant or abandoned industrial or commercial facility; or

(D) Development of a facility by a municipality or a nonprofit organization to address an important public purpose.

(2) There is created within the State Treasury a revolving fund known as the Brownfields Redevelopment Fund, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. Moneys in the Brownfields Redevelopment Fund shall be used to fund loans and grants for environmental actions on properties that are brownfields, as defined in ORS 285A.185.

(3)(a) Subject to paragraph (b) of this subsection, when making a loan or grant for an environmental action, the Economic and Community Development Department shall give priority to persons who, at the time of applying for the loan or grant, are not liable under ORS 465.255 for a release of a hazardous substance at the property at which the environmental action is to be conducted. No more than [40] 60 percent of the total amount of the Brownfields Redevelopment Fund in any biennium shall be awarded to persons who are liable with respect to the subject property under ORS 465.255. A person is not eligible to receive a loan or grant from moneys in the Brownfields Redevelopment Fund if the person has knowingly violated applicable laws or regulations or has knowingly violated or failed to comply with an order of the Department of Environmental Quality, if such action or inaction has resulted in one or more of the following:

(A) Contribution to or exacerbation of existing contamination at the facility;

(B) Release of a hazardous substance at the facility; or

(C) Interference with necessary investigation or remedial actions at the facility.

(b) Notwithstanding paragraph (a) of this subsection:

(A) When making a grant to a municipality, the department shall give priority to municipalities that provide matching funds from a loan under this section, from another source or from both.

(B) When making a grant to an entity that is not a municipality, the department shall require that:

(i) The recipient is not liable for the subject property under ORS 465.255;

(ii) The environmental action provides a substantial public benefit; and

(iii) The recipient provides matching funds from a loan under this section, from another source or from both.

(c) The department may establish by rule circumstances in which the department may waive or subsidize the interest on a short-term loan.

(4) When making a loan or grant for an environmental action, the Economic and Community Development Department shall consider:

(a) The extent to which actual or perceived contamination prevents the property from being fully utilized;

(b) The need for providing public assistance, after considering the difficulty of obtaining financing from other sources or of obtaining financing at reasonable rates and terms;

(c) The degree to which redevelopment of the property provides opportunity for achieving protection of human health or the environment by reducing or eliminating the contamination of the property and for contributing to the economic health and diversity of the area;

(d) The probability of the success of the intended use or the degree to which redevelopment of the property provides a public purpose following remediation of the property;

(e) Compliance with the land use plan of the local government with jurisdiction over the property; and

(f) Endorsement from the local government with jurisdiction over the property.

(5) Before making a loan or grant decision pursuant to this section, the Economic and Community Development Department shall consult with the Department of Environmental Quality.

(6) The Economic and Community Development Department may use a portion of the Brownfields Redevelopment Fund to:

- (a) Pay for administrative costs of environmental actions; and
- (b) Satisfy contracts entered into as required to ensure that environmental reviews are conducted in a manner consistent with existing environmental cleanup laws and rules.

(7) The Economic and Community Development Department shall adopt rules necessary to carry out the requirements of this section. The Economic and Community Development Department shall develop procedures to ensure that activities for which loans or grants are made are consistent with existing environmental cleanup laws and rules.

## BUSINESS RETENTION FUND

**SECTION 12.** ORS 285A.224 is amended to read:

285A.224. (1) *[The Legislative Assembly finds that Oregon traded sector industries are experiencing a period of major change and disruption, and that this change is creating severe and unpredictable economic consequences for many communities and workers.]* It is the purpose of the *[Economic Stabilization and Conversion]* **Business Retention** Fund to assist **businesses**, communities and workers affected by **significant business transitions**, economic dislocation or the possibility of economic dislocations to evaluate and implement alternative business or community opportunities **and to focus on the long term survivability of businesses.**

(2) The *[Economic Stabilization and Conversion]* **Business Retention** Fund is created separate and distinct from the General Fund. The fund shall be administered by the Economic and Community Development Department. The fund may be credited with contributions of moneys from public and private sources and with repayments as provided in this section. Interest earned by the fund shall be credited to the fund.

(3)(a) The *[Economic and Community Development]* department may allocate moneys in the fund for the following purposes:

- (A) Business retention service;
- (B) Employee ownership;
- (C) Community response to plant closures or community distress, or both; and
- (D) Feasibility studies, **transition plans or restructuring plans.**

(b) The department shall establish the maximum percentage of the fund that may be allocated for the purposes described in paragraph (a) of this subsection and a minimum match requirement, if any.

(4) The *[Economic and Community Development]* department may grant, expend or loan moneys in the fund for financial assistance, feasibility studies, **transition plans, restructuring plans**, technical assistance and management consulting services for **business firms in transition**, troubled firms that may close without assistance, for troubled firms that are experiencing major layoffs or firms that have actually closed or announced closure, and for communities that are experiencing distress due to the business closures *[and for the purpose of encouraging employee ownership]*, under such terms and conditions as the department may determine.

(5) The *[Economic and Community Development]* department shall provide that firms receiving assistance repay to the *[Economic Stabilization and Conversion]* **Business Retention** Fund any assistance provided under subsection (4) of this section. *[Such provisions for repayment]* **When the department sets repayment terms for a firm receiving assistance, the department** shall consider the financial ability of the firm to repay assistance.

(6) In providing assistance from the *[Economic Stabilization and Conversion]* **Business Retention** Fund, the department *[shall]* **may** give preference to Oregon's **rural and** distressed areas and its traditional agriculture, forestry and fishing industries*[, and]*. **The department may also give priority to areas including but not limited to emerging industries and industry clusters with high potential for job retention and creation and market growth, as well as traded sector** firms competing in markets for which **regional**, national or international competition exists.

(7) The [*Economic and Community Development*] department shall establish specific criteria for expenditure of funds from the [*Economic Stabilization and Conversion*] **Business Retention** Fund by adopting rules.

## ASSISTANCE TO SMALL BUSINESS SERVICE PROVIDERS

**SECTION 13.** ORS 285A.340 is amended to read:

285A.340. [(1) *The Legislative Assembly finds that:*]

[(a) *Small businesses have been the major contributors to the increase in traded sector jobs in Oregon.*]

[(b) *Small businesses continue to be a major source of employment opportunities for Oregon and that this state ought to encourage the success and growth of small businesses as a means of providing economic opportunities and jobs for Oregonians.*]

[(c) *Oregon's women and minority-owned businesses are underrepresented in the business community.*]

[(d) *Those small businesses which have at least one employee and which compete in markets for which national or international competition exists have the greatest potential for benefiting the economy of this state.*]

[(e) *Access to appropriate business assistance services, rather than the cost of obtaining such services, is a factor limiting the expansion of many small businesses in this state.*]

[(f) *Community-based lending programs are particularly well suited to meeting the needs of small businesses that are unable to obtain from private financial institutions the capital that is necessary for expansion.*]

[(g) *An effective partnership between state and local economic development programs is essential to promoting the development of small businesses in this state.*]

[(2)] The Legislative Assembly [*therefore*] declares that it is [*the policy of this state and*] the purpose of ORS 285A.340 to 285A.349[, 285B.074, 285B.159 and 285B.162]:

[(a)] (1) To assist the development of small businesses, with special emphasis on increasing the percentage of businesses owned by women and members of minority groups;

[(b)] (2) To encourage competition among publicly supported small business service providers in order to supply the most effective, highest quality services to the greatest number of businesses **for the most significant long term outcomes**;

[(c)] (3) To foster cooperation among state agencies, state-supported organizations and private sector entities that provide services to small businesses in order to best meet the needs of small business clients;

[(d)] (4) To encourage and support [*the formation of*] private sector organizations, [*including trade associations, organizations formed to meet the needs of traded sector industries and similar groups,*] to serve the needs of the small businesses in this state and, to the maximum extent feasible, to coordinate the small business programs of this state [*and of such private sector organizations*]; and

[(e)] (5) To provide support for organizations that encourage and assist the development and expansion of small businesses in Oregon.

**SECTION 14.** ORS 285A.346 is amended to read:

285A.346. (1)(a) The Economic and Community Development Department may purchase business assistance services from public or private organizations for delivery to small businesses in this state or may provide grants to public or private organizations to support, aid, stimulate or otherwise affect the delivery of business assistance services to small businesses in this state.

(b) For the purposes of ORS 285A.340 to 285A.349, "business assistance services" includes:

(A) Basic business training, including elements of accounting, personnel management, marketing and tax compliance.

(B) Counseling on business needs and problems, **including but not limited to specialized assistance with intellectual property rights, mezzanine financing, federal research grants, international markets, lean manufacturing and electronic commerce.**

(C) Assistance in securing state and federal procurement contracts.

(D) Assistance in securing Oregon suppliers for goods and services.

(2) An organization or association that receives state moneys for the purpose of providing business assistance services to small businesses shall comply, to the greatest extent feasible, with the state policies established under ORS 285A.340 to 285A.349.

(3) To the extent that federal laws or regulations impose requirements that limit the payment of fees by recipients of business assistance services to small businesses, the Economic and Community Development Department and the providers of those services shall apply for waivers of such federal requirements.

**SECTION 15.** ORS 285A.349 is amended to read:

285A.349. The Economic and Community Development Department shall evaluate the efficiency and effectiveness of the delivery of business assistance services to small businesses *[under ORS 285A.340 to 285A.349]*.

**SECTION 16.** ORS 285B.123 is amended to read:

285B.123. *[(1) The Legislative Assembly finds that:]*

*[(a) Small businesses comprise more than 97 percent of the business entities in this state.]*

*[(b) Small businesses provide more than three-quarters of the private sector jobs in this state.]*

*[(c) The small business contribution to the economy of this state exceeds the national average contribution and its continuance is vital to the economic health and growth of this state.]*

*[(d) All national economic indicators establish that the greatest source of future new jobs is in the small business sector of the economy.]*

*[(2)] (1)* The purpose of the Oregon Small Business Development Act of 1983 is to encourage and assist the development and continued growth of small business in this state.

*[(3)] (2)* As used in the Oregon Small Business Development Act of 1983, “small business” means a *[manufacturing]* business having *[200]* **100** or fewer employees *[and all other forms of business having 50 or fewer employees]*.

*[(4) The provisions of ORS 285B.120 and 657.471 are intended to assist in carrying out the Oregon Small Business Development Act of 1983.]*

**SECTION 17.** ORS 285B.165 is amended to read:

285B.165. *[(1)]* The purpose of ORS 285B.165 to 285B.171 is to establish and sustain a statewide network of small business development centers.

*[(2) The Legislative Assembly finds that:]*

*[(a) It is in the state’s interest to help small businesses develop and improve skills in such areas as marketing, management and capital formation through a network of small business development centers;]*

*[(b) Small business employers create most of the new jobs in Oregon and are vital to Oregon’s long term economic vitality;]*

*[(c) Community colleges and state universities can link small business with college resources, expert resource people in the business community and other training resources throughout the state; and]*

*[(d) Information resources, business counseling and training assistance in a convenient format support the vitality of small business.]*

**SECTION 18.** ORS 285B.168 is amended to read:

285B.168. (1) The Economic and Community Development Department may make grants available to a community college district, a community college service district or, with the concurrence of the Commissioner for Community College Services and the Chancellor of the Oregon University System, a state university to assist in the formation, improvement and operation of small business development centers. If a community college district, a community college service district or a state university is unable to adequately provide services in a specific geographic area, the department may make grants available to other service providers as determined by the department. The grant application shall include:

(a) Plans for providing small business owners and managers individual counseling, to the greatest extent practicable, in subject areas critical to small business success;

(b) A budget for the year for which a grant is requested, including cost apportionment among the Economic and Community Development Department, small business clients, the community college, state university or other service providers and other sources; *[and]*

(c) A plan for evaluating the effect of the program on small business clients served[.]; **and**

**(d) A plan for providing collaboration with other state agencies, state-supported organizations and private sector entities that provide services to small businesses.**

(2) The grants made under subsection (1) of this section are to be used by the grant recipient to provide *[funds for]*:

(a) Small business development center staff and support staff;

(b) Expert resource persons from the business community;

(c) Other training and business resources **as approved by the department** in skill areas for which, or areas of the state where, the grant recipient can demonstrate it does not otherwise have the capacity or expertise to provide the resources; and

(d) Other costs related to providing training, counseling and business resources to small business clients.

(3) To be eligible for a grant under subsection (1) of this section, the recipient shall be required to provide funds, in-kind contributions or some combination of funds and contributions, in accordance with rules adopted by the Economic and Community Development Department.

(4) Subject to the approval of the department, a grant recipient may subcontract funds received under this section to any other entity that is eligible to receive funding under this section.

**(5) The grant recipient shall submit a final report to the department after the distribution of grant funds and the delivery of services to the proposed business clients. The report shall state whether the plan and related budget have met the applicable criteria as described in the recipient's application for the grant period.**

**(6) As used in this section, "state university" means a state institution of higher education listed in ORS 352.002.**

**SECTION 19.** ORS 285B.174 is amended to read:

285B.174. In cooperation with other state *[and public]* agencies **and private organizations**, state universities as defined in ORS *[285B.166]* **285B.168** and community colleges may develop programs to assist Oregon businesses with the procurement of government contracts and grants. Small business development centers established under ORS 285B.165 to 285B.171 may assist with these programs.

**SECTION 20.** ORS 285B.178 is amended to read:

285B.178. As used in ORS 285B.178 to 285B.183:

(1) "Local microenterprise support organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or another locally operated nonprofit entity that provides services to disadvantaged entrepreneurs.

(2) "Low income" means income adjusted for family size that does not exceed:

(a) For metropolitan areas, 80 percent of median income; or

(b) For nonmetropolitan areas, the greater of 80 percent of the area median income or 80 percent of the statewide nonmetropolitan area median income.

(3) "Microenterprise" has the meaning given that term under 15 U.S.C. 6901, as amended and in effect on *[June 18, 2001]* **June 30, 2007. If 15 U.S.C. 6901 is amended or altered on or after July 1, 2007, the department may adopt by rule a definition of "microenterprise" to give the term the meaning given in 15 U.S.C. 6901 as amended or altered.**

(4) "Microentrepreneur" means an individual conducting a microenterprise.

(5) "Microlending" means the practice of lending moneys to microenterprises or microentrepreneurs.

(6) "Statewide microenterprise support organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or another nonprofit entity that serves as an intermediary between the Economic and Community Development Department and local microenterprise support organizations.

(7) "Training and technical assistance" means services and support offered to microenterprises and microentrepreneurs. "Training and technical assistance" includes, but is not limited to, services to enhance business development, **asset building, business** planning, marketing, management skills and access to financial services.

(8) "Very low income" means income adjusted for family size that does not exceed 150 percent of the poverty level determined under 42 U.S.C. 9902, as amended and in effect on [June 18, 2001] **June 30, 2007. If 42 U.S.C. 9902 is amended or altered on or after July 1, 2007, the department may adopt by rule the standard for determining the federal poverty level under 42 U.S.C. 9902 as amended or altered.**

**SECTION 21.** ORS 285B.179 is amended to read:

285B.179. [(1) *The Legislative Assembly finds that:*]

[(a) *There is a need to develop and expand businesses in economically distressed communities in both rural and urban areas;*]

[(b) *There is a need to assist Oregonians who are unemployed, underemployed or in low income jobs;*]

[(c) *Microenterprises can provide a means for unemployed, underemployed or low income individuals to find and sustain productive work;*]

[(d) *Microenterprises, including self-employment, can enable people with disabilities to use their management skills to create and provide products and services, to acquire new skills in money management and business development and to develop pride and self-esteem;*]

[(e) *Microenterprises can provide opportunities for economically distressed communities to thrive, one microentrepreneur at a time;*]

[(f) *Microenterprises, including self-employment and start-up businesses, are important elements of the Oregon economy and play a vital role in job creation;*]

[(g) *There is a lack of access to capital and training and technical assistance for low income and very low income microentrepreneurs;*]

[(h) *Many low income and very low income microentrepreneurs need microlending services and training and technical assistance to start, operate or expand their businesses;*]

[(i) *Local microenterprise support organizations have demonstrated cost-effective delivery methods for providing microlending services and training and technical assistance; and*]

[(j) *Local and state charitable foundation support, federal program funding and private sector support can be leveraged by a statewide program for development of microenterprises.*]

[(2)] The purposes of ORS 285B.178 to 285B.183 are to:

[(a)] (1) Ensure that microenterprises in Oregon are able to realize their full potential to create jobs, enhance entrepreneurial skills, expand entrepreneurial activity and increase the capacity of low income and very low income households to become self-sufficient;

[(b)] (2) Enhance the development of a statewide infrastructure for microenterprise support; and

[(c)] (3) Enable the Economic and Community Development Department to engage in contractual relationships with statewide microenterprise support organizations that have the capacity to administer grants to local microenterprise support organizations, subject to ORS 285B.178 to 285B.183, and to leverage additional funds from sources other than moneys appropriated from the General Fund.

## PORTS

**SECTION 22.** ORS 285A.600 is amended to read:

285A.600. [(1) *The Legislative Assembly finds that:*]

[(a) *The ports of this state are directly and actively involved in creating and carrying out at the local level the economic development objectives and programs of the State of Oregon.*]

[(b) *Ports in this state provide effective local assistance to state economic and transportation development efforts.*]



*[(c) Ports in Oregon develop and market facilities and services to support important existing industries in this state, such as agriculture, aviation, maritime commerce, international trade, tourism, recreation, fishing, wood products and transportation.]*

*[(d) Port facilities, including roads, railroads, airports, harbors and navigation channels, are an integral element of the transportation infrastructure of this state.]*

*[(e) The ports in this state have few technical or institutional resources to deal with multiple state and federal programs.]*

*[(f) Ports in this state need coordinating and planning assistance from the State of Oregon in order to be competitive in national and international markets and to continue to contribute to economic development efforts in this state.]*

**[(2)] (1)** The Legislative Assembly declares that it is the policy of this state to include Oregon's ports in planning and implementing economic development and transportation programs. To that end, the Oregon Economic and Community Development Commission and the Economic and Community Development Department may work to:

(a) Coordinate with the Department of Transportation and other state agencies, commissions and advisory committees engaged in activities affecting ports to facilitate port planning and development;

(b) Promote local cooperation in statewide planning and development of the ports;

(c) Promote long-term economic self-sufficiency of the ports;

(d) Encourage cost-effective investments with prudent financial consideration of port development projects; and

(e) Facilitate ports in their efforts to expand and respond to greater domestic and international market opportunities.

**[(3)] (2)** The Legislative Assembly also declares that:

(a) The State of Oregon recognizes, supports and promotes a federal role in the continuation of the maintenance and development of federally authorized waterway projects.

(b) Because the federal role is changing, the responsibilities of this state may increase in terms of direct involvement in waterway transportation.

(c) It is the policy of the State of Oregon to support the continued maintenance and development of the following waterways as key elements of the statewide transportation system:

(A) The navigation channels of the Columbia River, Coos Bay and Yaquina Bay and any other commercial waterway segments that provide a link for movement of products to and from world and regional markets.

(B) Waterway segments that serve as transportation corridors for large volumes of bulk and agricultural commodities and that provide shippers a cost-effective means to transport products.

(C) The coastal channels and harbors that support commercial and water-dependent activities.

**SECTION 23.** ORS 285A.603 is amended to read:

285A.603. As used in ORS 285A.603 to 285A.633, unless the context requires otherwise[:],

**[(1)]** "port" means the Port of Portland and any port formed pursuant to ORS 777.005 to 777.725 and 777.915 to 777.953.

**[(2)]** "Ports Division" or "division" means the Ports Division of the Economic and Community Development Department.]

**SECTION 24.** ORS 285A.615 is amended to read:

285A.615. (1) The [Ports Division of the] Economic and Community Development Department shall provide managerial assistance and technical referral services to ports.

(2) The [division] **department** shall[:]

**[(a)]** disseminate such research and technical information as is available to the department[: and].

**[(b)]** Provide managerial assistance to ports and the safety committees created under ORS 468B.415 requesting such assistance.]

(3) The [division] **department** shall work cooperatively with existing organizations and agencies that provide research and technical services, including, but not limited to:

- (a) The Department of State Lands;
- (b) The State Marine Board; and
- (c) The Sea Grant College and marine extension services at Oregon State University.

**SECTION 25.** ORS 285A.627 is amended to read:

285A.627. (1) The Oregon Economic and Community Development Commission, through the [Ports Division] **Economic and Community Development Department**, shall be the statewide coordinating, planning and research agency for all ports and port authorities in this state to ensure the most orderly, efficient and economical development of the state port system.

(2) Notwithstanding any other provision of law, after July 1, 1969, no port or port authority may be formed without the prior approval of the commission.

(3) The commission, through the [division] **department**, shall be the statewide coordinating, planning and research agency for port activities involving international trade and international trade development and industrial, commercial and recreational development.

**SECTION 26.** ORS 285A.654 is amended to read:

285A.654. (1) There is created within the State Treasury, separate and distinct from the General Fund, the Port Planning and Marketing Fund. All moneys in the Port Planning and Marketing Fund are appropriated continuously to the [Ports Division] **Economic and Community Development Department** and shall be used by the [division] **department** for:

(a) Administrative expenses of the [division] **department** in processing grant applications and investigating proposed planning or marketing projects related to ports.

(b) Payment of grants under ORS 285A.654 to 285A.660 to ports formed under ORS 777.010 and 777.050.

(c) Direct purchase by the [division] **department** of goods or services to assist ports in implementing planning or marketing projects approved for grant financing under ORS 285A.654 to 285A.660.

(2) The Port Planning and Marketing Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly.

(b) Moneys obtained from gifts or grants received under ORS 285A.200.

(c) Moneys obtained from interest earned on the investment of such moneys.

(3) Moneys in the Port Planning and Marketing Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820, and the earnings from such investments shall be credited to the Port Planning and Marketing Fund.

**SECTION 27.** ORS 285A.657 is amended to read:

285A.657. (1) The [Ports Division] **Economic and Community Development Department** may make grants, as funds are available, to any port formed under ORS chapter 777 or 778 for:

(a) A planning project conducted under ORS 285A.627 or any other planning project necessary for improving the port's capability to carry out its authorized functions and activities relating to trade and commerce; or

(b) A marketing project necessary for improving the port's capability to carry out its authorized functions and activities relating to trade and commerce.

(2) Any port may file with the [Ports Division] **department** an application for a grant from the Port Planning and Marketing Fund to finance a specific planning project or marketing project.

(3) An application under this section shall be filed in such a manner and contain or be accompanied by such information as the [Ports Division] **department** may prescribe.

(4) Upon receipt of an application, the [Ports Division] **department** shall determine whether the planning project or marketing project is eligible for funding under ORS 285A.654 to 285A.660. If the [Ports Division] **department** determines that the project is not eligible, it shall within 60 days:

(a) Reject the application; or

(b) Require the applicant to submit additional information as may be necessary.

(5) The [Ports Division] **department** may approve a grant for a planning project or a marketing project described in an application filed under this section if, after investigation, the [Ports Division] **department** finds that:

(a) The project meets the standards and criteria established by the [Ports Division] **department** for grant financing from the Port Planning and Marketing Fund; and

(b) Moneys in the Port Planning and Marketing Fund are or will be available for the project.

(6) Grants to ports under ORS 285A.654 to 285A.660 shall not exceed [~~\$25,000~~] **\$50,000** and shall not exceed 75 percent of the total cost of the project.

(7) The [Ports Division] **department** shall not fund any program that subsidizes regular port operating expenses.

(8) In lieu of all or part of the grant financing approved under ORS 285A.654 to 285A.660 for a planning or marketing project, the [Ports Division] **department** may purchase goods or services to assist a port in implementing a project.

**SECTION 28.** ORS 285A.660 is amended to read:

285A.660. (1) The Economic and Community Development Department shall develop marketing grant funding priorities considering such factors as community need and whether the project will lead to economic diversification, development of a new or emerging industry and redevelopment of existing public facilities. The department shall give priority to regional or cooperative projects, and projects that leverage other marketing efforts by the state or other local government units.

(2) The department shall review all proposals to avoid duplication of marketing efforts among ports, and to maintain consistency with the applicable county or city comprehensive plans.

**(3) Ports shall develop and maintain strategic business plans before obtaining department funding. A strategic business plan developed and maintained under this subsection must comply with standards and requirements for strategic business plans established by the department by rule. The department shall also establish by rule the date by which ports seeking department funding must have a strategic business plan in place.**

**SECTION 29.** ORS 285A.666 is amended to read:

285A.666. As used in ORS 285A.666 to 285A.732, unless the context requires otherwise:

[1] "*Division*" means the Ports Division of the Economic and Community Development Department.]

[2] (1) "Flexible manufacturing space project" means a project for the acquisition, construction, improvement or rehabilitation, in whole or in part, of any building suitable for the conduct of manufacturing processes and, by design, able to be readily modified when necessary to accommodate the operations of the tenants of the building. The term includes any preproject planning activities for a flexible manufacturing space project.

[3] (2) "Fund" means the Oregon Port Revolving Fund.

[4] (3) "Port district" means any port formed pursuant to ORS 777.005 to 777.725 and 777.915 to 777.953 or ORS chapter 778.

[5] (4) "Project" means a project authorized under ORS 777.105 to 777.258, including engineering, acquisition, improvement, rehabilitation, construction, operation, maintenance or preproject planning necessary to carry out the project.

**SECTION 30.** ORS 285A.708 is amended to read:

285A.708. (1) There is created within the State Treasury a revolving fund known as the Oregon Port Revolving Fund, separate and distinct from the General Fund. Moneys in this fund are continuously appropriated to the Oregon Economic and Community Development Commission for the following purposes:

(a) Administrative expenses of the commission in processing applications and investigating proposed projects.

(b) Payment of loans to port districts pursuant to ORS 285A.666 to 285A.732.

(c) Administrative expenses of the [Ports Division] **Economic and Community Development Department** relating to ports. In any one year, administrative expenses charged under this paragraph may not be greater than the total revenues received in that year from fees provided for in subsection (2)(a) of this section, plus [*three*] **an amount not to exceed five percent** of the total asset value of the fund.

(2) The fund created by subsection (1) of this section shall consist of:

- (a) Application fees required by ORS 285A.672 (2).
  - (b) Repayment of moneys loaned to port districts or others from the Oregon Port Revolving Fund, including interest on such moneys.
  - (c) Payment of such moneys as may be appropriated to the fund by the Legislative Assembly.
  - (d) Moneys obtained from any interest accrued from such funds.
- (3) Outstanding debt on the fund shall not exceed 95 percent of all deposits, accounts payable, and other assets of the fund.
- (4) No money shall be expended from the Oregon Port Revolving Fund for any economic development study costing more than [\$25,000] **\$50,000** unless a work plan and budget for such study has been provided to the joint Legislative Committee on Trade and Economic Development.

**SECTION 31.** ORS 285A.709 is amended to read:

285A.709. (1) Notwithstanding ORS 285A.708 (1) and 285A.711, available moneys in the Oregon Port Revolving Fund that were accrued as net earned income of the fund may be transferred to the Port Planning and Marketing Fund created under ORS 285A.654.

(2) Notwithstanding ORS 285A.654 (1)(b), moneys transferred to the Port Planning and Marketing Fund under this section may be used for payments of grants under ORS 285A.654 to 285A.660 to ports formed under ORS 285A.603 to 285A.732 or ORS chapter 777 or 778.

(3) In addition to and notwithstanding any other law, an amount not to exceed [four] **five** percent of the assets of the Oregon Port Revolving Fund as calculated on July 1 of each year shall be transferred to the Port Planning and Marketing Fund under this section.

## INFRASTRUCTURE PROJECTS

**SECTION 32.** ORS 285B.410 is amended to read:

285B.410. As used in ORS 285B.410 to 285B.482, unless the context requires otherwise:

(1) "Airport" means:

- (a) A runway, taxiway, aircraft parking apron, ramp, auto parking area, access road, safety area or runway protection zone;
- (b) An airport-related facility, including a hangar, terminal, air traffic control tower or other building;
- (c) A signal, navigational aid or traffic control system; or
- (d) A fuel tank or other physical airport improvement.

**(2)(a) "Community development project" means a project that involves strategic planning, training or other technical assistance as defined by the Economic and Community Development Department by rule, and that is aimed at strengthening the economic development or infrastructure priority setting of a municipality or region.**

**(b) "Community development project" includes the following activities:**

- (A) Developing and managing short-term and long-term projects;**
- (B) Developing priorities for infrastructure projects;**
- (C) Strategic planning related to furthering economic development; or**
- (D) Training related to economic development, including training to improve leadership skills, technical skills or analytical skills, particularly in rural and distressed areas.**

**(c) "Community development project" includes projects that may encompass a municipality or any part of a municipality and may be undertaken in cooperation with another municipality.**

[2] **(3) "Development project" means a project for the acquisition, improvement, construction, demolition, or redevelopment of municipally owned utilities, buildings, land, transportation facilities or other facilities that assist the economic and community development of the municipality, including planning project activities that are necessary or useful as determined by the Economic and Community Development Department.**

[3] **(4) "Direct project management costs" means expenses directly related to a project that are incurred by a municipality solely to support or manage a project eligible for assistance under**

ORS 285B.410 to 285B.482. “Direct project management costs” does not include routine or ongoing expenses of the municipality.

[(4)] (5) “Emergency project” means a development project resulting from an emergency as defined in ORS 401.025, to which federal disaster relief has been committed.

[(5)] (6) “Energy system” means a facility necessary for the distribution, transmission or generation of energy, including but not limited to facilities powered by wind, solar energy or biofuel and facilities for the collection, storage, transmission or distribution of a fuel, including natural gas, methane or hydrogen.

[(6)] (7) “Marine facility” means:

- (a) A wharf, dock, freight handling or passenger facility;
- (b) A navigation channel or structure, including a project funded under ORS 777.267; or
- (c) Any other physical marine facility improvement.

[(7)] (8) “Municipality” means an Oregon city or county, the Port of Portland created by ORS 778.010, a county service district organized under ORS chapter 451, a district as defined in ORS 198.010, a tribal council of a federally recognized Indian tribe in this state or an airport district organized under ORS chapter 838.

[(8)] (9) “Planning project” means:

(a) A project related to a potential development project for preliminary, final or construction engineering;

(b) A survey, site investigation or environmental action;

(c) A financial, technical or other feasibility report, study or plan; or

(d) An activity that the department determines to be necessary or useful in planning for a potential development project.

[(9)] (10) “Project” means a development, **community development**, planning or emergency project.

[(10)] (11) “Railroad” means:

(a) A main line, siding, yard, connecting or auxiliary track, right of way or easement;

(b) An industrial spur or related facility, including a depot, shop, maintenance building or other building;

(c) A signal or traffic control system;

(d) A bridge or tunnel;

(e) A dock, pit, conveyor, bin, crane, piping system, tank or pavement for unloading, loading or transfer of freight, trailers or containers; or

(f) Any other physical railroad improvement.

[(11)] (12) “Road” means a street, highway or thruway or a road-related structure that provides for continuity of a right of way, including a bridge, tunnel, culvert or similar structure or other physical road-related improvement.

[(12)] (13) “Rural area” has the meaning given that term in ORS 285A.010.

[(13)] (14) “Sewage system” means a facility necessary for collecting, pumping, treating or disposing of sanitary sewage.

[(14)] (15) “Solid waste disposal site” has the meaning given the term “disposal site” in ORS 459.005.

[(15)] (16) “Storm water drainage system” means a facility necessary for collecting, controlling, conveying, treating or disposing of storm water runoff.

[(16)] (17) “Telecommunications system” means equipment or a facility for the electronic transmission of voice, data, text, image or video.

[(17)] (18) “Transportation” means a system for movement of freight or passengers.

[(18)] (19) “Utilities” means a solid waste disposal site or a water, sewage, storm water drainage, energy or telecommunications system.

[(19)] (20) “Water system” means a facility for supplying, treating or protecting the quality of water and transmitting water to a point of sale or to any public or private agency for domestic, municipal, commercial or industrial use.

**SECTION 33.** ORS 285B.440 is amended to read:

285B.440. (1)(a) The moneys in the Special Public Works Fund shall be used primarily to provide loans to municipalities for projects as defined in ORS 285B.410 to 295B.482. The Economic and Community Development Department may determine the level of grant or loan funding, if any, on a case-by-case basis.

(b) If the department approves funding, the department shall determine a maximum amount of the loan based upon a reasonable and prudent expectation of the ability of the municipality to repay the loan.

(c) The loan term may not exceed the usable life of the project or 25 years from the year of project completion, whichever is less.

(d) Assistance from the fund for a marine facility project otherwise funded under ORS 777.267 shall be limited to a loan. The loan may not exceed the amount of the required local matching funds.

(2) The department shall by rule adopt standards for awarding grants from the Special Public Works Fund. The standards may include the award of grants as a financial incentive to accomplish the goals of the Special Public Works Fund, to address special circumstances of a project or to address the financial need of the applicant.

(3) The department may make grants to a municipality not to exceed \$1 million per project or 85 percent of the allowable project costs, whichever is less. For purposes of this subsection, allowable project costs do not include capitalized interest, if any.

(4) The department may not expend more than one percent of the value of the Special Public Works Fund in any biennium for grants or direct assistance, if any, for planning projects **and community development projects** to municipalities.

(5) The department may not expend more than \$2.5 million in any biennium for emergency project grants. For purposes of this subsection, emergency project grants include grants for essential community facilities, as defined by the department by rule after consultation with the League of Oregon Cities, the Association of Oregon Counties, the Oregon Ports Representation Group and the Special Districts Association of Oregon.

(6) Except as otherwise limited by this section, not more than 100 percent of the total cost of a project, including capitalized interest, shall be financed from the Special Public Works Fund.

**SECTION 34.** ORS 285B.455 is amended to read:

285B.455. (1) There is created the Special Public Works Fund, separate and distinct from the General Fund. All moneys credited to the Special Public Works Fund are appropriated continuously to the Economic and Community Development Department.

(2) The fund shall consist of all moneys credited to the fund, including:

(a) Moneys appropriated to the fund by the Legislative Assembly or transferred to the fund by the Oregon Economic and Community Development Commission;

(b) Earnings on the fund;

(c) Repayment of financial assistance, including interest;

(d) Moneys received from the federal government, other state agencies or local governments;

(e) Bond proceeds as authorized under ORS 285B.410 to 285B.482 or other law; and

(f) Moneys from any other source, including but not limited to grants and gifts.

(3) Moneys in the Special Public Works Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820 and the earnings from the investments shall be credited to the account in the Special Public Works Fund designated by the department.

(4) The department shall administer the Special Public Works Fund.

(5) The department may establish other accounts within the Special Public Works Fund for the payment of project costs, reserves, debt service payments, credit enhancement, administrative costs and operation expenses or any other purpose necessary to carry out ORS 285B.410 to 285B.482.

(6) The department may **directly or indirectly** grant, expend or loan moneys in the fund **or extend credit** to:

(a) Provide **to municipalities any form of** financial or other assistance [*to municipalities for projects determined by the department to be appropriate*] **that the department considers appropri-**

ate to assist communities with a project, including the refinancing of temporary project financing.

(b) Purchase goods or services related to a project on behalf of the municipality.

(c) Provide state funds as a match for federal funds available for the administration of the Community Development Block Grant program.

(d) Finance administrative costs of the department pursuant to ORS 285B.410 to 285B.482.

(e) Provide annual grants on behalf of a municipality in the form of partial repayment to bondholders of amounts owed.

(f) Cover contracts that are issued to guaranty any portion of the obligation of a municipality to finance a development project and that are not sold to the State of Oregon. Guaranty contracts under this paragraph shall be payable solely from moneys in the Special Public Works Fund, and shall not constitute a debt or obligation of the State of Oregon. The department may, on behalf of the state, establish a special account in the fund and commit to deposit into the account specified portions of existing and future allocations to the fund. The commitments shall be made by rule of the department and shall constitute covenants of the state for the benefit of the owners of obligations guaranteed by the state pursuant to this section.

(7) As used in this section, "administrative costs" includes the department's direct and indirect costs for investigating and processing an application, developing a contract, monitoring the use of funds by a municipality, investigating and resolving budget discrepancies, closing a project and providing financial or other assistance to a municipality.

**SECTION 35.** ORS 285B.482 is amended to read:

285B.482. (1) Notwithstanding any other law relating to revenue bonds issued and sold under ORS 285B.467 to 285B.479 or ORS 285B.572, 285B.575 and 285B.578, revenue bonds may be issued and sold as parity bonds.

(2) Proceeds of revenue bonds issued and sold under ORS 285B.467 to 285B.479 or ORS 285B.572, 285B.575 and 285B.578, together with the investment earnings thereon, may be consolidated into one or more funds or accounts and may be pledged to the holders of revenue bonds issued to finance water projects, as defined in ORS 285B.560, or development projects.

(3) Any loan to a municipality made pursuant to ORS 285B.467 to 285B.479, 285B.560 to 285B.569 or 285B.572 to 285B.599, including loans funded in whole or in part with the proceeds of revenue bonds and loans funded with moneys in the Water Fund or the Special Public Works Fund, may be pledged to the holders of revenue bonds issued to finance water projects or development projects.

(4) Funds or accounts established by the Economic and Community Development Department or the State Treasurer in connection with the issuance of revenue bonds under ORS 285B.467 to 285B.479 or ORS 285B.572, 285B.575 and 285B.578 and moneys held in the funds and accounts, together with the investment earnings thereon, may be consolidated into one or more funds or accounts and may be pledged to the holders of revenue bonds issued to finance water projects or development projects.

*[(5) Notwithstanding subsections (1) to (4) of this section, moneys held in the Water Fund may not be used to finance or refinance the cost of a development project unless the development project also qualifies as a water project, and moneys held in the Special Public Works Fund may not be used to finance or refinance the cost of a water project unless the water project also qualifies as a development project.]*

## WATER FUND

**SECTION 36.** ORS 285B.563 is amended to read:

285B.563. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Water Fund. All moneys in the Water Fund are continuously appropriated to the Economic and Community Development Department for the purposes described in ORS 285B.560 to 285B.599, including the direct project management costs *[and for the purpose specified in ORS 285A.075 (9)]*.

- (2)(a) Moneys in the Water Fund may be obligated to water projects.
- (b) Moneys shall be used primarily to make loans to municipalities. The department may make a loan only if:
- (A) The municipality applying for the loan certifies to the department that adequate funds will be available to repay the loan; and
- (B) The department determines that the amount of the loan applied for is based on a reasonable and prudent expectation of the municipality's ability to repay the loan.
- (c) The department may award a grant only if a loan is not feasible due to:
- (A) Financial hardship to the municipality, as determined by the department, based on consideration of anticipated water service charges or anticipated waste water service charges [*that exceed the statewide average for the charges*], the per capita income of the municipality and any other factors as the department by rule may establish; and
- (B) Special circumstances of the water project.
- (d) The department may determine the amount of grant or loan funding on a case-by-case basis.
- (3) The moneys in the fund may also be used to assist the department in selling revenue bonds on behalf of municipalities in order to carry out the purposes of ORS 285B.560 to 285B.599.
- (4) With the approval of the State Treasurer, moneys in the Water Fund may be invested as provided by ORS 293.701 to 293.820. The earnings from the investments and other program income shall be credited to the Water Fund.
- (5) The Water Fund shall consist of:
- (a) Moneys appropriated to the fund by the Legislative Assembly.
- (b) Moneys transferred to the fund by the Economic and Community Development Department from the Special Public Works Fund created by ORS 285B.455.
- (c) Moneys transferred to the Water Fund by the Water Resources Commission from the Water Development Fund created by Article XI-I(1) of the Oregon Constitution.
- (d) Moneys from any federal, state or other grants.
- (e) Proceeds of revenue bonds issued under ORS 285B.575.
- (f) Earnings on the Water Fund.
- (6) The department shall administer the fund.
- (7) The department shall adopt rules and policies for the administration of the fund. The department shall coordinate its rulemaking regarding safe drinking water projects with the Water Resources Department and the Department of Human Services. The rules adopted under this subsection for safe drinking water projects shall:
- (a) Require the installation of meters on all new active service connections from any distribution lines funded with moneys from the fund or from the proceeds of revenue bonds issued under ORS 285B.572 to 285B.578.
- (b) Require a plan, to be adopted by a municipality receiving financial assistance from the fund, for installation of meters on all service connections throughout the drinking water system not later than two years after the completion of a safe drinking water project.
- (8)(a) The Economic and Community Development Department shall manage the Water Fund and any expenditures from accounts in the fund and transfers between accounts so that the fund provides a continuing source of financing consistent with ORS 285B.413.
- (b) If necessary to ensure repayment of bonds issued under ORS 285B.560 to 285B.599, the department may reduce the value of the fund when the department:
- (A) Finds that without a reduction in fund value, bonds secured by the fund are likely to be in default; and
- (B) Imposes a moratorium on grants until the requirements of paragraph (a) of this subsection are satisfied.
- (9)(a) The department may charge administrative costs to the fund, but not to moneys segregated in the account created by subsection (11) of this section, to pay for administrative costs incurred by the department.



(b) To the extent permitted by federal law, administrative costs of the department may be paid from bond proceeds.

(10) The department may establish other accounts within the Water Fund for the payment of water projects costs, reserves, debt service payments, credit enhancements, costs of issuing revenue bonds, administrative costs and operating expenses or any other purpose necessary to carry out ORS 285B.560 to 285B.599.

(11) There is created within the Water Fund a separate and distinct account for the proceeds from the sale of water development general obligation bonds issued for safe drinking water projects and credited to the special account under this section. Any investment earnings thereon shall be segregated in and continuously appropriated to a special, separately accounted for subaccount of this account. Moneys credited to this account shall be maintained separate and distinct from moneys credited to subaccounts created under subsection (10) of this section. Notwithstanding ORS 285B.566 or subsection (4) of this section, all repayments of moneys loaned from the account created by this subsection, including interest on the moneys, shall be credited to the Water Development Administration and Bond Sinking Fund created by ORS 541.830.

(12) As used in this section, "administrative costs" include the department's direct and indirect costs for investigating and processing an application, developing a contract, monitoring the use of funds by a municipality, investigating and resolving a budget discrepancy, closing a project and providing financial and other assistance to a municipality.

### **ENTREPRENEURIAL DEVELOPMENT LOAN FUND**

**SECTION 37.** ORS 285B.743 is amended to read:

285B.743. (1) Any individual or business firm may file with the Economic and Community Development Department an application to borrow money from the Oregon Entrepreneurial Development Loan Fund as provided in ORS 285B.740 to 285B.758. The application shall be filed in such a manner and contain or be accompanied by such information as the department may require.

(2) Upon receipt of an application under this section, the Economic and Community Development Department shall determine whether the applicant is eligible to receive a loan under ORS [285B.139 and] 285B.740 to 285B.758. [If the department determines that an applicant is not eligible to receive a loan, the department shall:]

[*(a) Reject the application with a written statement of the reason for that rejection; or*]

[*(b) Require the applicant to submit additional information concerning the application as may be necessary.*] **The department may adopt rules for processing applications from applicants that are not eligible to receive a loan under this section.**

**SECTION 38.** ORS 285B.746 is amended to read:

285B.746. (1) The Economic and Community Development Department may approve a loan requested in an application filed under ORS 285B.743 if, after investigation, it finds that:

(a) The applicant is enrolled in a small business management program with a small business development center **or certified entity**;

(b) The applicant has prepared a business plan for the business, which has been reviewed by a small business development center or other entity certified by the Economic and Community Development Department to review business plans; **and**

[*(c) The applicant has developed an expenditure plan for the use of the moneys received as a loan for the project under ORS 285B.740 to 285B.758; and*]

[*(d)*] **(c)** The applicant is not effectively owned or controlled by another business entity or other person that, either by itself or when combined with the applicant, is not eligible for a loan under ORS 285B.740 to 285B.758.

(2) In addition to the requirements for loan approval described in subsection (1) of this section, in order to obtain a loan under ORS 285B.740 to 285B.758, an applicant must also satisfy two of the following conditions:

(a) The business or proposed business, at the time of application, must not have been operating for more than [24] **36** months.

(b) The business must have annual revenues of less than [\\$100,000] **\\$175,000** in the 12-month period immediately preceding the date of application.

(c) The business or proposed business is owned in whole or in part by a person certified as being severely disabled by the Department of Human Services or the Commission for the Blind.

**SECTION 39.** ORS 285B.749 is amended to read:

285B.749. (1) The Economic and Community Development Department may approve an entrepreneurial development loan under ORS 285B.740 to 285B.758 if, after investigation, it finds that:

(a) The loan has a reasonable prospect of repayment **from cash flow and collateral and that the loan is fully secured by collateral value; and**

(b) The applicant provides **equity** funds for the project in the form of cash[,] **or** property [*or business equity*] in an amount equal to **or greater than** 20 percent of the amount of the loan[; and].

*[(c) The applicant can provide such evidence of assurance for repayment as the department considers appropriate to the circumstances of the particular applicant. However, loans need not be secured with real property.]*

(2) The Economic and Community Development Department [*may make an entrepreneurial development loan to any single applicant in an amount not exceeding \$25,000*] **shall determine the amount of the initial loan and any subsequent loan to the borrower. The maximum of all loans to a borrower from the Oregon Entrepreneurial Development Loan Fund may not exceed \$70,000.**

(3) Entrepreneurial development loans shall be made for a period not exceeding five years at a rate of interest that does not exceed 18 percent per annum.

*[(4) The Economic and Community Development Department may defer repayment of a loan by an applicant for a period not exceeding six months. However, interest shall continue to accrue on the unpaid principal amount of the loan during such period of deferred repayment.]*

## **BUSINESS DEVELOPMENT PROJECTS**

**SECTION 40.** ORS 285B.050 is amended to read:

285B.050. As used in ORS 285B.050 to 285B.098, unless the context requires otherwise:

(1) **“Applicant” means any county, municipality, person or any combination of counties, municipalities or persons applying for a loan from the Oregon Business Development Fund under ORS 285B.050 to 285B.098.**

*[(1)]* (2) **“Business development project” means the acquisition, engineering, improvement, rehabilitation, construction, operation or maintenance of any property, real or personal, that is used or is suitable for use by an economic enterprise and that will result in, or will aid, promote or facilitate, development of one or more of the following activities:**

- (a) Manufacturing or other industrial production;
- (b) Agricultural development or food processing;
- (c) Aquacultural development or seafood processing;
- (d) Development or improved utilization of natural resources;
- (e) Convention facilities and trade centers;
- (f) Transportation or freight facilities; and

(g) Other activities that represent new technology or type of economic enterprise the Oregon Economic and Community Development Commission determines is needed to diversify the economic base of an area but not including:

- (A) Construction of office buildings, including corporate headquarters; and
- (B) Retail businesses, shopping centers or food service facilities.

(3) **“Collateral” has the meaning given that term in ORS 79.0102 for property subject to a security interest.**

[(2)] (4) “Commission” means the Oregon Economic and Community Development Commission established under ORS 285A.040.

(5) **“County” means any county or federally recognized Oregon Indian tribe.**

(6) **“Emerging small business” has the meaning given that term by ORS 200.005.**

[(3)] (7) “Fund” means the Oregon Business Development Fund.

[(4)] *“Collateral” has the meaning given that term in ORS 79.0102 for property subject to a security interest.*]

(8) **“Local development group” means any public or private corporation that has as one of its primary purposes, as stated in its articles of incorporation, charter or bylaws, the promotion of economic development in any part of the State of Oregon.**

[(5)] (9) “Municipality” means any city, municipal corporation or quasi-municipal corporation.

[(6)] (10) “Person” means any individual, association of individuals, joint venture, partnership, **limited liability company** or corporation.

[(7)] *“Local development group” means any public or private corporation which has as one of its primary purposes, as stated in its articles of incorporation, charter or bylaws, the promotion of economic development in any part of the State of Oregon.*]

[(8)] *“Applicant” means any county, municipality, person or any combination of counties, municipalities or persons applying for a loan from the Oregon Business Development Fund under ORS 285B.050 to 285B.098.*]

[(9)] *“Owned and operated by women and minorities” means, with regard to any specific business enterprise, the ownership or control of more than 50 percent of the units of proprietary or ownership interest in that business enterprise by individuals who are women or minority individuals, as defined by ORS 200.005.*]

[(10)] *“Emerging small business” has the meaning given that term by ORS 200.005.*]

[(11)] *“County” means any county or federally recognized Oregon Indian tribe.*]

**SECTION 41.** ORS 285B.053 is amended to read:

285B.053. (1) Any county, municipality, person or any combination of counties, municipalities and persons may file with the Oregon Economic and Community Development Commission an application to borrow money from the Oregon Business Development Fund for a business development project as provided in ORS 285B.050 to 285B.098. The application shall be filed in such a manner and contain or be accompanied by such information as the commission may prescribe.

(2) Any applicant receiving a loan from the [*Oregon Business Development*] fund shall [*annually*] report to the Economic and Community Development Department the estimated number of jobs [*created as a result of*] **affected by** the business development project financed under ORS 285B.050 to 285B.098. [*The reporting requirement under this section shall continue for five years following the receipt of the loan proceeds or for the life of the loan, whichever period is longer. Agreement to comply with the requirements of this section shall be a condition for obtaining a loan from the Oregon Business Development Fund.*]

**SECTION 42.** ORS 285B.056 is amended to read:

285B.056. [(1)] *Upon receipt of an application under ORS 285B.053, the Oregon Economic and Community Development Commission shall determine whether the plans and specifications for the proposed business development project set forth in or accompanying the application are satisfactory. If the commission determines that the plans and specifications are not satisfactory, it shall:*

[(a)] *Reject the application with a written statement of the reason for that rejection; or*

[(b)] *Require the applicant to submit additional information of the plans and specifications as may be necessary.*]

[(2)] *The commission shall charge and collect from the applicant, at the time the application is filed, a fee not to exceed \$100. Moneys referred to in this subsection shall be paid into the Oregon Business Development Fund.*] **The Oregon Economic and Community Development Commission shall**

**charge fees and establish rules to underwrite loans from the Oregon Business Development Fund.**

**SECTION 43.** ORS 285B.059 is amended to read:

285B.059. (1) The Oregon Economic and Community Development Commission may approve a business development project proposed in an application filed under ORS 285B.050 to 285B.098 if, after investigation, *[it]* **the commission** finds that:

(a) The proposed business development project is feasible and a reasonable risk from practical and economic standpoints, and **that** the loan has reasonable prospect of repayment.

(b) The applicant can provide good and sufficient collateral for the loan.

(c) Moneys in the Oregon Business Development Fund are or will be available for the proposed business development project.

(d) There is a need for the proposed business development project, *and the applicant's financial resources are adequate to ensure success of the project*.

(e) The applicant has not received or entered into a contract or contracts exceeding \$1 million with the commission, under authority of ORS 285B.050 to 285B.098, for the previous 365 days, *nor is there an amount equal to 20 percent of the total value of the fund in outstanding loans with the commission at any one time for business development projects located in the same county as the proposed project. However, nothing in this paragraph prevents the commission from making a loan to an emerging small business, as provided in subsection (6) of this section, for a project in a distressed area or making a loan of less than \$100,000, as provided in ORS 285B.080*.

*[(2) Preference shall be given to a business development project which has a high ratio of employment to the amount of money sought to be borrowed from the Oregon Business Development Fund, which benefits businesses with fewer than 50 employees or which is located within a rural or distressed area of the state. Consideration also shall be given to the extent of participation by local development groups, and the availability and cost of money to the applicant from, or through, commercial lending or financial institutions, or other financial sources, inasmuch as the Oregon Business Development Fund is intended to complement, not supplant, other sources of money for economic development.]*

*[(3)] (2)* The total amount of moneys loaned from the fund for any business development project shall not exceed 50 percent of the cost of the project. *[Working capital equity contributed by the applicant or a related party shall not be included in the calculation of total project costs.]*

*[(4)] (3)* Except *[in cases where]* **when** the applicant is a county or municipality **or when there are payments other than the scheduled principal and interest payments**, no money shall be loaned from the fund for any business development project unless there exists a commitment from a commercial or private lender, or a local development group, to participate in the financing of the project.

*[(5)] (4)* To encourage private sector and local development group participation in the financing of business development projects, the commission may subordinate the security position of the fund to that of other lenders.

*[(6)] (5)* In each fiscal year of a biennium, not less than 15 percent of all moneys available for lending from the *[Oregon Business Development]* fund are reserved for loans to certified emerging small business enterprises which are located in or draw their workforces from within distressed areas as determined by the Economic and Community Development Department in cooperation with the Employment Department of this state. Any amounts reserved for loans to such businesses that are not loaned in one fiscal year shall be added to the amount reserved for loans to such businesses in the subsequent fiscal year. If the Economic and Community Development Department is unable to obtain a sufficient number of approvable applications to meet the requirements of this subsection, it may, notwithstanding the limitations imposed by *[ORS 285B.050 (1)(g)(B)]* **ORS 285B.050 (2)(g)(B)**, make loans to service and retail businesses operated by *[certified]* emerging small business enterprises.

*[(7) In the operation of the Oregon Business Development Fund, the commission and the department shall, to the maximum extent feasible and consistent with constitutional limitations, seek to assure*

*that an amount equal to that specified in subsection (6) of this section be loaned to businesses owned and operated by women and minorities.]*

**SECTION 44.** ORS 285B.062 is amended to read:

285B.062. If the Oregon Economic and Community Development Commission approves the business development project, the commission, on behalf of the state, and the applicant may enter into a loan contract of not more than \$1 million, secured by good and sufficient collateral, which shall set forth, among other matters:

(1) A plan for repayment by the applicant to the Oregon Business Development Fund of moneys borrowed from the fund used for the business development project with interest charged on those moneys at the rate of not less than one percentage point more than the prevailing interest rate on United States Treasury bills, notes or bonds of a comparable term, as determined by the commission. The repayment plan, among other matters:

(a) Shall provide for commencement of repayment by the applicant of moneys used for the business development project and interest thereon no later than one year after the date of the loan contract or at such other time as the commission may provide.

(b) May provide for reasonable extension of the time for making any repayment in emergency or hardship circumstances if approved by the commission.

(c) Shall provide for such evidence of debt assurance of, and security for, repayment by the applicant as is considered necessary by the commission.

(d) Shall set forth a schedule of payments and the period of loan which shall not exceed the usable life of the contracted project or 25 years from the date of the contract, whichever is less, and shall also set forth the manner of determining when loan payments are delinquent. The payment schedule shall include repayment of interest which accrues during any period of delay in repayment authorized by paragraph (a) of this subsection, and the payment schedule may require payments of varying amounts for collection of accrued interest.

(e) Shall set forth a procedure for formal declaration of default of payment by the commission, including formal notification of all relevant federal, state and local agencies; and further, a procedure for notification of all relevant federal, state and local agencies that declaration of default has been rescinded when appropriate.

*[(f) May offer a discount not to exceed 10 percent of the outstanding principal for the early repayment of the entire outstanding principal of any loan. The commission by rule shall adopt policies that provide for greater discounts for earlier repayments and that provide for greater discounts for firms that have created at least one job per each \$15,000 loaned to the firm from the Oregon Business Development Fund.]*

**(f) Shall allow for other forms of payment than principal and interest payments on loans, to be outlined in administrative rules.**

(2) Provisions satisfactory to the commission for field engineering and inspection, the commission to be the final judge of completion of the contract.

(3) That the liability of the state under the contract is contingent upon the availability of moneys in the [*Oregon Business Development*] fund for use in the business development project.

(4) Such further provisions as the commission considers necessary to insure expenditure of the funds for the purposes set forth in the approved application.

*[(5) That the commission may institute appropriate action or suit to prevent use of the facilities of a business development project financed by the Oregon Business Development Fund if the applicant is delinquent in the repayment of any moneys due the fund.]*

**SECTION 45.** ORS 285B.083 is amended to read:

285B.083. Except as provided in ORS 285B.086, if any business development project is refinanced or financial assistance is obtained from other sources after the execution of the loan from the state, those [*shall be first*] **may first be** used to repay the state, unless provided otherwise by the committee, if the refinancing or financial assistance applies only to the business development project authorized and does not include any subsequent addition, expansion, improvement or further development.

**SECTION 46.** ORS 285B.089 is amended to read:

285B.089. If the Oregon Economic and Community Development Commission approves an application for the loan of moneys authorized by ORS 285B.086, the commission shall enter into a loan contract, secured by good and sufficient collateral **as determined by the commission**, with the applicant that provides, among other matters:

(1) That the loan bear interest at the same rate of interest as provided in ORS 285B.062 (1).

(2) That the contract shall set forth a schedule of payments including interest and principal for the period of the loan, which shall not exceed the usable life of the contracted project or 25 years from the date of the contract, whichever is less, and shall set forth the manner of determining when loan payments are delinquent. The same schedule shall include repayment of interest which accrues during any period of delay in repayment authorized by ORS 285B.050 to 285B.098, and the repayment schedule may require payments of varying amounts for collection of that accrued interest. However, the commission may make provisions for extensions of time in making repayment if the delinquencies are caused by acts of God or other conditions beyond the control of the applicant and the security will not be impaired thereby.

(3) Such provisions as the commission considers necessary to insure expenditure of the moneys loaned for the purposes provided in ORS 285B.086, including all provisions of ORS 285B.059.

**SECTION 47.** ORS 285B.092 is amended to read:

285B.092. (1) There is created within the State Treasury a revolving fund known as the Oregon Business Development Fund, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. Moneys in this fund are continuously appropriated to the Oregon Economic and Community Development Commission for the following purposes:

(a) Administrative expenses of the commission in marketing public business finance, processing applications, investigating proposed business development projects and servicing outstanding loans. In any one year, administrative expenses charged under this paragraph may not be greater than the total revenues received in that year from fees provided for in subsection (2)(a) of this section, plus four percent of the total asset value of the fund.

(b) Payment of loans to applicants under ORS 285B.050 to 285B.098.

**(c) Actions the commission deems necessary to obtain repayment of outstanding loans.**

[c] **(d)** Purchase or buyout of superior or prior liens or mortgages on or a security interest in any business development project financed in part by a loan from the fund, when the commission determines:

(A) A loan from the fund is in default and is in liquidation or at risk of being forced into liquidation by another creditor to the project; **and**

(B) [Such] **The** action is necessary to maintain or enhance the value of the commission's collateral in the project.[: and]

[(C) *The amount of the purchase or buyout of superior or prior liens or mortgages on that project does not exceed \$1 million.*]

(2) The fund created by subsection (1) of this section shall consist of:

(a) Fees [required by ORS 285B.056 (2) and 285B.068 (2)] **as determined by the commission.**

(b) Repayment of moneys loaned to counties, municipalities or persons from the [Oregon Business Development] fund, including interest on those moneys **or including other receipts.**

(c) Payment of such moneys as may be appropriated to the fund by the Legislative Assembly.

(d) Moneys obtained from any interest accrued from funds.

(e) Moneys from any grant made to the fund by any federal agency.

[(3) *Notwithstanding any other law, if at any time there are insufficient funds in the Oregon Entrepreneurial Development Loan Fund established by ORS 285B.758, the Director of the Economic and Community Development Department may direct the transfer of unobligated funds from the Oregon Business Development Fund to the Oregon Entrepreneurial Development Loan Fund. Transfers under this subsection shall be in amounts necessary to meet the reasonably foreseeable demand for participation in the entrepreneurial loan program.*]

(3) All repayments, interest and other receipts from outstanding indebtedness or any other source shall be retained and accumulated in the fund and shall be used for the purposes of the fund.

(4) Notwithstanding any other law, if at any time there are insufficient funds in established business finance programs, the commission may direct the transfer of unobligated funds from the fund.

**SECTION 48.** ORS 285B.093 is amended to read:

285B.093. (1) The Oregon Economic and Community Development Commission may establish the Oregon Targeted Development Account as an account within the Oregon Business Development Fund.

(2) *[If the account is established,]* The purpose of the Oregon Targeted Development Account is to promote cooperation and foster partnership among the commission, the Economic and Community Development Department and financial institutions in Oregon to encourage investment in distressed areas, as defined by the department.

(3) The *[Economic and Community Development]* department may make loans from the Oregon Targeted Development Account in distressed areas without regard to the minimum rate of interest that is otherwise applicable under ORS 285B.062. The department may make loans in distressed areas at an interest rate that is determined by the *[Oregon Economic and Community Development]* commission.

*[(4) ORS 285B.059 (2) does not apply to business development projects financed wholly or in part with moneys from the Oregon Targeted Development Account.]*

**SECTION 49.** The Economic and Community Development Department shall develop rules governing repayment of loans to the Oregon Business Development Fund and collection of moneys owed the fund. The department may take any action permitted by statute or rule that the department deems necessary for repayment of the loan.

#### CAPITAL ACCESS PROGRAM

**SECTION 50.** ORS 285B.126 is amended to read:

285B.126. As used in ORS 285B.126 to 285B.147, unless the context requires otherwise:

(1) **“Brownfield” or “brownfields” has the meaning given that term in ORS 285A.185.**

(2) **“Capital access program” means the program established by ORS 285B.126 to 285B.147.**

(3) **“Environmental action” has the meaning given that term in ORS 285A.188.**

(4) “Financial institution” means a financial institution, as defined in ORS 706.008.

*[(2)]* (5) “Loss reserve account” means an account in the State Treasury or any financial institution *[which]* **that** is established and maintained by the Economic and Community Development Department for the benefit of a financial institution participating in the capital access program *[established under ORS 285B.126 to 285B.147].*

*[(3)]* (6) “Qualified business” means any person, conducting business for profit or not for profit, that is authorized to conduct business in the State of Oregon.

*[(4)]* (7) “Qualified loan” means a loan or portion of a loan made by a financial institution to a qualified business for any business activity that has its primary economic effect in Oregon. The term does not include:

(a) A loan for the **purchase of owner-occupied residential housing or for the construction, improvement or purchase of residential housing owned or to be owned by the borrower.**

(b) A loan for purchase of real property that is not used for the business operations of the borrower.

(c) A loan for the refinancing of an existing loan when and to the extent that the outstanding balance is not increased.

**SECTION 51.** ORS 285B.129 is amended to read:

285B.129. *[(1) The Legislative Assembly finds that:]*

*[(a) There is a persistent shortage of equity capital available to small businesses in Oregon.]*

*[(b) Small businesses make important contributions to economic growth and vitality in this state.]*

*[(c) Many financial institutions in Oregon are limited in their ability to provide financing to small but rapidly growing businesses.]*

[(2)] It is the purpose of ORS 285B.126 to 285B.147 to establish a capital access program under which the State of Oregon will provide public fiscal resources to assist Oregon financial institutions to overcome obstacles and constraints in meeting the full range of economically sound financing needs of Oregon businesses.

**SECTION 52.** ORS 285B.132 is amended to read:

285B.132. (1) The Economic and Community Development Department may contract with any financial institution for the purpose of allowing the financial institution to participate in the capital access program established by ORS 285B.126 to 285B.147.

(2) A contract between the [*Economic and Community Development*] department and a financial institution under this section shall provide:

(a) For the creation of a loss reserve account by the department for the benefit of the financial institution.

(b) That the financial institution, qualified business and the department will deposit moneys to the credit of the institution's loss reserve account when the financial institution makes a qualified loan to a qualified business.

(c) That the department will pay moneys in the loss reserve account, not exceeding an amount equal to the total amount credited to the loss reserve account, to the financial institution to reimburse the institution for any financial loss incurred as a result of any qualified loan made under the capital access program established by ORS 285B.126 to 285B.147.

(d) That the liability of the State of Oregon and the [*Economic and Community Development*] department to the financial institution under the contract is limited to the amount of money credited to the loss reserve account of the institution.

(e) That the financial institution shall provide such information as the department may require, including financial information that is identifiable with, or identifiable from, the financial records of a particular customer who is the recipient of a qualified loan.

(f) For such other terms as the department may require.

(3) A financial institution is not subject to ORS 192.555 (1) when the financial institution provides information to the [*Economic and Community Development*] department as required by subsection (2)(e) of this section.

**SECTION 53.** ORS 285B.135 is amended to read:

285B.135. (1) The Economic and Community Development Department shall establish a loss reserve account for each financial institution with which the department makes a contract under ORS 285B.132.

(2) The loss reserve account for a financial institution shall consist of moneys paid as fees by borrowers and the financial institution under ORS 285B.138 and moneys transferred to the account from the Capital Access Fund under ORS 285B.138.

(3) Notwithstanding ORS chapter 293 or 295, the department may establish and maintain loss reserve accounts with any financial institution under such policies as the department may adopt. [*The department may deposit up to \$50,000 per financial institution in a loss reserve account to encourage a financial institution to participate in the capital access program. The total amount of such deposits may not exceed \$250,000 per biennium.*] **The department may establish rules to encourage financial institutions to participate in the capital access program.**

(4) All moneys in a loss reserve account established under ORS 285B.126 to 285B.147 are the property of the State of Oregon.

[(5) *The amounts transferred from the Capital Access Fund to a loss reserve account on behalf of any single qualified business shall not exceed \$150,000.*]

**SECTION 54.** ORS 285B.138 is amended to read:

285B.138. (1) When a financial institution participates in the capital access program [*established by ORS 285B.126 to 285B.147*], if the financial institution decides to enroll a qualified loan under the



capital access program in order to obtain the protection against loss provided by its loss reserve account, the financial institution shall notify the Economic and Community Development Department of the loan within 30 days after the loan is made. The notification shall be in writing on a form prescribed by the department.

(2) When making a qualified loan that will be enrolled under the capital access program, the financial institution shall require the qualified business to which the loan is made to pay a fee of not less than one and one-half percent of the principal amount of the loan but not more than three and one-half percent of such principal amount. The financial institution shall also pay a fee in an amount equal to the fee paid by the borrower. The financial institution shall deliver the fees collected under this subsection to the department for deposit in the loss reserve account for the institution.

(3) When depositing fees collected under subsection (2) of this section to the credit of the loss reserve account for a financial institution, the department shall transfer an amount that is not less than the total amount of the fees paid by the borrower and the financial institution from the Capital Access Fund to the loss reserve account for the institution.

**(4) Notwithstanding subsections (1) to (3) of this section, the department may adopt rules providing that, for qualified loans to businesses in distressed areas or for use in an environmental action on brownfields, the department may transfer an amount that is not less than 150 percent of the total amount of the fees paid by the borrower and the financial institution from the Capital Access Fund to the loss reserve account of the institution. The total amount transferred under this section may not exceed 40 percent of the moneys appropriated to the fund. For purposes of this subsection, "distressed areas" shall have the meaning given that term by the department by rule.**

**SECTION 55.** ORS 285B.147 is amended to read:

285B.147. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Capital Access Fund. All moneys in the fund are continuously appropriated to the Economic and Community Development Department for the purpose of making payments to loss reserve accounts established under ORS 285B.126 to 285B.147.

(2) Moneys in the Capital Access Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820, and the earnings from such investment shall be credited to the Capital Access Fund.

(3) The Capital Access Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly.

(b) Interest earned on moneys in the fund.

(c) Moneys returned to the fund from loss reserve accounts or other sources.

**(4) If the department deems retrieval of interest earned on loss reserve accounts appropriate, the department may transfer into the fund up to 50 percent of the interest earned on moneys in loss reserve accounts.**

[(4)] (5) The [*Economic and Community Development*] department may charge administrative costs to the fund to pay for actual and necessary administrative expenses incurred by the department in administering the fund and establishing and maintaining loss reserve accounts under ORS 285B.126 to 285B.147.

## CREDIT ENHANCEMENT FUND

**SECTION 56.** ORS 285B.200 is amended to read:

285B.200. As used in ORS 285B.200 to 285B.218:

(1) **"Brownfield" or "brownfields" has the meaning given that term in ORS 285A.185.**

[(1) "*Department*" means the *Economic and Community Development Department*.]

(2) "Eligible project costs" includes productive equipment and machinery, working capital for operations and export transactions and such other costs as the **Economic and Community Development** Department, by rule, may provide.

[(3) “Emerging small business” has the meaning given that term in ORS 200.005.]

**(3) “Environmental action” has the meaning given that term in ORS 285A.188.**

(4) “Financial institution” includes institutions listed in ORS 706.008 and such other institutions defined by rule of the Economic and Community Development Department as financial institutions for purposes of ORS 285B.200 to 285B.218.

(5) “Qualified business” means any existing or proposed business [entity with an average annual employment not exceeding 200 employees] that, except when located within a distressed area, as defined by the Economic and Community Development Department, sells goods or services in markets for which national or international competition exists or that owns, occupies, operates or has entered into an agreement to own, occupy or operate real property containing a brownfield, as defined in ORS 285A.185. The term includes professional services companies providing services to traded sector industries and other entities within and outside of this state.

(6) “Value-added agricultural products” means agricultural products that have been processed, transformed or refined to the point where they may be distributed to a final consumer without further processing, transformation or refining. The term also includes agricultural products that are processed, transformed or refined for distribution to other than final consumers when such processing, transformation or refining represents a substantial increment in value as determined by the Economic and Community Development Department in consultation with the State Department of Agriculture.

**SECTION 57.** ORS 285B.203 is amended to read:

285B.203. [(1) *The Legislative Assembly finds that:*]

[(a) *Small and medium sized businesses in general, and firms that produce value-added agricultural products in particular, are adversely affected by the current credit crisis.*]

[(b) *Small companies have historically had a difficult time obtaining credit, especially on terms that allow them to grow and to create jobs.*]

[(c) *The limited availability of credit for export transactions limits the ability of small and medium sized businesses in Oregon to compete in international markets.*]

[(d) *The challenge for the public economic sector is to design programs, in conjunction with lending institutions in the private economic sector, that fill the gaps in credit availability and export finance.*]

[(e) *Without substantial financial assistance to promote redevelopment, properties containing brownfields, as defined in ORS 285A.185, often remain abandoned or underutilized because of the uncertainty concerning environmental contamination at the sites and the cost of reducing or eliminating the contamination.*]

[(2)] The Legislative Assembly declares that it is the purpose of the Credit Enhancement Fund [established under ORS 285B.215 (1) and (2)] to:

[(a)] (1) Create incentives and assistance to increase the flow of private capital to the value-added agriculture industries.

[(b)] (2) Promote industrial modernization and technology adoption.

[(c)] (3) Encourage the retention and creation of family wage jobs.

[(d)] (4) Encourage the export of goods and services by Oregon businesses in international markets.

[(e)] (5) Encourage and promote the redevelopment of brownfields[, as defined in ORS 285A.185,] by providing assistance to perform environmental action[, as defined in ORS 285A.188,] on brownfield sites.

**SECTION 58.** ORS 285B.206 is amended to read:

285B.206. (1) The Economic and Community Development Department shall develop a program under which the department, under contracts with financial institutions, shall provide loan guarantees, insurance, coinsurance in conjunction with other providers of loan guarantee programs or other forms of credit guarantees for qualified businesses for eligible project costs.

(2) In administering the program created by ORS 285B.200 to 285B.218, the department shall consult and cooperate with financial institutions in this state. The program shall be administered so that administrative procedures and application procedures are as responsive to the needs of

qualified businesses and financial institutions as practicable, consistent with prudent investment and lending practices and criteria.

(3) The department shall prescribe by rule the loan or credit guarantee application procedure for a financial institution on behalf of a qualified business.

(4) When the department approves a loan or credit guarantee, the department shall enter into a loan or credit guarantee agreement with the financial institution. The agreement shall specify:

- (a) The fee to be charged to the financial institution;
- (b) The evidence of debt assurance of, and security for, the loan or credit guarantee;
- (c) A loan guarantee or credit guarantee which does not exceed 15 years; and
- (d) Such other terms and conditions considered necessary or desirable by the department.

*[(5) The department may adopt procedures for loan or credit guarantees whereby a qualified business may apply directly to the department for a preliminary guarantee commitment. Such preliminary guarantee commitments may be issued by the department subject to the qualified business securing a commitment for financing from a financial institution. The procedures adopted by the department shall specify the process by which a financial institution may obtain a final loan or credit guarantee.]*

**SECTION 59.** ORS 285B.209 is amended to read:

285B.209. (1) When making loan or credit guarantees under the program established under [ORS 285B.206] **ORS 285B.200 to 285B.218**, the Economic and Community Development Department shall establish fees and other terms for loan or credit guarantees that are calculated to reasonably assure that businesses with access to other forms of private capital will find it economical not to participate in the program.

(2) The department, with due regard for the possibility of losses and administrative costs, shall set fees and other terms at levels sufficient to reasonably assure that the program is self-financing.

*[(3) When making loan or credit guarantees under the program established under ORS 285B.200 to 285B.218, the department shall establish fees and other terms for loan or credit guarantees that are calculated to reasonably assure that qualified businesses with access to other forms of private capital will find it economical not to participate in the program.]*

*[(4) With due regard for the possibility of losses and administrative costs, the department shall set fees and other terms at levels sufficient to reasonably assure that the program is self-financing.]*

*[(5) For a preliminary guarantee commitment issued under ORS 285B.206 (5), the department may charge the qualified business an application fee. The fee shall be in addition to any other fees charged by the department under this section and may not exceed \$250 for each application.]*

**SECTION 60.** ORS 285B.215 is amended to read:

285B.215. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Credit Enhancement Fund. All moneys in the fund are continuously appropriated to the Economic and Community Development Department for the following purposes:

(a) Payment of claims pursuant to contracts for loan or credit guarantees under ORS 285B.200 to 285B.218.

(b) Payment of administrative costs of the department for actual and necessary administrative expenses incurred by the department in administering the fund and establishing and maintaining the program established under ORS 285B.200 to 285B.218.

- (c) Repayment of transfers of funds required or authorized by law.
- (d) Purchase or buyout of superior or prior liens, mortgages or security interests.

(2) Moneys in the Credit Enhancement Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly, including moneys derived from the Administrative Services Economic Development Fund.

- (b) Proceeds from collateral assigned to the department.
- (c) Interest earned on moneys in the fund.
- (d) Transfers of moneys to the fund.
- (e) Fees assessed for guarantees, as determined by the department.
- (f) Moneys from gifts.
- (g) Moneys from any grant made to the fund by any federal agency.

(h) Proceeds of insurance provided by the Export-Import Bank of the United States or by any other provider of insurance for export transactions.

*[(3) In each biennium, not less than 20 percent of all moneys available for loan guarantees from the Credit Enhancement Fund is reserved for loan guarantees to emerging small businesses.]*

**SECTION 61.** ORS 285B.218 is amended to read:

285B.218. (1) The Economic and Community Development Department is authorized to pledge up to \$75 million to assure the repayment of loan guarantees or other extensions of credit made to or on behalf of qualified businesses for eligible projects costs.

(2) If the balances in the Credit Enhancement Fund are insufficient to cover any claims by financial institutions that arise from loan and credit guarantees made under ORS 285B.200 to 285B.218, the Oregon Department of Administrative Services is directed to transfer in the fiscal year as often as appropriate any funds from the Administrative Services Economic Development Fund to cover such principal, interest and claims, subject to the condition that no such transfer shall be made prior to the satisfaction of **any constitutionally dedicated distribution**, the allocation under ORS 391.130 to the Regional Light Rail Extension Construction Fund *[and the allocation to the Department of Environmental Quality for the debt services described in section 1, chapter 537, Oregon Laws 1993]* **or any allocations related to the lottery bond program authorized by ORS 286.560 (6)(a) or (b).**

## REGIONAL ECONOMIC DEVELOPMENT

**SECTION 62.** ORS 285B.230 is amended to read:

285B.230. As used in ORS 285B.230 to 285B.269, unless the context requires otherwise:

(1) "Region" means groups of counties designated by the Economic and Community Development Department or recognized in a regional partnership as provided in ORS 285B.236 (3).

(2) "Regional board" means a board comprised of individuals described in ORS 285B.242 (1) and jointly appointed by the county governing bodies of each county in the region to develop, fund, implement and monitor the achievement of the regional investment strategy.

(3) "Regional investment strategy" is a long-term economic development strategy, updated *[each biennium]* **at least once every six years**, that focuses on the economic development priorities of each region, including but not limited to:

*[(a) Supporting communities and populations that have been left out of Oregon's economic expansion and diversification;]*

*[(b) Helping companies that are starting up or are already doing business in Oregon to compete globally;]*

**(a) Retaining and creating jobs and raising real wages;**

**(b) Promoting the structures and processes of public and private organizations to effectively create, adapt, foster and sustain economic development in this state, emphasizing rural and distressed areas;**

(c) Ensuring that economic strategies reinforce Oregon's long-term prosperity and livability; and

(d) Coordinating *[efforts of economic development, education and workforce development]* **economic development efforts and efforts to support a locally skilled workforce in order to compete in the global economy.**

(4) "Regional partnership" means a group of regional and economic development partners, including but not limited to cities, counties, ports, Indian tribes, special districts, nonprofit organizations and private organizations, that join together as a regional partnership in a memorandum of understanding between the members of the partnership and the directors of the Department of Transportation, the Economic and Community Development Department, the Housing and Community Services Department, the Department of Land Conservation and Development, the State Department of Agriculture, the Department of State Lands and the Department of Environmental Quality to provide a forum for coordination of economic development planning and investments so

that strategies and processes for economic development are leveraged to the greatest extent possible to meet agreed-upon priority issues, challenges and goals.

**SECTION 63.** ORS 285B.236 is amended to read:

285B.236. (1) The Economic and Community Development Department, by rule, shall adopt guidelines for submission of regional investment strategies and distribution of funds.

(2) The guidelines shall provide that the regional investment strategies are approved in accordance with criteria reflecting the economic benefits to the state. Each regional investment strategy must at a minimum set forth in measurable terms the extent to which the strategy will accomplish the economic development priorities of the region.

(3) The department, in collaboration with counties, shall establish regions, based on information and advice received from county governing bodies and on historical, cultural and economic links among counties. **Unless there is a recognized regional partnership**, a region shall consist of at least two contiguous counties. For any area in which a regional partnership is established, the department may accept the regional boundaries designated by the partnership.

(4) The department shall require each region to examine its economic development needs.

**SECTION 64.** ORS 285B.239 is amended to read:

285B.239. (1) Regional investment strategies shall serve as a basis for state financial assistance to projects or activities to meet regional **and rural** economic development priorities. Each group of counties that forms a region shall submit a regional investment strategy that at a minimum shall include the following elements:

[(1)] (a) An identification of short-term and long-term regional economic development priorities;

[(2)] (b) An analysis of the unique or significant resources that provide the foundation for the regional investment strategy;

[(3)] (c) An analysis of barriers to implementation of the regional investment strategy and an identification of the means to overcome those barriers;

**(d) A rural action plan;**

[(4)] (e) A long-term plan to implement the regional investment strategy, including necessary actions by:

[(a)] (A) Local governments;

[(b)] (B) The private sector;

[(c)] (C) State government; and

[(d)] (D) Federal government;

[(5)] (f) A [*two-year*] **six-year** investment strategy that describes projects [*and*] **or** activities to be undertaken or funded by the state from lottery proceeds and other sources. For a region that has a recognized regional partnership under ORS 285B.236, the projects or activities may include investment of all or part of the moneys received by the region from the Regional Investment Fund [*or the Rural Investment Fund*] to provide moneys for the administration or financing of long-term or future economic development projects or activities;

[(6)] (g) A plan for involvement of disadvantaged and minority groups in the region;

[(7)] (h) Performance measurements for meeting the objective set forth in ORS 285B.236 (2). Each region shall develop an evaluation plan, as part of its regional investment strategy, for measuring and monitoring regional investment strategy performance. The evaluation plan shall include regional benchmarks for monitoring achievement of the regional investment strategies and priorities. When regional benchmarks are established, regional performance measures shall be determined after negotiation between the regional board and the Oregon Economic and Community Development Commission. The regional performance measures shall include goals for:

[(a)] (A) Projected long-term and short-term job creation and retention activities, including the number of jobs created and retained and wage levels;

[(b)] (B) Leveraging long-term investments; and

[(c)] (C) Maximizing moneys leveraged with short-term investments;

[(8)] (i) Periodic submission by the regional board of performance reports, in a form prescribed by the Economic and Community Development Department for regional investment strategies, to the

county governing bodies in the region, the Oregon Economic and Community Development Commission, *the Governor*] and the Legislative Assembly; and

[(9)] (j) An overall [*strategy management*] **management plan** and project or activity implementation strategy that demonstrates that a region has the capacity to allocate resources and insures that such resources are effectively used.

(2) **Each regional board shall include a rural set aside consistent with the purposes and objectives of the Regional Investment Fund described in subsection (1)(f) of this section.**

(3) **In each biennium, a regional board may dedicate all or a portion of the moneys distributed to the board from the Regional Investment Fund for technical assistance and staff support for updating the regional investment strategy and for developing programs and projects. The regional board shall determine the amount of moneys dedicated to such purposes.**

**SECTION 65.** ORS 285B.242 is amended to read:

285B.242. (1) The governing body of each county of this state shall be responsible for the submission of a regional investment strategy as provided in ORS 285B.239. The governing body of a county shall designate a regional board to develop the regional investment strategy. The regional board shall consist of individuals who represent various local interests including cities, counties, ports, special districts and Indian tribes and significant representation from the private [*economic*] sector. The regional board shall include members who are representatives of rural interests, [*including local government*].

(2) The regional board shall be responsible for developing the regional investment strategy for the region.

(3) The regional board shall hold a public hearing in each county in the region prior to a vote by the governing bodies of the counties to recommend to the [*Governor*] **Economic and Community Development Department** the regional investment strategy described in ORS 285B.239.

(4) In developing the **six-year** implementation strategy provided for in ORS 285B.239 [(5)] (1)(f), a regional board shall consult with industries, cities, ports, special districts, **rural representatives**, regional workforce committees and federally recognized Oregon Indian tribes located in the region.

(5) A region shall submit the regional investment strategy to the [*Economic and Community Development*] department for review by the Oregon Economic and Community Development Commission. The department shall work with regions to refine regional investment strategies and ensure compliance with the requirements of ORS 285B.230 to 285B.269. [*The Oregon Economic and Community Development Commission shall make recommendations on approval of the strategy to the Governor for final approval or shall return the strategy to the regional board for further modification.*]

(6) The [*Economic and Community Development Department*] **commission** shall be responsible for identifying common issues among regions, developing statewide strategies and organizing opportunities for regions to address them.

(7) After a regional investment strategy is developed by a regional board, adopted by the governing bodies of the counties and approved by the [*Governor*] **commission**, the regional board, [*in each biennium*] **every six years**, shall update the strategy and recommend [*a two-year*] **the** implementation [*strategy*] **plan**. The implementation [*strategy*] **plan** shall be adopted by the governing bodies of the counties after input from the cities, ports, special districts, **rural representatives**, Indian tribes, private [*economic*] sector and other parties in the region, **and** shall be reviewed by the [*Oregon Economic and Community Development Commission and must be approved by the Governor before taking effect*] **commission**.

(8) The [*Governor*] **commission** may delegate responsibility for review and approval of a regional investment strategy to a regional partnership.

**SECTION 66.** ORS 285B.245 is amended to read:

285B.245. [(1) *After considering the recommendations submitted, the Governor may adopt a proposed regional investment strategy or return the strategy to the affected counties for modification.*]

[2] (1) The Economic and Community Development Department shall coordinate adopted regional investment strategies with existing state and local economic development efforts to support a state strategy for economic development. Regions using regional investment funds for tourism or industrial marketing projects must, as a condition for receiving the funds, demonstrate that the projects complement and are consistent with existing statewide marketing campaigns. The department shall work with regions to ensure coordination among statewide marketing efforts and regional tourism, [and] industrial marketing projects **and industrial or commercial land development** funded through the regional investment program established under ORS 285B.230 to 285B.269.

[3] (2) The department shall discourage competition among regions for existing Oregon businesses and economic activity.

**SECTION 67.** ORS 285B.260 is amended to read:

285B.260. (1) There is created a Regional Investment Fund, separate and distinct from the General Fund, to consist of all moneys credited thereto, including moneys from the Administrative Services Economic Development Fund, and all interest earned on the Regional Investment Fund. The fund is continuously appropriated to the Economic and Community Development Department to be used for grants to implement ORS 171.845, 280.518 and 285B.230 to 285B.269.

(2) The department may use moneys in the Regional Investment Fund to pay for the administrative expenses of operating the regional investment program under ORS 285B.230 to 285B.269.

(3) The fund shall not be used to retire any debt [or to], to reimburse any person or municipality for expenditures made or expenses incurred prior to the adoption of a regional investment strategy or to substitute for local government expenditures for existing and continuing public services. The department shall adopt rules to carry out the provisions of this subsection.

(4) After consulting with regional boards and representatives of rural communities, the department, by rule, shall adopt standards, objectives and criteria for the use and distribution of moneys in the Regional Investment Fund.

(5) The Regional Investment Fund is created to provide a flexible funding source for financing those locally determined programs and projects that may not be eligible for financing through other state and federal funding sources.

**SECTION 68.** ORS 285B.263 is amended to read:

285B.263. (1) In each biennium, the Economic and Community Development Department shall expend moneys from the Regional Investment Fund for:

(a) Technical assistance and staff support for preparation and update of regional investment strategies;

(b) Projects or activities implementing an approved regional investment strategy and implementing priorities described in the strategy; [and]

(c) Personnel necessary to administer the strategies and projects or activities[.]; and

(d) Other activities consistent with the adopted regional investment strategy in accordance with ORS 285B.239.

(2) In each biennium, the Oregon Economic and Community Development Commission, by rule and in agreement with the Association of Oregon Counties, League of Oregon Cities and Oregon Public Ports Association, may provide funds from any source available to the department to establish strategic regional investment opportunities consistent with the policies described in ORS 285B.266. Funding for projects or activities under this subsection shall be awarded, at the discretion of the commission, according to the quality of the defined projects or activities.

(3) In each biennium, a regional board may dedicate a portion of regional investment funds for technical assistance and staff support for regional investment strategy development and refinement and development and administration of regional partnerships. The portion of funds so dedicated shall be determined by the commission. The commission shall provide regional boards with these funds prior to approval of regional investment strategies.

(4) In each biennium, a regional board may dedicate a portion of regional investment funds to provide grants or loans to individual private businesses for fixed asset acquisition. Such funds must be used to make grants and loans that are consistent with the regional investment strategy and that

support the regional priorities included in the regional investment strategy. The terms and conditions of grants or loans to be made under this subsection must be contained in the regional investment strategy at the time it is submitted for [state] **department** review.

(5) After a regional investment strategy is adopted, the department in each calendar quarter shall provide regional investment funds, less any moneys used for technical assistance and staff support for regional investment strategy development, to the region. Moneys received under this subsection shall be used for development of projects or activities based upon an evaluation by the regional board of the merit and readiness of the projects or activities. Projects and activities that receive such financial assistance must be consistent with the priorities of the approved regional investment strategy.

(6) In each biennium, each regional board shall submit a report to the [Governor] **commission** and the Legislative Assembly that describes the expenditure of moneys received under this section and indicates the success, as defined by specified performance measurements, of the funded projects or activities in achieving the regional economic development priorities described in ORS 285B.236 (2).

**SECTION 69.** ORS 285B.264 is amended to read:

285B.264. [(1) *Notwithstanding ORS 285B.254 (3), distributions from the Rural Investment Fund created under ORS 285B.254 and*] The Regional Investment Fund created under ORS 285B.260 shall be evaluated **by the Economic and Community Development Department** to determine if the regional investment strategy funded by a distribution has met the criteria established by the strategy for:

[(a)] (1) Long-term and short-term job creation and retention activities, including the number of jobs created and retained and wage levels;

[(b)] (2) Leveraging long-term investments; [and]

[(c)] (3) Maximizing moneys leveraged with short-term investments[.]; **and**

**(4) The success of other strategic, long term economic development projects funded.**

[(2) *The Economic and Community Development Department shall adopt rules to ensure that future grants to a regional board are based on the past performance of the board in meeting the criteria established for the regional investment strategy described in subsection (1) of this section.*]

**SECTION 70.** ORS 196.620 is amended to read:

196.620. (1) For each mitigation bank, the Department of State Lands shall establish a system of resource values and credits.

(2) A credit from a mitigation bank may be withdrawn for a condition imposed on a permit in accordance with ORS 196.825 (5), for any other authorization issued in accordance with ORS 196.800 to 196.905 or to resolve a violation of ORS 196.800 to 196.905. **At the request of a mitigation bank sponsor, the Director of the Department of State Lands may authorize the withdrawal of mitigation bank credits by a public benefit corporation as defined in ORS 65.001 or a public body as defined by ORS 174.109 designated by the director for the purpose of reserving credits for future use in accordance with this subsection. The director shall manage such transactions to ensure that each credit is used no more than one time to satisfy a use in accordance with this section.**

(3) Credits from a freshwater mitigation bank may be used only as described in subsection (2) of this section for permits, authorizations or resolutions of violations approved within the service area of the mitigation bank, consistent with the mitigation bank instrument, unless the Director of the Department of State Lands determines, in exceptional circumstances, that it is environmentally preferable to exceed this limitation.

(4) Credits from an estuarine mitigation bank may be used only as described in subsection (2) of this section for permits, authorizations or resolutions of violations approved within the same estuarine ecological system.

(5) The director may not withdraw any credits from any mitigation bank until the director has:

(a) Taken actions sufficient to establish hydrological function of the mitigation bank site;



(b) Conducted other creation, restoration and enhancement actions to establish other wetland functions and values at the mitigation bank site; and

(c) Evaluated the results of the actions and determined that a high probability exists that the wetland functions and values of the mitigation bank site are equal to or greater than the functions and the values of the wetland area to be damaged or destroyed.

(6) The price for any mitigation credit shall be set at an amount that will compensate the state for all of the costs and expenses the state has incurred, and is expected to incur in establishing and maintaining that portion of the mitigation bank.

(7) The director shall not consider the availability or nonavailability of mitigation bank credits in deciding whether to grant or deny any removal or fill permit under ORS 196.600 to 196.905.

(8) The director annually shall:

(a) Evaluate the wetlands functions and values created within each wetland mitigation bank site; and

(b) Compare the current functions and values with those that the director anticipated that the mitigation bank would provide. If the director finds any significant disparity between the actual and anticipated functions and values, the director shall:

(A) Suspend the withdrawal of credits to that mitigation site; or

(B) Take prompt action to ensure that the anticipated functions and values are established.

(9) The director may not withdraw credits from the mitigation bank for a specific permit, authorization or resolution of a violation if the director determines that:

(a) The credits for that specific permit, authorization or resolution of a violation would not adequately maintain habitat or species diversity; or

(b) The mitigation bank site for which credits are proposed to be withdrawn is not sufficiently similar in wetland functions and values to the wetland area to be damaged or destroyed.

## INDUSTRY OUTREACH

**SECTION 71.** The Industry Outreach Fund is established in the State Treasury, separate and distinct from the General Fund. The Industry Outreach Fund shall consist of all moneys credited to the fund, including moneys from the Administrative Services Economic Development Fund. Interest earned by the Industry Outreach Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Economic and Community Development Department for all of the following purposes:

(1) To provide funds for activities outlined in ORS 285B.266.

(2) To assist traded sector and cluster affiliated Oregon businesses and consortia in making investments that advance industry related development activities or other identified competitiveness objectives of existing Oregon cluster businesses.

## INDUSTRIAL DEVELOPMENT REVENUE BONDS

**SECTION 72.** ORS 285B.320 is amended to read:

285B.320. *[The Legislative Assembly finds that by use of the powers and procedures described in ORS 285B.320 to 285B.371 for the assembling and financing of lands for industrial, solid waste disposal, commercial and research and development uses and for the construction and financing of facilities for such uses, financed through the issuance of bonds secured solely by the properties, lease payments, loan payments, rentals or other financing payments thus made available, the state may be able to reduce substantially in various counties the occurrence of economic conditions requiring more expensive remedial action.]* It is the purpose of ORS 285B.320 to 285B.371 to authorize the exercise of powers granted by ORS 285B.320 to 285B.371 by this state in addition to and not in lieu of any other powers it may possess.

**SECTION 73.** ORS 285B.323 is amended to read:

285B.323. As used in ORS 285B.320 to 285B.371, unless the context requires otherwise:

(1) "Bond" means any evidence of indebtedness, including but not limited to any bond, note, obligation, loan agreement, financing agreement, contracts for leasing, rental or financing of real or personal property, including contracts for rental, long term leases under an optional contract for purchase, financing agreements with vendors, financial institutions or others or for purchase of any property secured by revenues or from other financing sources as provided in ORS 285B.320 to 285B.371. A bond, as defined in this subsection and issued under ORS 285B.320 to 285B.371, shall be considered a revenue bond for purposes of ORS 286.031.

(2) "Economic development project" includes any properties, real or personal, used or useful in connection with a revenue producing enterprise [*or any solid waste disposal facilities and*], **exempt facilities or nonprofit entities and** related vehicles, rolling stock or equipment. "Economic development project" [*shall*] **does not** include any facility or facilities designed primarily for the generation, transmission, sale or distribution of electrical energy.

(3) "Eligible project" means an economic development project found by the Oregon Economic and Community Development Commission to meet standards of the commission [*adopted under ORS 285A.110*]. The commission may treat as a single eligible project for bonding purposes any number of economic development projects determined to be eligible projects.

(4) "**Exempt facility**" means any facility described in section 142(a) of the Internal Revenue Code of 1986, as amended and in effect as of June 30, 2007. If section 142(a) of the Internal Revenue Code of 1986 is amended or altered on or after July 1, 2007, the Economic and Community Development Department may adopt by rule a definition of "exempt facility" that is consistent with section 142(a) of the Internal Revenue Code of 1986 as amended or altered.

(5) "**Nonprofit entity**" means an institution, organization or other entity exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended and in effect as of June 30, 2007. If section 501(c)(3) of the Internal Revenue Code of 1986 is amended or altered on or after July 1, 2007, the department may adopt a definition of "nonprofit entity" that is consistent with section 501(c)(3) of the Internal Revenue Code of 1986 as amended or altered.

**SECTION 74.** ORS 285B.326 is amended to read:

285B.326. (1) Upon determining **that** an economic development project is an ["eligible project,"] the Oregon Economic and Community Development Commission shall forward the application to the State Treasurer, who shall determine whether to issue the bonds.

(2) The commission shall collect [*the*] fees set forth in [*subsection (3) of this section from an applicant that seeks to have an economic development project declared eligible for financing*] **rules established by the Economic and Community Development Department.** [*The fee may be collected even though the project has not been determined to be eligible for financing.*] Moneys collected under this subsection shall be deposited in the Oregon Community Development Fund created under ORS 285A.227 and are continuously appropriated to the commission for the purpose of administration or funding of [*any program it is authorized to operate.*] **the Oregon Industrial Development Revenue Bond and Express Bond Program.**

[*(3) The fees described in subsection (2) of this section are as follows:*]

[*(a) \$250 for an application of not to exceed \$500,000.*]

[*(b) \$500 for an application of more than \$500,000.*]

[*(c) A closing fee of not to exceed one-half of one percent of the total bond issue for the project, as determined by the commission.*]

**(3)(a) In addition to the fees described in subsection (2) of this section, the commission may charge and receive reimbursement for expenses incurred in:**

**(A) The initial review of an application for economic development projects sought to be declared eligible for financing; and**

**(B) Matters arising after the issuance of a bond.**

**(b) Reimbursement for expenses under this subsection shall be charged and received in accordance with rules established by the department.**

**SECTION 75.** ORS 285B.329 is amended to read:

285B.329. (1) The state, acting through the State Treasurer, shall not undertake to finance any economic development project pursuant to ORS 285B.320 to 285B.371 before the Oregon Economic and Community Development Commission has reviewed the project [*pursuant to standards adopted under ORS 285A.110*].

(2) The commission is not required to make the determination and findings described in ORS 285A.055 (1) and (2) if the economic development project involves **an exempt facility** [*a solid waste disposal facility*] and related vehicles, rolling stock or equipment when the project does not require any private activity volume cap under ORS 286.605 to 286.645.

## CONFORMING AMENDMENTS

**SECTION 76.** ORS 238.015 is amended to read:

238.015. (1) No person may become a member of the system unless that person is in the service of a public employer and has completed six months' service uninterrupted by more than 30 consecutive working days during the six months' period. Every employee of a participating employer shall become a member of the system at the beginning of the first full pay period of the employee following the six months' period. Contributions for new members shall first be made for those wages that are attributable to services performed by the employee during the first full pay period following the six months' period, without regard to when those wages are considered earned for other purposes under this chapter. All public employers participating in the Public Employees Retirement System established by chapter 401, Oregon Laws 1945, as amended, at the time of repeal of that chapter, and all school districts of the state, shall participate in, and their employees shall be members of, the system, except as otherwise specifically provided by law.

(2) Any active member of the Public Employees Retirement System who, through the annexation of a political subdivision employing the member or by change of employment, becomes the employee of another political subdivision which is participating in the Public Employees Retirement System and has also a separate retirement system for its employees, shall remain an active member of the Public Employees Retirement System unless, within 60 days after the effective date of the annexation or change of employment or April 8, 1953, the member shall by written notice to the Public Employees Retirement Board and to the administrative body of the new public employer elect to relinquish membership in the Public Employees Retirement System and become a member of the separate retirement system of the employer, if eligible for membership in that retirement system, and the member shall be so carried by the new employer. Immediately upon such annexation of any political subdivision or such change of employment, the new public employer shall inform such employee in writing of the right of the employee to exercise an election as in this section provided.

(3) A political subdivision (other than a school district) not participating in the retirement system established by chapter 401, Oregon Laws 1945, as amended, which employs one or more employees, each of whose position requires 600 hours of service per year, or an agency created by two or more political subdivisions to provide themselves governmental services, which employs one or more employees, each of whose position requires 600 hours of service per year, may, through its governing body, notify the board in writing, that it elects to include its employees in the system hereby established. Such public employer may request the board to make a study and estimate of the cost of including it and its eligible employees, other than volunteer firefighters, in the system, which the board thereupon shall cause to be made and the cost of which the employer shall bear. Upon completion of the study and estimate the employer may apply for admission to the system, whereupon it shall begin to participate therein and its eligible employees other than volunteer firefighters shall become members of the system. If the employer is an agency created by two or more political subdivisions to provide themselves governmental services and ceases thereafter to transmit to the board contributions for any of its eligible employees, the benefits based upon employer contributions to which such employees would otherwise be entitled shall be reduced accordingly.

(4) No inmate of a state institution or an alien on a training or educational visa working for any participating employer, even though the inmate or alien received compensation from a participating employer, shall be eligible to become a member of the system. No person employed by a participating employer and defined by such employer as a student employee is eligible to become a member of the system for such student employment.

(5) A person holding an elective office or an appointive office with a fixed term or an office as head of a department to which the person is appointed by the Governor may become a member of the system by giving the board written notice of desire to do so within 30 days after taking the office or, in the event that the officer is not eligible to become a member of the system at the time of taking the office, within 30 days after becoming so eligible. Membership so established shall not be discontinued during the appointive or elective term of the officer except upon separation of the officer from service.

(6) A public employer employing volunteer firefighters may apply to the board at any time for them to become members of the system. Upon receiving the application the board shall fix a wage at which, for purposes of this chapter only, they shall be considered to be employed and which shall be the basis for computing the amounts of the contributions, if any, which they pay into, and of the benefits which they and their beneficiaries receive from, the fund; and if the wage so fixed is satisfactory to the employer, shall include the firefighters in the system.

(7)(a) In the event that an employee enters the service of a public employer which is participating in or later begins to participate in the system and in the event that at the time of entering that service or at the time that the employer begins to participate in the system the employee has commenced to purchase and is continuing to purchase a retirement annuity, if the employer deems the annuity adequate for the purposes of this chapter, it may enter into an agreement with the employee and the board pursuant to which the employee may be exempted from contributing to the Public Employees Retirement Fund, and, if no public funds are being used to purchase the annuity or a corresponding pension, the employer, in lieu of the contributions which it otherwise would make to the fund on account of the employee, may make contributions toward the cost of purchasing the annuity. Such employee otherwise shall be subject to the provisions of this chapter, except that neither the employee nor any person claiming under the employee shall receive any payments from the retirement fund as service or disability allowance.

(b) An employee who enters into an agreement under paragraph (a) of this subsection may elect at any time thereafter to start to participate in the system by giving written notice of desire to participate to the board and to the employer. The employee shall receive no retirement credit for the period during which the employee was exempted from contributing to the fund under the agreement, but the employee shall be considered to have completed the six months' service required for membership in the system. When the employee starts to participate in the system the employer shall start to contribute to the fund on account of the employee in the same manner as the employer contributes on account of other employees who are active members of the system and the employer shall stop making contributions toward the cost of purchasing the retirement annuity.

(8)(a) All new appointees in the Federal Cooperative Extension Service or in any other service in which participation in the Federal Civil Service retirement program is mandatory, who receive a federal appointment on or after July 1, 1955, may participate in the Public Employees Retirement System only by giving written notice of their election to so participate to the Public Employees Retirement Board within six months after the effective date of their appointment.

(b) All persons employed by the Federal Cooperative Extension Service or by any other service in which participation in the Federal Civil Service retirement program is mandatory, who are under federal appointment as of July 1, 1955, and who are members of the state retirement system, shall continue such membership unless, prior to February 1, 1956, they give written notice to the Public Employees Retirement Board of their desire to cancel their membership.

(c) Any person who is an active member of the Public Employees Retirement System, who, on or after July 1, 1955, is employed by the Federal Cooperative Extension Service or by any other service in which participation in the Federal Civil Service retirement program is mandatory, and

who is given a federal appointment, shall continue such membership in the Public Employees Retirement System unless, within six months after the effective date of the appointment, the person gives written notice to the Public Employees Retirement Board of the desire to cancel membership.

(d) A cancellation of membership under paragraph (b) or (c) of this subsection terminates membership in the Public Employees Retirement System and cancels the right to any benefits from, or claims against, that system. Such cancellation prevents the withdrawing member from claiming thereafter any retirement credit for any period of employment before the cancellation. Upon receipt of a notice of cancellation, the Public Employees Retirement Board shall refund the member account of the withdrawing member, regardless of the age of the withdrawing member.

(9) Employees, including managers, of foreign trade offices of the Economic and Community Development Department who live and perform services in foreign countries under the provisions of [ORS 285A.090 (13)] **ORS 285A.075 (1)(g)** shall not be members of the system. However, any person who is an active member of the system immediately before becoming an employee of a foreign trade office shall continue to be a member of the system during the period of time the person serves as an employee of the foreign trade office.

(10) An employee who is participating in an alternative retirement program established pursuant to ORS 353.250 or an optional retirement plan established pursuant to ORS 341.551 may not be an active member of the Public Employees Retirement System.

**SECTION 77.** ORS 238A.005 is amended to read:

238A.005. For the purposes of this chapter:

(1) "Active member" means a member of the pension program or the individual account program of the Oregon Public Service Retirement Plan who is actively employed in a qualifying position.

(2) "Actuarial equivalent" means a payment or series of payments having the same value as the payment or series of payments replaced, computed on the basis of interest rate and mortality assumptions adopted by the board.

(3) "Board" means the Public Employees Retirement Board.

(4) "Eligible employee" means a person who performs services for a participating public employer, including elected officials other than judges. "Eligible employee" does not include:

(a) Persons engaged as independent contractors;

(b) Aliens working under a training or educational visa;

(c) Persons, other than workers in the Industries for the Blind Program under ORS 346.190, provided sheltered employment or make-work by a public employer;

(d) Persons categorized by a participating public employer as student employees;

(e) Any person who is an inmate of a state institution;

(f) Employees of foreign trade offices of the Economic and Community Development Department who live and perform services in foreign countries under the provisions of [ORS 285A.090 (13)] **ORS 285A.075 (1)(g)**;

(g) An employee actively participating in an alternative retirement program established under ORS 353.250 or an optional retirement plan established under ORS 341.551;

(h) Employees of the Oregon University System who are actively participating in an optional retirement plan offered under ORS 243.800;

(i) Any employee who belongs to a class of employees that was not eligible on August 28, 2003, for membership in the system under the provisions of ORS chapter 238 or other law;

(j) Any person who belongs to a class of employees who are not eligible to become members of the Oregon Public Service Retirement Plan under the provisions of ORS 238A.070 (2);

(k) Any person who is retired under ORS 238A.100 to 238A.245 or ORS chapter 238 and who continues to receive retirement benefits while employed; and

(L) Judges.

(5) "Firefighter" means:

(a) A person employed by a local government, as defined in ORS 174.116, whose primary job duties include the fighting of fires;

(b) The State Fire Marshal, the chief deputy state fire marshal and deputy state fire marshals; and

(c) An employee of the State Forestry Department who is certified by the State Forester as a professional wildland firefighter and whose primary duties include the abatement of uncontrolled fires as described in ORS 477.064.

(6) "Fund" means the Public Employees Retirement Fund.

(7)(a) "Hour of service" means:

(A) An hour for which an eligible employee is directly or indirectly paid or entitled to payment by a participating public employer for performance of duties in a qualifying position; and

(B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave during which an employee does not perform duties but for which the employee is directly or indirectly paid or entitled to payment by a participating public employer for services in a qualifying position, as long as the hour is within the number of hours regularly scheduled for the performance of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave.

(b) "Hour of service" does not include any hour for which payment is made or due under a plan maintained solely for the purpose of complying with applicable workers' compensation laws or unemployment compensation laws.

(8) "Inactive member" means a member of the pension program or the individual account program of the Oregon Public Service Retirement Plan whose membership has not been terminated, who is not a retired member and who is not employed in a qualifying position.

(9) "Individual account program" means the defined contribution individual account program of the Oregon Public Service Retirement Plan established under ORS 238A.025.

(10) "Member" means an eligible employee who has established membership in the pension program or the individual account program of the Oregon Public Service Retirement Plan and whose membership has not been terminated under ORS 238A.110 or 238A.310.

(11) "Participating public employer" means a public employer as defined in ORS 238.005 that provides retirement benefits for employees of the public employer under the system.

(12) "Pension program" means the defined benefit pension program of the Oregon Public Service Retirement Plan established under ORS 238A.025.

(13) "Police officer" means a police officer as described in ORS 238.005.

(14) "Qualifying position" means one or more jobs with one or more participating public employers in which an eligible employee performs 600 or more hours of service in a calendar year, excluding any service in a job for which benefits are not provided under the Oregon Public Service Retirement Plan pursuant to ORS 238A.070 (2).

(15) "Retired member" means a pension program member who is receiving a pension as provided in ORS 238A.180 to 238A.195.

(16)(a) "Salary" means the remuneration paid to an active member in return for services to the participating public employer, including remuneration in the form of living quarters, board or other items of value, to the extent the remuneration is includable in the employee's taxable income under Oregon law. Salary includes the additional amounts specified in paragraph (b) of this subsection, but does not include the amounts specified in paragraph (c) of this subsection, regardless of whether those amounts are includable in taxable income.

(b) "Salary" includes the following amounts:

(A) Payments of employee and employer money into a deferred compensation plan that are made at the election of the employee.

(B) Contributions to a tax-sheltered or deferred annuity that are made at the election of the employee.

(C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit plan by the employer at the election of the employee and that is not includable in the taxable income of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on August 29, 2003.

(D) Any amount that is contributed to a cash or deferred arrangement by the employer at the election of the employee and that is not included in the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in effect on August 29, 2003.

(E) Retroactive payments made to an employee to correct a clerical error, pursuant to an award by a court or by order of or pursuant to a conciliation agreement with an administration agency charged with enforcing federal or state law protecting the employee's rights to employment or wages, which shall be allocated to and deemed paid in the periods in which the work was done or in which the work would have been done.

(F) The amount of an employee contribution to the individual account program that is paid by the employer and deducted from the compensation of the employee, as provided under ORS 238A.335 (1) and (2)(a).

(G) The amount of an employee contribution to the individual account program that is not paid by the employer under ORS 238A.335.

(H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS 652.190.

(c) "Salary" does not include the following amounts:

(A) Travel or any other expenses incidental to employer's business which is reimbursed by the employer.

(B) Payments made on account of an employee's death.

(C) Any lump sum payment for accumulated unused sick leave, vacation leave or other paid leave.

(D) Any severance payment, accelerated payment of an employment contract for a future period or advance against future wages.

(E) Any retirement incentive, retirement bonus or retirement gratuitous payment.

(F) Payment for a leave of absence after the date the employer and employee have agreed that no future services in a qualifying position will be performed.

(G) Payments for instructional services rendered to institutions of the Department of Higher Education or the Oregon Health and Science University when those services are in excess of full-time employment subject to this chapter. A person employed under a contract for less than 12 months is subject to this subparagraph only for the months covered by the contract.

(H) The amount of an employee contribution to the individual account program that is paid by the employer and is not deducted from the compensation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

(I) Any amount in excess of \$200,000 for a calendar year. If any period over which salary is determined is less than 12 months, the \$200,000 limitation for that period shall be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12. The board shall adopt rules adjusting this dollar limit to incorporate cost-of-living adjustments authorized by the Internal Revenue Service.

(17) "System" means the Public Employees Retirement System.

**SECTION 78.** ORS 285B.551 is amended to read:

285B.551. (1) Pursuant to ORS 286.560 to 286.580, lottery bonds may be issued:

(a) To provide financial and other assistance, including but not limited to loans and grants, to municipalities, ports and other persons and entities in accordance with the laws governing use of moneys in the Special Public Works Fund created by ORS 285B.455, the Water Fund created by ORS 285B.563, the Safe Drinking Water Revolving Loan Fund created by ORS 285A.213, the Oregon Port Revolving Fund created by ORS 285A.708, the Brownfields Redevelopment Fund created by ORS 285A.188, the Oregon Business Development Fund created by ORS 285B.092 and the Marine Navigation Improvement Fund created by ORS 777.267.

(b) To fund Oregon's share of the costs of the Columbia River channel deepening project.

(c) To fund Oregon's share of the costs of studies and ecosystem restoration projects in the lower Columbia River estuary designed to improve habitat for listed endangered or threatened species of Columbia River anadromous salmonids.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) The financial and other assistance to municipalities, ports and other persons and entities will assist in the establishment and expansion of businesses in Oregon and in the construction, improvement and expansion of infrastructure, community and port facilities and other facilities that comprise the physical foundation for industrial and commercial activity and provide the basic framework for continued and expanded economic opportunities and quality communities throughout Oregon.

(b) The Columbia River channel deepening project is necessary to allow newer, larger steamships access to Oregon and Washington deep draft ports. A deeper shipping channel will allow the Columbia River to continue as a world leader in agricultural exports and as a key trade corridor for farms and businesses throughout Oregon and the region.

(c) Such financial and other assistance to municipalities, ports and other persons and entities and the deepening of the Columbia River channel will therefore promote economic development within this state, and thus the use of net proceeds derived from the operation of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to provide such financial and other assistance to municipalities, ports and other persons and entities and to pay a portion of the costs of deepening the Columbia River channel is an authorized use of state lottery funds under section 4, Article XV of the Oregon Constitution, and ORS 461.510.

(d) The current lower Columbia River estuary habitat for listed endangered or threatened species of Columbia River anadromous salmonids could be improved through ecosystem restoration projects. The use of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to pay for studying how the estuary could be improved and to pay for ecosystem restoration projects are authorized uses of state lottery funds.

(3) The aggregate principal amount of lottery bonds issued pursuant to subsection (1)(a) of this section for financial and other assistance to municipalities, ports and other persons and entities may not exceed the sum of \$227.27 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. The aggregate principal amount of lottery bonds issued pursuant to subsection (1)(b) of this section for the Columbia River channel deepening project may not exceed the sum of \$17.7 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. Lottery bonds issued pursuant to this section may be issued only at the request of the Director of the Economic and Community Development Department. The director may not request the issuance of lottery bonds pursuant to subsection (1)(b) of this section until a final environmental impact statement has been issued and a record of decisions has been submitted to Congress by the United States Army Corps of Engineers, Congress has authorized the Columbia River channel deepening project, and the Washington sponsors' shares of the costs of the Columbia River channel deepening project have been committed.

(4) The net proceeds of lottery bonds issued pursuant to subsection (1)(a) and (b) of this section shall be deposited in the Economic Infrastructure Project Fund, which is hereby established in the State Treasury separate and distinct from the General Fund. All moneys in the Economic Infrastructure Project Fund are continuously appropriated to the Economic and Community Development Department for any purpose for which moneys in the Special Public Works Fund created by ORS 285B.455 may be used, any purpose for which moneys in the Water Fund created by ORS 285B.563 may be used, any purpose for which moneys in the Safe Drinking Water Revolving Loan Fund created by ORS 285A.213 may be used, any purpose for which moneys in the Oregon Port Revolving Fund created by ORS 285A.708 may be used, any purpose for which moneys in the Brownfields Redevelopment Fund created by ORS 285A.188 may be used, any purpose for which moneys in the Oregon Business Development Fund created by ORS 285B.092 may be used and any purpose for which moneys in the Marine Navigation Improvement Fund created by ORS 777.267 may be used. The Director of the Economic and Community Development Department shall allocate the moneys deposited in the Economic Infrastructure Project Fund for the purposes described in this subsection in accordance with the [*policies*] **priorities** developed by the Oregon Economic and Community Development Commission in accordance with ORS [285A.045] **285A.020**. However, the



director shall transfer from the Economic Infrastructure Project Fund and deposit into the Channel Deepening Account of the Marine Navigation Improvement Fund the proceeds of any lottery bonds sold to finance a portion of the costs of the Columbia River channel deepening project. Upon determining the relative allocation of moneys deposited in the Economic Infrastructure Project Fund among the purposes described in this subsection, the director shall transfer from the Economic Infrastructure Project Fund, and deposit into each of the other funds described in this subsection, the amounts so allocated. Notwithstanding any other provision of law governing the funds described in this subsection, the funds described in this subsection may be credited with moneys transferred from the Economic Infrastructure Project Fund by the director in accordance with this subsection.

(5) The aggregate principal amount of lottery bonds issued pursuant to subsection (1)(c) of this section for the costs of studies and ecosystem restoration projects in the lower Columbia River estuary may not exceed the sum of \$750,000 and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. The net proceeds of lottery bonds issued pursuant to subsection (1)(c) of this section shall be deposited in the Oregon Community Development Fund created by ORS 285A.227 and may be used only for the Oregon nonfederal share of United States Army Corps of Engineers Columbia River estuary projects authorized by Congress prior to August 9, 2001. The director may not request the issuance of lottery bonds pursuant to subsection (1)(c) of this section until Congress and Washington have authorized their respective shares of the costs of the studies and ecosystem restoration projects in the lower Columbia River estuary.

(6) The proceeds of lottery bonds issued pursuant to this section may be used only for the purposes set forth in this section and for bond-related costs.

**SECTION 79.** ORS 285B.740 is amended to read:

285B.740. It is the intent of the Legislative Assembly that in the administration of ORS 285B.740 to 285B.758, the Economic and Community Development Department work closely with regional economic development organizations, community development corporations, small business development centers and organizations that promote and assist small businesses owned and operated by women and minorities[, *as defined by ORS 285B.050 (9)*]. The Economic and Community Development Department, to the maximum extent feasible and consistent with prudent financial controls, may delegate the administration and operation of the loan program created by ORS 285B.740 to 285B.758 to local and community-based entities. To carry out the policy described in this section:

(1) The Economic and Community Development Department may contract with any nonprofit corporation or agency with experience and expertise in business finance to administer all or any part of the loan program created by ORS 285B.740 to 285B.758.

(2) When entering into an agreement for the administration of the loan program by any nonprofit corporation or agency, the Economic and Community Development Department may agree to waive any claims it may have against such corporation or agency for losses arising out of the normal course of business, so long as the corporation or agency does not act negligently or fraudulently in providing loans under ORS 285B.740 to 285B.758.

(3) When entering into an agreement to have a nonprofit corporation or agency administer the loan program created by ORS 285B.740 to 285B.758, the Economic and Community Development Department may pay loan origination and loan servicing fees to the corporation or agency. The amount of such fees may be determined in the agreement between the department and the administering corporation or agency.

**SECTION 80.** ORS 286.585 is amended to read:

286.585. (1) Pursuant to ORS 286.560 to 286.580 and 348.716 and subject to future legislative approval, lottery bonds may be issued to make grants or loans to Oregon cities to fund projects for the reconstruction, renovation or development of community sports facilities in order to make the facilities suitable for use by a major league baseball team if a city is selected as an expansion site by major league baseball or if a major league baseball team agrees to relocate to a city.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) The financial assistance to cities will assist in the construction, improvement and expansion of infrastructure and community facilities that comprise the physical foundation for commercial ac-

tivity and provide the basic framework for continued and expanded economic opportunities and quality communities throughout Oregon.

(b) Such financial assistance to cities will therefore promote economic development within this state, and thus the use of net proceeds derived from the operation of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to provide such financial assistance to cities is an appropriate use of state lottery funds under section 4, Article XV of the Oregon Constitution, and ORS 461.510.

(3) Lottery bonds issued pursuant to this section shall be issued only at the request of the Director of the Economic and Community Development Department.

(4) The net proceeds of lottery bonds issued pursuant to this section shall be deposited in the Economic Infrastructure Project Fund established by ORS 285B.551. The Director of the Economic and Community Development Department shall allocate the moneys deposited in the Economic Infrastructure Project Fund for the purpose described in this section in accordance with the [*policies*] **priorities** developed by the Oregon Economic and Community Development Commission in accordance with [*ORS 285A.045*] **ORS 285A.020**.

(5) The proceeds of lottery bonds issued pursuant to this section shall be used only for the purposes set forth in this section and for bond-related costs.

**SECTION 81.** ORS 777.760 is amended to read:

777.760. As used in ORS 777.755 to 777.800, unless the context requires otherwise:

(1) "Board" means the board of directors of an export trading corporation.

(2) "Commissioner" means a member of the board of commissioners of a port.

(3) "Commissioners of the port" means the board of commissioners of the port which formed the export trading corporation.

(4) "Export trading corporation" means a municipal corporation formed by a port under ORS 294.125, 294.316, 646.740 and 777.755 to 777.800.

(5) "Export trading project" means a transaction or arrangement for the purchase, sale, exchange or delivery of goods or services in international trade or commerce.

(6) "Port" means a municipal corporation formed under ORS [*285A.666 to 285A.732,*] 777.005 to 777.725, 777.915 to 777.953 and 777.990 or ORS chapter 778.

(7) "Services" includes, but is not limited to, architectural, automatic data processing, business, communications, consulting, engineering, financial, insurance, legal, management, product research and design, repair, training and transportation services.

**SECTION 82.** ORS 777.953 is amended to read:

777.953. (1) The board, on its own motion, may initiate a proposal for annexation to the port of territory that is not within another port organized under [*ORS 285A.600 to 285A.708 and*] this chapter. Such territory may be either wholly or partially within or outside the same county in which the port is located. However, if the territory proposed to be annexed is outside Coos County, then the territory must be situated entirely within the watershed of the Coos River and its tributaries. The proposal for annexation shall be made in a resolution adopted by the board.

(2) After adoption of a resolution proposing annexation of the territory described in subsection (1) of this section to the port, the board shall fix a day for a public hearing before the board at which time the electors of the port and of the affected territory may appear and be heard on the question of annexation.

(3) The board shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of the hearing in a newspaper of general circulation in the county and shall cause notices of the hearing to be posted in four public places in the port for the same period.

(4) After the public hearing, the board shall file the resolution proposing annexation with the governing body of the county in which the territory proposed to be annexed is situated. The county governing body shall order an election to be held in the territory. The county governing body shall also order the board to hold an election within the boundaries of the port on the same day, both elections to be held for the purpose of submitting the proposed annexation to the electors. The board shall certify the results of the election to the county governing body. The order of annexation shall

be entered by the county governing body when a majority of all the votes cast in the territory and the port are in favor of the annexation.

(5) After the date of entry of an order by the county governing body annexing territory to the port, the territory annexed shall become subject to the outstanding indebtedness, bonded or otherwise, of the port in like manner as the territory within the port.

(6) ORS 198.705 to 198.955 and 777.326 do not apply to an annexation proceeding conducted under this section.

**SECTION 83.** ORS 184.632 is amended to read:

184.632. (1) The Legislative Assembly finds that:

(a) The ports in Oregon provide effective local assistance to state transportation development efforts.

(b) The ports in this state develop and market facilities and services to support important existing industries in this state, such as aviation, maritime commerce, international trade, tourism, recreation and transportation.

(c) Port facilities, including roads, railroads, airports, harbors and navigation channels, are an integral element of the transportation infrastructure of this state.

(2) Therefore, the Legislative Assembly declares that it is the policy of this state to include Oregon's ports in planning and implementing transportation programs. To that end, the Department of Transportation and the Oregon Department of Aviation may work to:

(a) Coordinate with the Economic and Community Development Department [*and the Ports Division*] to facilitate port planning and development;

(b) Promote local cooperation in statewide planning and development of the ports;

(c) Promote long-term economic self-sufficiency of the ports;

(d) Encourage cost-effective investments with prudent financial consideration of port development projects; and

(e) Facilitate the efforts of the ports to expand and respond to greater domestic and international market opportunities.

**SECTION 84.** ORS 284.540 is amended to read:

284.540. (1) There is established the Governor's Council on Oregon's Economy.

(2) The members of the council are:

(a) The presiding officer of the Oregon Economic and Community Development Commission;

(b) The chairperson of the Oregon Transportation Commission;

(c) The chairperson of the State Board of Agriculture;

[(d) *The chairperson of the International Trade Commission;*]

[(e)] (d) The president of the State Board of Higher Education; and

[(f)] (e) Other persons designated by the Governor.

(3) The council shall meet quarterly to:

(a) Discuss and coordinate the activities of each entity described in subsection (2) of this section that relate to economic development and improving the economy in Oregon; and

(b) Discuss and recommend to the Legislative Assembly methods for creating certainty for the development process.

**SECTION 85.** ORS 284.706 is amended to read:

284.706. (1) There is created the Oregon Innovation Council consisting of the following voting members:

(a) The Governor or the Governor's designated representative, who shall be chairperson of the council.

(b) Five members appointed by the Governor who are engaged in the operations of Oregon traded sector industries.

(c) One member appointed by the Governor who is a representative of an Oregon-based, generally accredited, not-for-profit private institution of higher education.

(d) A member of the Oregon Growth Account Board, appointed by the board, who has experience in the field of venture capital.

(e) A member of the Engineering and Technology Industry Council, appointed by the Engineering and Technology Industry Council.

(f) The Director of the Economic and Community Development Department.

(g) The Chancellor of the Oregon University System.

(h) The Commissioner for Community College Services.

(i) The State Treasurer.

(2)(a) The Speaker of the House of Representatives shall appoint two members to the council who are members of the House of Representatives.

(b) The President of the Senate shall appoint two members to the council who are members of the Senate.

(c) Members of the Legislative Assembly appointed to the council are nonvoting members and may act in an advisory capacity only.

(3) The following persons, or their representatives, shall serve as ex officio, nonvoting members of the council:

(a) The chairperson of the Oregon Economic and Community Development Commission.

*[(b) The chairperson of the International Trade Commission.]*

*[(c)] (b)* The president of the State Board of Higher Education.

*[(d)] (c)* The chairperson of the State Board of Education.

*[(e)] (d)* An executive officer of an association representing Oregon-based, generally accredited, not-for-profit private institutions of higher education, appointed by the Governor.

(4) The term of office of each appointed voting member of the council is three years, but an appointed member serves at the pleasure of the appointing authority. Before the expiration of the term of an appointed voting member, the appointing authority shall appoint a successor whose term begins on July 1 next following. An appointed member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for the remainder of the unexpired term.

(5) A majority of the voting members of the council constitutes a quorum for the transaction of business.

(6) Official action by the council requires the approval of a majority of the voting members of the council.

(7) The council shall meet at least twice per fiscal year at a place, day and time determined by the chairperson. The council may also meet at other times and places specified by a call of the chairperson or by written request of a majority of the voting members of the council.

(8) The council may adopt rules necessary for the operation of the council.

(9) The council may establish committees and delegate to the committees duties as the council considers desirable.

(10) The Economic and Community Development Department shall provide staff support to the council.

(11) Members of the council who are not members of the Legislative Assembly are entitled to compensation and expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for compensation and expenses of members of the council who are public officers shall be paid out of funds appropriated to the public agency that employs the member. Claims for compensation and expenses of members of the council who are not public officers shall be paid out of funds appropriated to the Economic and Community Development Department for that purpose.

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the council in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the council consider necessary to perform their duties.

**SECTION 86. ORS 285A.085, 285A.090, 285A.095, 285A.100, 285A.105, 285A.110, 285A.112, 285A.114, 285A.125, 285A.131, 285A.133, 285A.136, 285A.139, 285A.141, 285A.203, 285A.209, 285A.606, 285A.609, 285A.612, 285A.618, 285A.624, 285A.630, 285A.633, 285B.071, 285B.074,**

**285B.077, 285B.095, 285B.139, 285B.144, 285B.150, 285B.159, 285B.162, 285B.166, 285B.183, 285B.212, 285B.254, 285B.257, 285B.332, 285B.752 and 285B.755 are repealed.**

## **CONFLICT AMENDMENTS**

**SECTION 87. Notwithstanding section 29, chapter \_\_\_, Oregon Laws 2007 (Enrolled House Bill 2263) (amending ORS 285A.090), if House Bill 2263 becomes law, ORS 285A.090 is repealed.**

**SECTION 88.** If House Bill 2263 becomes law, ORS 285A.020, as amended by section 2 of this 2007 Act, is amended to read:

285A.020. (1) The Legislative Assembly finds that:

(a) Oregon possesses many unique and sustaining virtues that will guide and assist in maintaining the state's economic health, including but not limited to Oregon's:

(A) Special heritage;

(B) Respect for and cultivation of the environment; and

(C) Attention to quality of life issues that are important to the state's economic development, including but not limited to access to quality, affordable child care for all children in Oregon.

(b) Oregon is strategically placed to compete and succeed in the global community.

(c) All regions of the state should share in Oregon's economic recovery.

(d) Creating and retaining quality jobs is vital to the state's continued economic development.

(e) Oregon's agriculture and natural resource industries provide opportunities for beneficial economic enterprise, including sustainable economic development activities.

(f) A well educated and trained workforce is necessary to advance in today's global economy.

(g) The ability of existing businesses to grow and prosper is critical to Oregon's economy.

(h) Utilizing the state's competitive advantages is essential to retain existing businesses and attract new companies and investment into the state.

(i) Continued economic development depends on strengthening traded sector industries.

(j) International trade development and promotion is invaluable for future economic development opportunities.

(k) Small businesses remain a critical element of the state's economic development, comprising more than 90 percent of Oregon's businesses.

(L) Capacity building in rural and distressed areas is a key component of economic development and revitalization efforts.

(m) Oregon's ports are important partners in the state's economic development efforts and are key components of local and state economic development strategies.

(n) Improving and enhancing infrastructure is necessary to the state's future economic development.

(o) Federal, state and local agencies working together will continue to enhance industrial site development and other economic development activities.

(p) The Economic and Community Development Department should be encouraged to convene community development partners to explore the prospect of making loans to private industrial landowners from the Brownfields Redevelopment Fund for future development opportunities.

(2) It is the purpose of ORS chapters 285A, 285B and 285C to advance Oregon's economy.

(3) The Legislative Assembly declares that it is the immediate economic strategy of the state to:

(a) Promote a favorable investment climate to strengthen businesses, create jobs and raise real wages;

(b) Improve the national and global competitiveness of Oregon companies; and

(c) Assist Oregon communities in building capacity to retain, expand and attract businesses.

(4) To promote the advancement of the Oregon economy and implement the immediate economic strategy of the state, the Economic and Community Development Department shall invest resources in accordance with the following principles:

(a) Processes for making public investments and working with local and regional issues must be designed for flexibility so that actions can adapt to the constantly changing conditions and demands under which communities and businesses operate.

(b) Partnerships among local, state and federal governments and public and private organizations and entities should be strengthened to further the economic strategy of the state.

(c) The expected impact of public investment and assistance shall be identified, in terms of measurable outcomes, whenever possible.

(d) State, federal and community goals, constraints and obligations should be identified at the beginning of the planning process, and the state should work actively with community partners, regions and state and local agencies to address and accomplish their mutual objectives.

(5) When the department provides funds or assistance for projects, programs, technical support or other authorized activities pursuant to [ORS 329.905 to 329.975 and] ORS chapters 285A, 285B and 285C, the department shall give priority to projects, programs and activities that:

- (a) Retain and create jobs and raise real wages;
- (b) Promote capacity building, emphasizing rural and distressed areas;
- (c) Assist small business creation and expansion;
- (d) Invest and engage in training a skilled workforce;
- (e) Retain and expand existing companies and recruit new investment to Oregon;
- (f) Capitalize on Oregon's competitive advantages and strategically invest resources to offset competitive disadvantages;
- (g) Support innovation and research;
- (h) Assist industry clusters to succeed;
- (i) Market Oregon's advantages;
- (j) Promote international trade and attract foreign direct investment;
- (k) Support the development of industrial and commercial lands;
- (L) Advance the efforts of ports to promote economic development activities; and
- (m) Build capacity in Oregon's arts and cultural organizations, creative businesses and individual artists.

**SECTION 89. If House Bill 2263 becomes law, section 8 of this 2007 Act (amending ORS 285A.075) is repealed and ORS 285A.075, as amended by section 28, chapter \_\_\_\_, Oregon Laws 2007 (Enrolled House Bill 2263), is amended to read:**

285A.075. [(1) *The Economic and Community Development Department, through research, promotion and coordination of activities in this state, shall foster the most desirable growth and geographical distribution of agriculture, industry and commerce in the state. The department shall serve as a central coordinating agency and clearinghouse for activities and information concerning the resources and economy of the state.*]

**(1) The Economic and Community Development Department shall:**

**(a) Implement programs and adopt rules in accordance with applicable provisions of ORS chapter 183 that are consistent and necessary to carry out the policies established by the Oregon Economic and Community Development Commission and the duties, functions and powers vested by law in the department.**

**(b) Act as the official state liaison agency for persons interested in locating industrial or business firms in the state and for state and local groups seeking new industry or business, and maintain the confidentiality of negotiations conducted pursuant to this paragraph, if requested.**

**(c) Coordinate state and federal economic and community development programs.**

**(d) Administer the state's participation in the federal Community Development Block Grant funding program authorized by 42 U.S.C. 5301 et seq.**

**(e) Actively recruit domestic and international business firms to those communities desiring business recruitment.**

(f) Consult with local governments to establish regions for the purpose of job development and community assistance to facilitate economic activities in the region. Regions established for this purpose need not be of the same size in geographic area or population.

(g) Establish and operate foreign trade offices in foreign countries in which the department considers a foreign trade office necessary. The department shall use department employees, contracts with public or private persons or a combination of employees and contractors to establish and operate foreign trade offices. Department employees, including managers, who are assigned to work in a foreign trade office shall be in the unclassified service, and the director shall set the salaries of such employees. ORS 276.428, 279A.120, 279A.140, 279A.155, 279A.275, 279B.025, 279B.235, 279B.270, 279B.280, 279C.370, 279C.500 to 279C.530, 279C.540, 279C.545, 279C.800 to 279C.870, 282.020, 282.050, 282.210, 282.220, 282.230, 283.140, 459A.475, 459A.490, 653.268 and 653.269 do not apply to the department's operation of foreign trade offices outside the state.

(h) Consult with other state agencies and with local agencies and officials prior to defining or designating distressed areas for purposes of ORS 285A.020.

(i) Budget moneys for travel and various other expenses of industrial or commercial site location agents, film or video production location agents, business journal writers, elected state officials or other state personnel to accomplish the purposes of ORS chapters 285A, 285B and 285C. The department may expend moneys duly budgeted to pay the travel and other expenses of such persons if the director determines the expense may promote the purposes of this subsection.

(j) Promulgate rules to govern contracts.

(k) Develop strategies to address issues that are necessary and appropriate to Oregon's future and adopt goals that include measurable indicators of success (Oregon benchmarks) that show the extent to which each goal is being achieved.

(L) Use practices and procedures that the department determines are the best practices for carrying out the duties of the department.

(2) The department shall have no regulatory power over the activities of private persons. Its functions shall be solely advisory, coordinative and promotional.

[(3) *The department shall Administer the state's participation in the federal Community Development Block Grant funding program authorized by 42 U.S.C. 5301 et seq.*]

[(4) *In order to accomplish the purposes of ORS chapters 285A, 285B and 285C, the department may expend moneys duly budgeted to pay the travel and various other expenses of industrial or commercial site location agents, film or video production location agents, business journal writers, elected state officials or other state personnel whom the Director of the Economic and Community Development Department determines may promote the purposes of this subsection.*]

[(5) *In accordance with applicable provisions of ORS chapter 183, the department may adopt rules necessary for the administration of laws that the department is charged with administering.*]

[(6) *ORS 276.428, 279A.120, 279A.140, 279A.155, 279A.275, 279B.025, 279B.235, 279B.270, 279B.280, 279C.370, 279C.500 to 279C.530, 279C.540, 279C.545, 279C.800 to 279C.870, 282.020, 282.050, 282.210, 282.220, 282.230, 283.140, 459A.475, 459A.490, 653.268 and 653.269 do not apply to the department's operation of foreign trade offices outside the state.*]

[(7)] (3) Notwithstanding ORS 279A.140, the department may **award grants or** enter into contracts [*for personal services*] as necessary or appropriate to carry out the duties, functions and powers vested in the department by law.

[(8)(a) *The department may contract directly with the Oregon Downtown Development Association, or its successor entity, to provide downtown development and redevelopment assistance and similar services to municipalities in Oregon.*]

[(b) *The department may contract directly with Rural Development Initiatives, or its successor entity, to provide training, technical assistance, planning assistance and other support and services to municipalities in Oregon to build economic and community development capacity.*]

(c) Contracts entered into under this subsection are exempt from the requirements of ORS 279.835 to 279.855 and ORS chapters 279A, 279B and 279C.]

(9) If the director determines that moneys are available, the department may transfer funds from the Special Public Works Fund created under ORS 285B.455 or from the Water Fund established under ORS 285B.563 to a state agency to provide financial assistance in the delivery of technical assistance or other services to one or more water systems for evaluation of water quality or services or for planning the improvement of water quality or services. The department may structure the financial assistance under this subsection in the form of an interagency grant or loan or in any other manner the director considers necessary or appropriate.]

**SECTION 90. If House Bill 3265 becomes law, section 97, chapter \_\_, Oregon Laws 2007 (Enrolled House Bill 3265) (amending ORS 285B.323), is repealed and ORS 285B.323, as amended by section 73 of this 2007 Act, is amended to read:**

285B.323. As used in ORS 285B.320 to 285B.371, unless the context requires otherwise:

(1) “Bond” or “**revenue bond**” means [any evidence of indebtedness, including but not limited to any bond, note, obligation, loan agreement, financing agreement, contracts for leasing, rental or financing of real or personal property, including contracts for rental, long term leases under an optional contract for purchase, financing agreements with vendors, financial institutions or others or for purchase of any property secured by revenues or from other financing sources as provided in ORS 285B.320 to 285B.371. A bond, as defined in this subsection and issued under ORS 285B.320 to 285B.371, shall be considered a revenue bond for purposes of ORS 286.031] **a revenue bond, as defined in section 2, chapter \_\_, Oregon Laws 2007 (Enrolled House Bill 3265).**

(2) “Economic development project” includes any properties, real or personal, used or useful in connection with a revenue producing enterprise, **an exempt [facilities] facility or a nonprofit [entities] entity**, and [related] vehicles, rolling stock or equipment **related to an enterprise, facility or entity**. “Economic development project” does not include any facility or facilities designed primarily for the generation, transmission, sale or distribution of electrical energy.

(3) “Eligible project” means an economic development project found by the Oregon Economic and Community Development Commission to meet standards of the commission. The commission may treat as a single eligible project for bonding purposes any number of economic development projects determined to be eligible projects.

(4) “Exempt facility” means any facility described in section 142(a) of the Internal Revenue Code of 1986, as amended and in effect as of June 30, 2007. If section 142(a) of the Internal Revenue Code of 1986 is amended or altered on or after July 1, 2007, the Economic and Community Development Department may adopt by rule a definition of “exempt facility” that is consistent with section 142(a) of the Internal Revenue Code of 1986 as amended or altered.

(5) “Nonprofit entity” means an institution, organization or other entity exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended and in effect as of June 30, 2007. If section 501(c)(3) of the Internal Revenue Code of 1986 is amended or altered on or after July 1, 2007, the department may adopt a definition of “nonprofit entity” that is consistent with section 501(c)(3) of the Internal Revenue Code of 1986 as amended or altered.

**SECTION 91. If House Bill 3265 becomes law, section 97a, chapter \_\_, Oregon Laws 2007 (Enrolled House Bill 3265) (amending ORS 285B.326), is repealed and ORS 285B.326, as amended by section 74 of this 2007 Act, is amended to read:**

285B.326. (1) Upon determining that an economic development project is an eligible project, the Oregon Economic and Community Development Commission shall [forward the application to] **request that** the State Treasurer[, who shall determine whether to] issue the bonds.

(2) The commission shall collect fees set forth in rules established by the Economic and Community Development Department. Moneys collected under this subsection shall be deposited in the Oregon Community Development Fund created under ORS 285A.227 and are continuously appropriated to the commission for the purpose of administration or funding of the Oregon Industrial Development Revenue Bond and Express Bond Program.



(3)(a) In addition to the fees described in subsection (2) of this section, the commission may charge and receive reimbursement for expenses incurred in:

(A) The initial review of an application for economic development projects sought to be declared eligible for financing; and

(B) Matters arising after the issuance of a bond.

(b) Reimbursement for expenses under this subsection shall be charged and received in accordance with rules established by the department.

**SECTION 92. The amendments to ORS 285B.323 and 285B.326 by sections 90 and 91 of this 2007 Act become operative on January 1, 2008.**

**CAPTIONS**

**SECTION 93. The unit captions used in this 2007 Act are provided for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2007 Act.**

**EMERGENCY CLAUSE**

**SECTION 94. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.**

Passed by Senate June 22, 2007

Received by Governor:

Repassed by Senate June 26, 2007

.....M.,....., 2007

Approved:

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Secretary of Senate

.....M.,....., 2007

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President of Senate

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Governor

Passed by House June 26, 2007

Filed in Office of Secretary of State:

.....M.,....., 2007

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Speaker of House

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Secretary of State