

Enrolled
House Bill 2152

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Economic and Community Development Department)

CHAPTER

AN ACT

Relating to economic development; creating new provisions; amending ORS 183.635, 200.025, 200.045, 200.055, 200.057, 200.065, 200.110, 200.120, 200.170, 285A.010, 285A.020, 285A.040, 285A.045, 285A.050, 285A.055, 285A.060, 285A.070, 285A.075, 285A.080, 285A.116, 285A.152, 285A.185, 285A.188, 285A.190, 285A.192, 285A.200, 285A.206, 285A.213, 285A.224, 285A.227, 285A.306, 285A.346, 285A.349, 285A.600, 285A.615, 285A.627, 285A.654, 285A.657, 285A.660, 285A.669, 285A.672, 285A.678, 285A.681, 285A.684, 285A.687, 285A.690, 285A.693, 285A.696, 285A.702, 285A.705, 285A.708, 285B.050, 285B.053, 285B.056, 285B.059, 285B.062, 285B.065, 285B.068, 285B.080, 285B.081, 285B.086, 285B.089, 285B.092, 285B.093, 285B.126, 285B.132, 285B.135, 285B.138, 285B.141, 285B.147, 285B.168, 285B.178, 285B.179, 285B.200, 285B.206, 285B.209, 285B.215, 285B.218, 285B.230, 285B.233, 285B.236, 285B.260, 285B.266, 285B.283, 285B.286, 285B.290, 285B.323, 285B.326, 285B.329, 285B.335, 285B.338, 285B.341, 285B.344, 285B.362, 285B.371, 285B.410, 285B.413, 285B.419, 285B.422, 285B.428, 285B.437, 285B.440, 285B.449, 285B.455, 285B.460, 285B.462, 285B.465, 285B.467, 285B.470, 285B.473, 285B.482, 285B.503, 285B.506, 285B.512, 285B.515, 285B.533, 285B.551, 285B.560, 285B.563, 285B.572, 285B.575, 285B.581, 285B.584, 285B.590, 285B.593, 285B.599, 285B.740, 285B.743, 285B.746, 285B.749, 285B.758, 285C.612, 468B.415, 657.665, 777.267, 777.277, 777.282, 777.284 and section 32, chapter 773, Oregon Laws 2003, sections 2, 3 and 4, chapter 756, Oregon Laws 2005, and sections 7 and 9, chapter 746, Oregon Laws 2007; repealing ORS 285A.483, 285A.486, 285A.489, 285A.495, 285B.239, 285B.242, 285B.245, 285B.248, 285B.263, 285B.264 and 285B.269; appropriating money; and declaring an emergency.

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

**OREGON INFRASTRUCTURE FINANCE AUTHORITY
CREATION AND ADMINISTRATIVE PROVISIONS**

SECTION 1. Sections 1a to 7 of this 2009 Act are added to and made a part of ORS chapter 285A.

SECTION 1a. (1) The Oregon Infrastructure Finance Authority Board is created as a policy-making and advisory body within the Oregon Business Development Department. The board consists of nine members as follows:

(a) One nonvoting member appointed from members of the Senate by the President of the Senate;

(b) One nonvoting member appointed from members of the House of Representatives by the Speaker of the House of Representatives;

(c) One member appointed by the State Treasurer; and

(d) Six members appointed by the Governor.

(2) Persons appointed members of the board must be Oregon residents, well qualified by experience to make policy and recommendations in areas of concern to the Oregon Infrastructure Finance Authority and to perform the duties of office. Members shall be appointed with consideration given to knowledge and experience:

(a) In the field of state and municipal finance;

(b) Of the infrastructure and public works needs in Oregon cities;

(c) Of the infrastructure and public works needs in Oregon counties;

(d) Of issues related to ports that affect the state;

(e) Of issues related to special service district services furnished across the state; and

(f) Of infrastructure and public works necessary to further Oregon's long term economic growth.

(3) The office of the State Treasurer may recommend persons with expertise in the field of state and municipal finance for membership on the board.

(4) The term of a member of the board appointed by the Governor, the State Treasurer or the President of the Senate is four years. The term of a member appointed by the Speaker of the House of Representatives is two years.

(5) In case of a vacancy on the board for any cause, the appointing authority shall appoint a successor to serve for the unexpired term.

(6) A member of the board may be appointed to serve two consecutive terms. A member who serves two consecutive terms is not eligible for reappointment within one year following the expiration of the second term.

(7) The board shall select one of its members to chair the board for such term and with duties and powers necessary to perform the functions of the office as the board determines.

(8) A majority of the voting members of the board constitutes a quorum for the transaction of business.

SECTION 2. The Oregon Infrastructure Finance Authority Board shall:

(1) Serve as a body to advise municipalities, state agencies and private persons on the development and implementation of state policies and programs relating to the infrastructure needs of this state and its communities.

(2) Advise the Governor, the Director of the Oregon Business Development Department and the Oregon Business Development Department on all matters relating to infrastructure and public works programs and activities administered by the Oregon Infrastructure Finance Authority.

(3) Develop a recommended biennial budget for the operation of the authority and submit the budget to the director and the Governor.

(4) Seek and receive the views of all levels of government and the private sector with respect to state policies and programs to address the infrastructure needs of this state.

(5) Prepare and submit to the Director of the Oregon Business Development Department suggested administrative rules that the board determines are necessary for the operation of the programs under the direction of the authority.

(6) Establish policies and procedures for loan and grant programs administered by the authority.

SECTION 3. (1) The Oregon Infrastructure Finance Authority is established as an administrative section within the Oregon Business Development Department, subject to the supervision of the administrator of the authority. The authority consists of the administrator and all personnel employed by the authority.

(2) The authority shall develop and administer programs and funds of the department that address the infrastructure needs of this state pursuant to the policies of, and as may be recommended by, the Oregon Infrastructure Finance Authority Board.

(3) The authority shall provide the Oregon Infrastructure Finance Authority Board with staff and other assistance as necessary for the board to perform its duties.

(4) The authority shall employ, in accordance with the State Personnel Relations Law, the staff necessary to allow the authority to carry out its responsibilities.

SECTION 3a. (1) The Oregon Infrastructure Finance Authority may:

(a) Conduct hearings and conferences to develop facts, explain programs and activities, and obtain advice;

(b) Enter into agreements with other public bodies, as defined in ORS 174.109, or associations or private persons for services to assist the authority and the Oregon Infrastructure Finance Authority Board;

(c) Enter into agreements with other public bodies, as defined in ORS 174.109, the federal government, associations or private persons for cooperative endeavors that further programs administered by the authority;

(d) Subject to applicable policies and procedures, enter into agreements for loans, grants or other assistance, including, but not limited to, direct purchase of goods or services, with local governments, as defined in ORS 174.116, special government bodies, as defined in ORS 174.117, or other eligible applicants for infrastructure development;

(e) Appoint committees, consultants or other persons with expertise in infrastructure-related matters to advise the Oregon Infrastructure Finance Authority Board or the authority;

(f) Obtain assistance or data from any state agency; or

(g) Perform any other act necessary to carry out the duties of the authority.

(2) The authority shall administer the state's participation in the federal Community Development Block Grant funding program authorized by 42 U.S.C. 5301 et seq.

SECTION 4. (1) The Director of the Oregon Business Development Department, upon consultation with and the approval of the Oregon Infrastructure Finance Authority Board, shall appoint an administrator of the Oregon Infrastructure Finance Authority who shall serve at the pleasure of the director.

(2) The administrator shall receive such salary as may be provided by law or as fixed by the director.

(3) The administrator shall be the administrative head of the authority.

(4) The administrator may suggest rules to the director for the government of the authority, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property.

(5) The administrator shall hire the staff necessary to allow the authority to carry out its duties. In accordance with the State Personnel Relations Law, the administrator and any manager hired by the administrator shall be in the unclassified service.

SECTION 5. (1) The Oregon Infrastructure Finance Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Infrastructure Finance Fund shall be credited to the fund. The Oregon Infrastructure Finance Fund consists 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 Oregon Infrastructure Finance Authority. The moneys in the Oregon Infrastructure Finance Fund are continuously appropriated to the Oregon Business Development Department for the authority for the purposes of sections 1a to 7 of this 2009 Act.

(2) The authority may finance programs and projects determined to further infrastructure development within this state by making grants or loans using moneys in the fund.

(3) The Oregon Infrastructure Finance Authority Board may suggest to the Director of the Oregon Business Development Department administrative rules for establishing standards, objectives and criteria for use of moneys in the fund. The department shall adopt rules to establish standards, objectives and criteria for use of moneys in the fund.

SECTION 6. The Oregon Infrastructure Finance Authority may not direct, supervise or control the policy, programs, personnel or administration of any program or entity unless specifically authorized by statute.

SECTION 7. The Director of the Oregon Business Development Department, in accordance with ORS chapter 183, may adopt rules for the operation of the Oregon Infrastructure Finance Authority as the director determines necessary or convenient for the authority to perform its duties and functions and as are consistent with and necessary to carry out the policies established by the Oregon Infrastructure Finance Authority Board.

OREGON BUSINESS DEVELOPMENT COMMISSION ADMINISTRATIVE PROVISIONS

SECTION 8. ORS 285A.010 is amended to read:

285A.010. As used in ORS 284.101 to 284.146 and ORS chapters 285A, 285B and 285C, unless the context requires otherwise:

(1) "Administrator" means the administrator of the Oregon Infrastructure Finance Authority.

(2) "Association" means a nonprofit, private, incorporated or unincorporated institution, foundation, organization, entity or group, whether local, state, regional or national, that is operating or doing business in Oregon.

(3) "Authority" means the Oregon Infrastructure Finance Authority.

(4) "Board" means the Oregon Infrastructure Finance Authority Board.

[(1)] (5) "Commission" means the [Oregon Economic and Community Development Commission] Oregon Business Development Commission.

[(2)] (6) "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)] (7) "Department" means the [Economic and Community Development Department] Oregon Business Development Department.

[(4)] (8) "Director" means the Director of the [Economic and Community Development Department] Oregon Business Development Department.

[(5)] (9) "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)] (10) "International trade" means the export and import of products and services and the movement of capital for the purpose of investment.

(11) "Local government" has the meaning given that term in ORS 174.116.

(12) "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.

(13) "Public body" has the meaning given that term in ORS 174.109.

[(7)] (14) "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 cities with populations of 30,000 or more.

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

[(9)] (15) "Small business" means a business having 100 or fewer employees.

- (16) "State agency" includes state officers, departments, boards and commissions.
- (17) "Traded sector" means industries in which member firms sell their goods or services into markets for which national or international competition exists.

SECTION 9. ORS 285A.020 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.] **market-place.**
 - (c) All regions of the state should share in Oregon's economic recovery.
 - (d) Creating and retaining quality jobs [is] **are** vital to the state's [*continued economic development.*] **economic health.**
 - (e) Oregon's agriculture and natural resource industries provide opportunities for beneficial economic enterprise, including sustainable [*economic*] **business** development activities.
 - (f) A well educated and trained workforce is necessary to [*advance in today's global economy.*] **support business and industry needs throughout the state.**
 - (g) The ability of existing businesses to grow [*and prosper*] is critical to Oregon's [*economy.*] **prosperity.**
 - (h) [*Utilizing the state's*] **The state must utilize its** competitive advantages [*is essential*] to retain existing businesses and attract new companies and investment into the state.
 - (i) Continued [*economic*] development **in Oregon** depends on strengthening traded sector industries.
 - (j) International trade **and** development [*and promotion is invaluable*] **of international trade are essential** for future [*economic*] **business** development opportunities.
 - (k) Small businesses remain a critical element of the state's [*economic development, comprising more than 90 percent of Oregon's businesses.*] **economy.**
 - (L) Capacity building **to support business development** 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 land-owners from the Brownfields Redevelopment Fund for future development opportunities.]*
- (2) It is the purpose of ORS 284.101 to 284.146 and ORS chapters 285A, 285B and 285C [*to advance Oregon's economy.*] **to enable the creation, retention, expansion and attraction of businesses that provide sustainable, living wage jobs for Oregonians through public-private partnerships and leveraged funding and to support economic opportunities for Oregon companies and entrepreneurs.**
- (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] **and further efforts** 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] **Oregon Business** 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 284.101 to 284.146 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;*]

(b) Promote capacity building, emphasizing rural and distressed areas to further economic development initiatives;

(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 10. ORS 285A.040 is amended to read:

285A.040. (1) There is established the Oregon [Economic and Community] **Business** Development Commission consisting of 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) 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 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 five members may belong to one political party. Party affiliation shall be determined by the appropriate entry on official election registration cards.

(C) Members shall be appointed with consideration given to representation of the following areas of expertise or training:

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

(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 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*] **Legislative** 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) 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 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.

(8) **A member of the commission appointed due to expertise or training in local economic development described in subsection (1)(c)(C)(iv) of this section shall also be an elected local government official with experience in economic development matters.**

SECTION 11. ORS 285A.045 is amended to read:

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

(2) The commission shall provide oversight and direction to the [*Economic and Community*] **Oregon Business** Development Department in carrying out the [*duties and creating*] **economic development** policies [*to further the economic*] **and** strategy [*set forth in ORS 285A.020.*] **established by the commission.** 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.

(5) In carrying out its duties under subsection (1) of this section, the commission shall coordinate its activities with federal, state and local agencies, community partners and regions, when appropriate.

(6) **The commission may prepare and submit suggested administrative rules to the Director of the Oregon Business Development Department that the commission determines are necessary for the objectives and programs of the department.**

SECTION 12. ORS 285A.050 is amended to read:

285A.050. (1) The Oregon [*Economic and Community*] **Business** Development Commission shall report biennially to the Governor and the Legislative Assembly on the success of economic development efforts. The report shall include the progress toward achievement of performance measures for the [*Economic and Community*] **Oregon Business** 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 and for [*each*] identifiable [program] **programs** and funding [*source*] **sources**:

- (A) The number of jobs created and retained;
- (B) The average wage levels of jobs created and retained; and
- (C) Other measures identified by the commission.

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

(c) Other issues identified by the commission.

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

SECTION 13. 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[,] **or the making of [*a loan*] loans [*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*] **Business** Development Commission[*, or the Economic and Community Development Department as the designee of the commission*], **or the Oregon Business 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*] **Oregon Business** Development Department's comprehensive policy and programs; and

(5) Find that the project involved is consistent with applicable adopted local economic development plans.

SECTION 14. ORS 285A.060 is amended to read:

285A.060. (1) To aid and advise the Oregon [*Economic and Community*] **Business** Development Commission in the performance of its duties, the commission may establish such advisory and technical committees as it considers necessary. Such committees may be continuing or temporary. The presiding officer of the commission shall determine the representation, membership, terms and organization of the committees and shall appoint their members. Members shall be appointed with due consideration given to the geographic representation described in ORS 285A.040 (1). The Director

of the [*Economic and Community*] **Oregon Business** Development Department, or designee, shall be an ex officio member of each committee.

(2) Members of the committees appointed pursuant to this section shall receive no compensation, but may receive payment for their actual and necessary travel and other expenses while engaged in the performance of their official duties.

OREGON BUSINESS DEVELOPMENT DEPARTMENT ADMINISTRATIVE PROVISIONS

SECTION 15. ORS 285A.070 is amended to read:

285A.070. (1) The [*Economic and Community*] **Oregon Business** Development Department is established.

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

(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*] **Business** 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.

(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 reasonable 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.

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

SECTION 16. ORS 285A.075 is amended to read:

285A.075. (1) The [*Economic and Community*] **Oregon Business** 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 [*Eco-*

nomic and Community] Business 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)] (d)* Actively recruit domestic and international business firms to those communities desiring business recruitment.

(e) Work with existing Oregon companies to assist in their expansion or help them retain jobs in the state.

(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 284.101 to 284.146 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) Notwithstanding ORS 279A.140, the department may award grants or enter into contracts as necessary or appropriate to carry out the duties, functions and powers vested in the department by law.

SECTION 17. ORS 285A.080 is amended to read:

285A.080. The Director of the [*Economic and Community*] **Oregon Business** Development Department and all unclassified personnel shall receive such salary as may be provided by law or be fixed by the Oregon [*Economic and Community*] **Business** Development Commission. In addition to salaries, the director and all unclassified personnel, subject to the limitations otherwise provided by law, shall be reimbursed for all reasonable expenses necessarily incurred in the performance of official duties.

SECTION 18. ORS 285A.116 is amended to read:

285A.116. (1) The Oregon [*Economic and Community*] **Business Development [Commission] Department** shall establish regions for the purpose of job development [*and community assistance by the Economic and Community Development Department*]. When establishing the regions, the [*commission must*] **department shall** consider the optimal size for each region that will most effectively facilitate economic development activities in the region. Regions established by the [*commission*] **department** do not have to be of the same size or population.

(2) The Director of the [*Economic and Community*] **Oregon Business** Development Department shall provide for economic innovation coordination in the central office, which shall assist the field representatives in establishing contacts between local businesses and universities and community colleges in Oregon to promote the use of the research capacities of these institutions for development of new products.

SECTION 19. ORS 285A.152 is amended to read:

285A.152. (1) The Fujian Sister State Committee established under ORS 285A.148 may:

- (a) Organize activities for and host visiting delegations from Fujian Province;
- (b) Organize activities for and participate in delegations visiting Fujian Province and China;
- (c) Provide for the exchange of information between the State of Oregon and Fujian Province;
- (d) Work with representatives of Fujian Province on joint projects; and
- (e) Take all actions necessary to facilitate and promote relations between the State of Oregon and Fujian Province.

(2) The Fujian Sister State Committee [*shall*] **may** visit Fujian Province at least biennially for the purpose of fulfilling the objectives described in subsection (1) of this section.

**DIVISION OF DUTIES AMONG
OREGON BUSINESS DEVELOPMENT COMMISSION,
OREGON BUSINESS DEVELOPMENT DEPARTMENT
AND OREGON INFRASTRUCTURE FINANCE AUTHORITY**

SECTION 20. ORS 285A.185 is amended to read:

285A.185. (1) As used in this section, “brownfield” means real property where expansion or redevelopment is complicated by actual or perceived environmental contamination.

(2) The [*Economic and Community*] **Oregon Business** Development Department shall assist private persons and local governments to redevelop brownfields.

(3) The [*Economic and Community Development*] department shall:

- (a) Act as the primary point of contact for information regarding public and private funding options available to a person interested in redeveloping a brownfield;
- (b) Facilitate the funding process involving landowners or prospective purchasers, lending institutions, other state agencies, local jurisdictions, consultants and interested citizens;
- (c) Serve as a key advocate for the redevelopment of brownfields in Oregon;
- (d) Provide information to private persons and local governments on brownfield redevelopment funding;
- (e) Enhance the availability of funding resources through program development, grant proposals and other appropriate opportunities; and
- (f) Adopt rules necessary to carry out this section.

SECTION 21. 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 **are continuously appropriated to the Oregon Business Development Department and** 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]* **Oregon Business** 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 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 **Oregon Business Development** 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*] **Oregon Business** Development Department shall consult with the Department of Environmental Quality.

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

(a) Pay for administrative costs of environmental actions;

(b) **Pay for administrative costs associated with administering the program and fund;** and

[*(b)*] (c) 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.

SECTION 22. ORS 285A.190 is amended to read:

285A.190. (1) There is established in the [*Economic and Community*] **Oregon Business** Development Department the Oregon Coalition Brownfields Cleanup Program.

(2) The department may make grants, loans and expenditures from the Oregon Coalition Brownfields Cleanup Fund to provide financial or other assistance to public and private owners of eligible brownfield properties for the purpose of cleaning up the properties.

(3) An eligible owner of a brownfield property may borrow moneys from the fund by entering into a loan agreement with the department in accordance with rules adopted by the department.

(4) The owner of a publicly owned brownfield property may enter into a loan agreement with the department notwithstanding any restrictions on indebtedness in the charter or bylaws of the public body or any other provision of law.

(5) The department may adopt rules necessary to carry out the provisions of this section and ORS 285A.192. The rules shall include, but are not limited to, requirements for eligibility for financial assistance or other assistance from the program, good and sufficient collateral required to secure loans from the fund and the complete or partial waiver of interest on short-term loans made from the fund.

(6) As used in this section:

(a) "Brownfield" has the meaning given that term in ORS 285A.185.

(b) "Other assistance" includes, but is not limited to, direct purchase of goods or services related to brownfields cleanup by the department.

(c) "Public body" has the meaning given that term in ORS 174.109.

SECTION 23. ORS 285A.192 is amended to read:

285A.192. (1) There is established in the State Treasury, separate and distinct from the General Fund, a revolving fund known as the Oregon Coalition Brownfields Cleanup Fund. Interest earned by the Oregon Coalition Brownfields Cleanup Fund shall be credited to the fund. All moneys in the Oregon Coalition Brownfields Cleanup Fund are continuously appropriated to the [*Economic and Community*] **Oregon Business** Development Department for the purposes of ORS 285A.190.

(2) The Oregon Coalition Brownfields Cleanup Fund shall consist of all moneys credited to the fund, including but not limited to:

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

(b) Moneys appropriated or transferred to the fund by the Legislative Assembly or the Oregon [*Economic and Community*] **Business** Development Commission; and

(c) Repayment of financial assistance, including interest earnings, provided by moneys from the fund.

SECTION 24. ORS 285A.200 is amended to read:

285A.200. (1) The [*Economic and Community*] **Oregon Business** Development Department may accept gifts of money or other property from any public or private agency or person made for the purpose of assisting the department to carry out any programs or laws that the department is charged with administering. Moneys so received shall be paid into an appropriate fund or account. Property so received shall be used for the purposes for which that property is given.

(2) The department may apply for, receive from the United States or any of its agencies, and disburse or supervise the disbursement of federal aid for the purposes for which the aid is provided. The department may also disburse or supervise the disbursement of funds provided by the State of Oregon for expenditure as a condition of receiving the federal aid.

(3) The department may assess and charge fees for loans made from any of its funds or accounts.

SECTION 25. ORS 285A.206 is amended to read:

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

(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.

SECTION 26. ORS 285A.213 is amended to read:

285A.213. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Safe Drinking Water Revolving Loan Fund. All moneys in the Safe Drinking Water Revolving Loan Fund are continuously appropriated to the [*Economic and Community Development Department.*] **Oregon Business Development Department for the Oregon Infrastructure Finance Authority for the purposes set forth in this section.**

(2) The [*Economic and Community Development Department*] **authority** shall administer the Safe Drinking Water Revolving Loan Fund in accordance with a memorandum of understanding between the [*department*] **authority** and the Department of Human Services.

(3) The Safe Drinking Water Revolving Loan Fund shall consist of:

(a) Moneys transferred to the fund by the Department of Human Services for purposes authorized by the memorandum of understanding between the Department of Human Services and the [*Economic and Community Development Department.*] **authority**.

(b) Moneys transferred to the fund by the federal government, other state agencies or local governments.

(c) Moneys transferred to the fund by the Legislative Assembly or the [*Oregon Economic and Community Development Commission.*] **authority**.

(d) Proceeds from the sale of revenue bonds.

(e) Repayment of financial assistance provided with moneys from the fund.

(f) Interest and other earnings on moneys in the fund.

(4) Moneys in the Safe Drinking Water Revolving Loan Fund shall be used to provide financial or other assistance to publicly owned and privately owned water systems under the Safe Drinking Water Act Amendments of 1996, P.L. 104-182, and rules of the [*Economic and Community Development Department.*] **Oregon Business Development Department.** As used in this subsection, "assistance" includes direct purchase by the [*Economic and Community Development Department*] **authority** of goods or services related to a water system project to the extent permitted by the memorandum of understanding between the [*Economic and Community Development Department*] **authority** and the Department of Human Services, **and by** the Safe Drinking Water Act Amend-

ments of 1996, and as authorized by rules of the [*Economic and Community Development Department.*] **Oregon Business Development Department**.

(5) The owner of a water system may borrow from the Safe Drinking Water Revolving Loan Fund by entering into a loan agreement with the [*Economic and Community Development Department.*] **authority**. The owner of a municipally owned water system may enter into a loan agreement with the [*department*] **authority** notwithstanding any restriction on indebtedness in the charter or bylaws of the municipality or any other provision of law. Moneys owed to the [*department*] **authority** by the borrower under a loan agreement may be paid from:

(a) Revenue from any water system project of the borrower, including special assessment revenue;

(b) Amounts withheld under subsection (6) of this section;

(c) The general fund of the borrower;

(d) Any combination of sources listed in paragraphs (a) to (c) of this subsection; or

(e) Any other source.

(6) If a borrower fails to comply with a loan agreement entered into under subsection (5) of this section, the [*Economic and Community Development Department.*] **Oregon Business Development Department** may seek appropriate legal remedies to secure any repayment due the Safe Drinking Water Revolving Loan Fund. If a borrower defaults on repayment due the fund, the State of Oregon may withhold any amounts otherwise due to the borrower. Any amounts withheld under this subsection shall be credited toward repayment of the borrower's indebtedness to the fund.

SECTION 26a. If House Bill 2009 becomes law, section 26 of this 2009 Act (amending ORS 285A.213) is repealed and ORS 285A.213, as amended by section 199, chapter __, Oregon Laws 2009 (Enrolled House Bill 2009), is amended to read:

285A.213. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Safe Drinking Water Revolving Loan Fund. All moneys in the Safe Drinking Water Revolving Loan Fund are continuously appropriated to the [*Economic and Community Development Department.*] **Oregon Business Development Department for the Oregon Infrastructure Finance Authority for the purposes set forth in this section.**

(2) The [*Economic and Community Development Department.*] **Oregon Infrastructure Finance Authority** shall administer the Safe Drinking Water Revolving Loan Fund in accordance with a memorandum of understanding between the [*department*] **Oregon Infrastructure Finance Authority** and the Oregon Health Authority.

(3) The Safe Drinking Water Revolving Loan Fund shall consist of:

(a) Moneys transferred to the fund by the **Oregon Health Authority** for purposes authorized by the memorandum of understanding between the [*authority and the department*] **Oregon Health Authority and the Oregon Infrastructure Finance Authority**.

(b) Moneys transferred to the fund by the federal government, other state agencies or local governments.

(c) Moneys transferred to the fund by the Legislative Assembly or the [*Oregon Economic and Community Development Commission.*] **Oregon Infrastructure Finance Authority**.

(d) Proceeds from the sale of revenue bonds.

(e) Repayment of financial assistance provided with moneys from the fund.

(f) Interest and other earnings on moneys in the fund.

(4) Moneys in the Safe Drinking Water Revolving Loan Fund shall be used to provide financial or other assistance to publicly owned and privately owned water systems under the Safe Drinking Water Act Amendments of 1996, P.L. 104-182, and rules of the [*department*] **Oregon Business Development Department**. As used in this subsection, "assistance" includes direct purchase by the [*department*] **Oregon Infrastructure Finance Authority** of goods or services related to a water system project to the extent permitted by the memorandum of understanding between the [*department and the authority,*] **Oregon Infrastructure Finance Authority and the Oregon Health Authority, and by** the Safe Drinking Water Act Amendments of 1996, and as authorized by rules of the [*department*] **Oregon Business Development Department**.

(5) The owner of a water system may borrow from the Safe Drinking Water Revolving Loan Fund by entering into a loan agreement with the [department] **Oregon Infrastructure Finance Authority**. The owner of a municipally owned water system may enter into a loan agreement with the [department] **Oregon Infrastructure Finance Authority** notwithstanding any restriction on indebtedness in the charter or bylaws of the municipality or any other provision of law. Moneys owed to the [department] **Oregon Infrastructure Finance Authority** by the borrower under a loan agreement may be paid from:

- (a) Revenue from any water system project of the borrower, including special assessment revenue;
- (b) Amounts withheld under subsection (6) of this section;
- (c) The general fund of the borrower;
- (d) Any combination of sources listed in paragraphs (a) to (c) of this subsection; or
- (e) Any other source.

(6) If a borrower fails to comply with a loan agreement entered into under subsection (5) of this section, the **Oregon Business Development** Department may seek appropriate legal remedies to secure any repayment due the Safe Drinking Water Revolving Loan Fund. If a borrower defaults on repayment due the fund, the State of Oregon may withhold any amounts otherwise due to the borrower. Any amounts withheld under this subsection shall be credited toward repayment of the borrower's indebtedness to the fund.

SECTION 27. ORS 285A.224 is amended to read:

285A.224. (1) It is the purpose of the 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 Business Retention Fund is created separate and distinct from the General Fund. The fund shall be administered by the [Economic and Community] **Oregon Business** 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 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 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, under such terms and conditions as the department may determine.

(5) The department shall provide that firms receiving assistance repay to the Business Retention Fund any assistance provided under subsection (4) of this section. 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 Business Retention Fund, the department may give preference to Oregon's rural and distressed areas and its traditional agriculture, forestry and fishing industries. 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 department shall [*establish*] **adopt by rule** specific criteria for expenditure of [*funds*] **moneys** from the Business Retention Fund [*by adopting rules*].

SECTION 28. 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.*] **Oregon Business, Innovation and Trade Fund.** **Interest earned by the Oregon Business, Innovation and Trade Fund shall be credited to the fund.** The moneys in the Oregon Business, Innovation and Trade Fund are continuously appropriated to the Oregon Business Development Department for the purpose of financing programs and projects that promote business and economic development throughout the state. The 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 department, and all interest earnings that accrue to the fund.

(2) The [*fund*] **Oregon Business, Innovation and Trade 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*] **Oregon Business Development Commission** under the policies, criteria and standards set forth in ORS 285A.020, 285A.045 and 285A.055 to further **business and** economic [*and community*] development. The [*Economic and Community Development Department*] **Oregon Business Development Department** may finance programs and projects determined by the commission to further **business and** economic [*and community*] development by making grants or loans using moneys in the fund. Notwithstanding ORS 279A.140, the department may enter into contracts as necessary or appropriate to implement programs and projects determined by the commission to further **business and** 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)] (3) The [*Oregon Economic and Community Development Commission*] **Oregon Business Development Department**, by rule, shall adopt standards, objectives and criteria for use of the moneys in the [*Oregon Community Development Fund*] **Oregon Business, Innovation and Trade Fund and for the adjustment of allocations to programs and projects that receive funding from the fund.**

SECTION 29. ORS 285A.306 is amended to read:

285A.306. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Title I Bank Fund. All moneys in the fund are continuously appropriated to the **Oregon Business Development Department for the Oregon Infrastructure Finance Authority** to provide financing for community development projects. **Interest earned by the Title I Bank Fund shall be credited to the fund.**

(2) Moneys in the Title I Bank 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 and other program income shall be credited to the Title I Bank Fund.

(3) The Title I Bank Fund shall consist of:

- (a) Moneys appropriated to the fund by the Legislative Assembly.
- (b) Repayment of loans made by cities and counties with grants from the Oregon Community Development Block Grant Program, including interest earnings.

(4) The [*Economic and Community Development Department shall be the agency for the State of Oregon for the administration of the fund.*] **Oregon Infrastructure Finance Authority shall administer the fund.**

(5) The department shall adopt rules and policies for the administration of the fund.

(6) The [*department*] **authority** may charge program administrative costs to the fund to pay for administrative expenses incurred to the [*department*] **authority** for processing applications and investigating community development projects.

SECTION 30. ORS 285A.346 is amended to read:

285A.346. (1)(a) The [*Economic and Community*] **Oregon Business 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 31. ORS 285A.349 is amended to read:

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

SECTION 32. ORS 285A.600 is amended to read:

285A.600. (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*] **Business Development Commission and the Oregon Business Development Department, through the Oregon Infrastructure Finance Authority**, 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.

(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] **vary** 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 33. ORS 285A.615 is amended to read:

285A.615. (1) The [*Economic and Community Development Department*] **Oregon Infrastructure Finance Authority** shall provide managerial assistance and technical referral services to ports.

(2) The [*department*] **authority** shall disseminate such research and technical information as is available to the [*department.*] **authority**.

(3) The [*department*] **authority** 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 34. ORS 285A.627 is amended to read:

285A.627. (1) The [*Oregon Economic and Community Development Commission, through the Economic and Community Development Department,*] **Oregon Business Development Commission and the Oregon Business Development Department, through the Oregon Infrastructure Finance Authority**, shall be the statewide coordinating, planning and research [*agency*] **entity** 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.*] **Oregon Infrastructure Finance Authority**.

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

SECTION 35. 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 [*Economic and Community Development Department*] **Oregon Business Development Department for the Oregon Infrastructure Finance Authority** and shall be used by the [*department*] **authority** for:

(a) Administrative expenses of the [*department*] **authority** 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 [*department*] **authority** 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 36. ORS 285A.657 is amended to read:

285A.657. (1) The [*Economic and Community Development Department*] **Oregon Infrastructure Finance Authority** 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 [*department*] **authority** 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 [*department*] **authority** may prescribe.

(4) Upon receipt of an application, the [*department*] **authority** shall determine whether the planning project or marketing project is eligible for funding under ORS 285A.654 to 285A.660. If the [*department*] **authority** 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 [*department*] **authority** may approve a grant for a planning project or a marketing project described in an application filed under this section if, after investigation, the [*department*] **authority** finds that:

(a) The project meets the standards and criteria established by the [*department*] **authority** 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 \$50,000 and shall not exceed 75 percent of the total cost of the project.

(7) The [*department*] **authority** 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 [*department*] **authority** may purchase goods or services to assist a port in implementing a project.

SECTION 37. ORS 285A.660 is amended to read:

285A.660. (1) The [*Economic and Community Development Department*] **Oregon Infrastructure Finance Authority** 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*] **authority** 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*] **authority** 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*] **Oregon Business Development 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 38. ORS 285A.669 is amended to read:

285A.669. Any Oregon port district may file with the [*Oregon Economic and Community Development Commission*] **Oregon Infrastructure Finance Authority** an application to borrow money

from the Oregon Port Revolving Fund for a project as provided in ORS 285A.666 to 285A.732. The application shall be filed in such a manner and contain or be accompanied by such information as the [commission] **authority** may prescribe.

SECTION 39. ORS 285A.672 is amended to read:

285A.672. (1) Upon receipt of an application filed as provided in ORS 285A.669, the [Oregon Economic and Community Development Commission] **Oregon Infrastructure Finance Authority** shall determine whether the plans and specifications for the proposed project set forth in or accompanying the application are satisfactory. If the [commission] **authority** determines that the plans and specifications are not satisfactory, the [commission] **authority** may within 60 days:

(a) Reject the application.

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

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

SECTION 40. ORS 285A.678 is amended to read:

285A.678. The [Oregon Economic and Community Development Commission] **Oregon Infrastructure Finance Authority** may approve a project proposed in an application filed as provided in ORS 285A.669, if, after investigation, the [commission] **authority** finds that:

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

(2) Moneys in the Oregon Port Revolving Fund are or will be available for the proposed project.

(3) There is a need for the proposed project, and the applicant's financial resources are adequate to provide the working capital needed to ensure success of the project.

(4) The applicant has received all necessary permits required by federal, state or local agencies.

(5) The applicant will not owe more than \$3 million **in principal** to the Oregon Port Revolving Fund if the loan is approved.

(6) The standards under ORS 285A.055 have been met.

SECTION 41. ORS 285A.681 is amended to read:

285A.681. (1) If the [Oregon Economic and Community Development Commission] **Oregon Infrastructure Finance Authority** approves the project, the [commission.] **authority**, on behalf of the state, and the applicant may enter into a loan contract that is secured by good and sufficient collateral. The loan contract shall set forth, among other matters:

[(1)] (a) A plan for repayment by the applicant to the Oregon Port Revolving Fund of moneys borrowed from the fund for the project and interest on the moneys at a rate of interest of not less than one percent less than the prevailing interest rate on United States Treasury bills of comparable term, as determined by the [commission.] **authority**. The repayment plan, among other matters:

[(a)] (A) Shall provide for commencement of repayment by the port district of moneys used for the project and interest thereon no later than one year after the date of the loan contract or at any other time as the [commission] **authority** may provide. However, upon approval by the [commission.] **authority**, a repayment plan for a flexible manufacturing space project may provide that no interest shall accrue until the building is at least 25 percent occupied or until three years after the date of the loan contract, whichever is earlier.

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

[(c)] (C) Shall provide for evidence of debt assurance of, and security for, repayment by the applicant as are considered necessary by the [commission.] **authority**.

[(d)] (D) Shall specify a loan term that may not exceed the usable life of the contracted project or 25 years from the year of project completion, whichever is less. The payment schedule shall include repayment of interest that accrues during any period of delay in repayment authorized by [paragraph (a) of this subsection] **subparagraph (A) of this paragraph**, and the payment schedule may require payments of varying amounts for collection of the accrued interest.

[(e)] (E) Shall provide for partial or complete repayment, in excess of scheduled payments, of any outstanding principal loan amount without penalty. If any prepayment is made, that amount may not be included in any computation for the purposes of ORS 285A.678 (5).

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

[(3)] (c) That the liability of the state under the contract is contingent upon the availability of moneys in the Oregon Port Revolving Fund for use in the project.

[(4)] (d) Any other provision the [commission] **authority** considers necessary to ensure expenditure of the funds for the purposes set forth in the approved application.

(2) **The Oregon Infrastructure Finance Authority may make limited moneys available from the Oregon Port Revolving Fund to eligible ports for grants to assist with capital improvement projects.**

(3) **The Oregon Business Development Department shall adopt by rule eligibility criteria and award limits for grants from the fund.**

SECTION 42. ORS 285A.684 is amended to read:

285A.684. If the [Oregon Economic and Community Development Commission] **Oregon Infrastructure Finance Authority** approves a loan for a project, the [commission] **authority** shall pay moneys for the project from the Oregon Port Revolving Fund, in accordance with the terms of the loan contract as prescribed by the [commission.] **authority**.

SECTION 43. ORS 285A.687 is amended to read:

285A.687. (1) If the [Oregon Economic and Community Development Commission] **Oregon Infrastructure Finance Authority** accepts a lien against any port district's real or personal property as collateral required by ORS 285A.681, the [commission] **authority** shall file notice of the loan with the recording officer of each county in which is situated any real or personal property of the port district. The notice shall contain a description of the encumbered property, the amount of the loan, and a statement that loan payments are liens against such property.

(2) Upon payment of all amounts loaned to a port district pursuant to ORS 285A.666 to 285A.732, the [commission] **authority** shall file with each recording officer referred to in subsection (1) of this section[,] a satisfaction notice that indicates repayment of the loan.

SECTION 44. ORS 285A.690 is amended to read:

285A.690. (1) The [Oregon Economic and Community Development Commission] **Oregon Business Development Department** may institute proceedings to foreclose any lien for delinquent loan payments.

(2) If a port district fails to comply with a contract entered into pursuant to ORS 285A.681, the [commission] **department** may seek appropriate legal remedies to secure the loan, and may contract with any port project developer for continuation of the project and for repayment of moneys from the Oregon Port Revolving Fund used therefor and interest thereon.

(3) The [commission] **department** may also provide by contract or otherwise for a project until the project is assumed by the new port project developer.

SECTION 45. ORS 285A.693 is amended to read:

285A.693. A port district that enters into a contract with the Oregon [Economic and Community Development Commission] **Infrastructure Finance Authority** for a project and repayment as provided in ORS 285A.681 may obtain moneys for repayment to the Oregon Port Revolving Fund under the contract in the same manner as other moneys are obtained for purposes of the port district or other moneys available to the developer.

SECTION 45a. ORS 285A.696 is amended to read:

285A.696. The [Oregon Economic and Community Development Commission] **Oregon Business Development Commission** may appoint the Director of the [Economic and Community Development Department] **Oregon Business Development Department** as their representative and agent in all matters pertaining to ORS 285A.666 to 285A.732. The director shall [assure] **ensure** that all provisions of ORS 285A.666 to 285A.732 are complied with and that appropriately trained personnel are

employed pursuant to ORS 285A.070 to properly administer the fiscal and other portions of ORS 285A.666 to 285A.732.

SECTION 46. ORS 285A.702 is amended to read:

285A.702. (1) The [*Oregon Economic and Community Development Commission*] **Oregon Infrastructure Finance Authority** may authorize funds from the Oregon Port Revolving Fund to be used in appropriate joint governmental participation projects or as match money with any port, state or federally funded project authorized within a port district, subject to the stipulations of ORS 285A.666 to 285A.732.

(2) Any application for a loan under this section shall be in such form as the [*commission*] **authority** prescribes and shall furnish such proof of federal, state or local approval as appropriate for funding of the project.

SECTION 47. ORS 285A.705 is amended to read:

285A.705. If the [*Oregon Economic and Community Development Commission*] **Oregon Infrastructure Finance Authority** approves an application for the loan of moneys authorized by ORS 285A.702, the [*commission*] **authority** shall enter into a loan contract, secured by good and sufficient collateral, with the port district that provides, among other matters:

(1) That a notice of any lien against the property be filed with the recording officer of each county as provided for in ORS 285A.687 (1) and (2).

(2) That the loan bear interest at the same rate of interest as provided in ORS 285A.681 [(1)] (1)(a).

(3) That the loan term may not exceed the usable life of the contracted project or 25 years from the year of project completion, whichever is less. The same schedule shall include repayment of interest that accrues during any period of delay in repayment authorized by ORS 285A.666 to 285A.732. The repayment schedule may require payments of varying amounts for collection of accrued interest. However, the [*commission*] **authority** 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 port district and the security will not be impaired thereby.

(4) Any other provision the [*commission*] **authority** considers necessary to ensure expenditure of the moneys loaned for the purposes provided in ORS 285A.702, including all provisions of ORS 285A.678.

(5) That the [*commission*] **authority** may cause to be instituted appropriate proceedings to foreclose liens as provided for in ORS 285A.690 (1) and (2) for delinquent loan payments and shall pay the proceeds of any foreclosure, less the [*commission's*] **authority's** expenses incurred in foreclosing, into the Oregon Port Revolving Fund.

SECTION 48. 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. **Interest earned by the Oregon Port Revolving Fund shall be credited to the fund.** Moneys in this fund are continuously appropriated to the [*Oregon Economic and Community Development Commission*] **Oregon Business Development Department for the Oregon Infrastructure Finance Authority** for the following purposes:

(a) Administrative expenses of the [*commission*] **authority** 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 [*Economic and Community Development Department*] **authority** 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 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 \$50,000 unless a work plan and budget for such study has been provided to appropriate legislative committees.

SECTION 49. 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.

(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] **Oregon Business 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.

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

[**(5)**] (4) "County" means any county or federally recognized Oregon Indian tribe.

[**(6)**] (5) "Emerging small business" has the meaning given that term by ORS 200.005.

[**(7) "Fund"** means the Oregon Business Development Fund.]

[**(8)**] (6) "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.

[**(9)**] (7) "Municipality" means any city, municipal corporation or quasi-municipal corporation.

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

SECTION 50. 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] **Oregon Business Development Department** 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] **department** may prescribe.

(2) Any applicant receiving a loan from the fund shall report to the [Economic and Community Development] department the estimated number of jobs affected by the business development project financed under ORS 285B.050 to 285B.098.

SECTION 51. ORS 285B.056 is amended to read:

285B.056. The [*Oregon Economic and Community Development Commission*] **Oregon Business Development Department** shall charge fees and establish rules to underwrite loans from the Oregon Business Development Fund.

SECTION 52. ORS 285B.059 is amended to read:

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

(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.

(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.

(3) Except 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.

(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.

(5) In each fiscal year of a biennium, not less than 15 percent of all moneys available for lending from the 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*] **Oregon Business** 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*] **Oregon Business** 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 (2)(g)(B), make loans to service and retail businesses operated by emerging small business enterprises.

SECTION 53. ORS 285B.062 is amended to read:

285B.062. If the [*Oregon Economic and Community Development Commission*] **Oregon Business 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) 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 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.

SECTION 54. ORS 285B.065 is amended to read:

285B.065. The [*Economic and Community Development Department*] **Oregon Business Development Department** may make loans in distressed areas, as defined by the department, without regard to the requirements for security and collateral under ORS 285B.059 and 285B.062 that are otherwise applicable.

SECTION 55. ORS 285B.068 is amended to read:

285B.068. (1) If the [*Oregon Economic and Community Development Commission*] **Oregon Business Development Commission** approves a loan for a business development project and the applicant has received all necessary permits required by federal, state and local agencies, the commission shall pay moneys for the project from the Oregon Business Development Fund, in accordance with the terms of the loan contract as prescribed by the commission.

(2) Immediately upon receiving the loan proceeds, the applicant shall pay to the commission one and one-half percent of the principal amount of the loan, to be paid back to the Oregon Business Development Fund. A maximum of three percent of the principal amount of the loan may be paid from the fund to local development groups for the purposes set forth in ORS 285B.092 (1)(a).

SECTION 56. ORS 285B.080 is amended to read:

285B.080. [(1) *The Oregon Economic and Community Development Commission may appoint the Director of the Economic and Community Development Department as its representative and agent in all matters pertaining to ORS 285B.050 to 285B.098.*]

(1) **The Oregon Business Development Commission may appoint the Director of the Oregon Business Development Department as the commission's representative and agent in all matters pertaining to ORS 285B.050 to 285B.098.**

(2) The director shall ensure that all provisions of ORS 285B.050 to 285B.098 are complied with and that appropriately trained personnel are employed to properly administer the fiscal and other portions of ORS 285B.050 to 285B.098.

(3) The director shall have the authority in the director's sole discretion to approve loans for business development projects in the amount of \$100,000 or less and to disburse funds for such projects.

SECTION 57. ORS 285B.081 is amended to read:

285B.081. The [*Economic and Community Development Department*] **Oregon Business 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.

SECTION 58. ORS 285B.086 is amended to read:

285B.086. (1) The [*Oregon Economic and Community Development Commission*] **Oregon Business Development Commission** may authorize funds from the Oregon Business Development Fund to be used in appropriate joint governmental participation projects or as match money with any municipally, county, state or federally funded business development project authorized within a county or city, subject to the stipulations of ORS 285B.050 to 285B.098.

(2) Any application for a loan under this section shall be in such form as the commission prescribes and shall furnish such proof of federal, state or local approval as appropriate for funding of the business development project.

(3) The total amount of moneys loaned from the fund for federal, state or local joint business development project purposes shall not exceed \$1 million per project.

SECTION 59. ORS 285B.089 is amended to read:

285B.089. If the [*Oregon Economic and Community Development Commission*] **Oregon Business 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 60. 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*] **Oregon Business 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.

(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) The action is necessary to maintain or enhance the value of the commission's collateral in the project.

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

(a) Fees as determined by the commission.

(b) Repayment of moneys loaned to counties, municipalities or persons from the 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) 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 61. ORS 285B.093 is amended to read:

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

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

(3) The 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 commission.

SECTION 62. 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.

(5) "Loss reserve account" means an account in the State Treasury or any financial institution that is established and maintained by the [*Economic and Community Development Department*] **Oregon Business Development Department** for the benefit of a financial institution participating in the capital access program.

(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.

(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 63. ORS 285B.132 is amended to read:

285B.132. (1) The [*Economic and Community Development Department*] **Oregon Business 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 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 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 department as required by subsection (2)(e) of this section.

SECTION 64. ORS 285B.135 is amended to read:

285B.135. (1) The [*Economic and Community Development Department*] **Oregon Business 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 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.

SECTION 65. ORS 285B.138 is amended to read:

285B.138. (1) When a financial institution participates in the capital access program, 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*] **Oregon Business 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 66. ORS 285B.141 is amended to read:

285B.141. (1) The [*Economic and Community Development Department*] **Oregon Business Development Department** shall establish procedures under which financial institutions participating in the capital access program established by ORS 285B.126 to 285B.147 may submit claims for reimbursement for losses incurred as a result of qualified loan defaults.

(2) Costs for which a financial institution may be reimbursed from its loss reserve account include loan principal, accrued interest on the principal, actual and necessary costs of seeking recovery of the principal amount and interest thereon and any other related costs.

(3) A financial institution may seek reimbursement of loan losses prior to the liquidation of collateral from defaulted loans. The financial institution shall repay its loss reserve account for any moneys received as reimbursement under this section if the financial institution recovers moneys from the borrower or from the liquidation of collateral for the defaulted loan.

SECTION 67. 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*] **Oregon Business 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.

(5) The 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.

SECTION 68. ORS 285B.168 is amended to read:

285B.168. (1) The [*Economic and Community Development Department*] **Oregon Business 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;

(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:

(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 69. ORS 285B.178 is amended to read:

285B.178. As used in this section and ORS 285B.179:

(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 30, 2007. If 15 U.S.C. 6901 is amended or altered on or after July 1, 2007, the **Oregon Business Development** 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 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 70. ORS 285B.179 is amended to read:

285B.179. The purposes of ORS 285B.178 and this section are to:

(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;

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

(3) Enable the [*Economic and Community Development Department*] **Oregon Business 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 and this section, and to leverage additional funds from sources other than moneys appropriated from the General Fund.

SECTION 71. 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.

(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*] **Oregon Business Development Department** by rule[,] may provide.

(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 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*] **Oregon Business Development Department** in consultation with the State Department of Agriculture.

SECTION 72. ORS 285B.206 is amended to read:

285B.206. (1) The [*Economic and Community Development Department*] **Oregon Business 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.

SECTION 73. ORS 285B.209 is amended to read:

285B.209. (1) When making loan or credit guarantees under the program established under ORS 285B.200 to 285B.218, the [*Economic and Community Development Department*] **Oregon Business 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.

SECTION 74. 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*] **Oregon Business 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.

SECTION 75. ORS 285B.218 is amended to read:

285B.218. (1) The [*Economic and Community Development Department*] **Oregon Business 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 or any allocations related to the lottery bond program authorized by ORS 286.560 (6)(a) or (b).

SECTION 76. 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” “local economic development” strategy is a long-term economic development strategy, updated [at least once every six years,] as required by the **Oregon Business Development Department**, that focuses on the economic development priorities of each **community or geographic region in the state**. [region, including but not limited to:]

[**(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 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 77. ORS 285B.233 is amended to read:

285B.233. (1) The Legislative Assembly finds that *[regional investment strategies]* **local economic development activities and initiatives** are essential to the state's *[economic development goals]* **long-term prosperity** and that to be effective, *[regional investment]* **local economic development** strategies must have the coordinated support of available resources.

(2) The Legislative Assembly declares that the purpose of ORS 285B.230 to 285B.269 is:

(a) To encourage the development of *[regional investment]* **local economic development** strategies that address the economic development priorities of *[each region]* **communities in or geographic regions** of the state;

(b) To identify and coordinate *[regional]* economic development priorities;

(c) To ensure that economic development plans reinforce the long-term prosperity and livability of Oregon;

(d) To effectively utilize available resources through a *[regional investment program;]* **strategic program tied to the state's economic development strategy;**

(e) To leverage and attract capital investment in Oregon communities; and

(f) To coordinate private and public resources to support economic development.

SECTION 78. ORS 285B.236 is amended to read:

285B.236. (1) The *[Economic and Community Development Department,]* **Oregon Business Development Department** by rule_[,] shall adopt guidelines for submission of *[regional investment]* **local economic development** strategies and distribution of funds.

(2) The guidelines shall provide that the *[regional investment]* **local economic development** strategies are approved in accordance with criteria reflecting the economic benefits to the state. Each *[regional investment]* **local economic development** 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.]* **community or geographic region, and the department's performance standards.**

[(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 79. ORS 285B.260 is amended to read:

285B.260. (1) There is created a *[Regional Investment]* **Local Economic Opportunity** 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]* **Local Economic Opportunity** Fund. The fund is continuously appropriated to the *[Economic and Community Development Department]* **Oregon Business Development Department** to be used for grants to implement ORS 280.518 and 285B.230 to 285B.269.

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

(3) The fund shall not be used to retire any debt, to reimburse any person or municipality for expenditures made or expenses incurred prior to the adoption of a [*regional investment*] **local economic development** 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 **or geographic areas**, the department, by rule, shall adopt standards, objectives and criteria for the use and distribution of moneys in the [*Regional Investment*] **Local Economic Opportunity** Fund.

(5) The [*Regional Investment*] **Local Economic Opportunity** 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 80. ORS 285B.266 is amended to read:

285B.266. (1) There is created a Strategic Reserve 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 Strategic Reserve Fund. The fund is continuously appropriated to the [*Economic and Community Development Department*] **Oregon Business Development Department** to be used to implement statewide strategies for economic development.

(2) The fund shall not be used to retire any debt or, except upon approval of the Joint Ways and Means Committee or, if the Legislative Assembly is not in session, the Emergency Board, to pay administrative expenses of the department. Expenses that are project related shall not be considered to be administrative expenses of the department.

(3) The department is directed to place particular emphasis on investments that assist communities, businesses or industries in cost-effective projects that assist the creation, expansion and preservation of the principal traded sector industries of Oregon and encourage diversification and preservation of regional economies. The fund shall be used to assist economic and community development projects of public entities, industry groups or businesses with significant long-term, regional or statewide economic impacts, to provide interim financing mechanisms to augment existing public or private sector programs or to analyze statewide, long-term economic issues and opportunities.

SECTION 81. ORS 285B.283 is amended to read:

285B.283. The Legislative Assembly declares that it is the policy of the State of Oregon:

(1) Working with private firms, industry associations and others, to encourage cooperative sector-based strategies to promote industrial competitiveness.

(2) That programs to develop particular **industry** sectors of this state's economy, to the maximum extent feasible, include firms of all sizes. To promote that policy, the [*Economic and Community Development Department*] **Oregon Business Development Department** shall undertake efforts as are necessary to [*ensure*] **encourage** representative participation by small firms under ORS 285B.280 to 285B.286.

(3) To emphasize industry development in those sectors of the economy in which Oregon firms face national and international competition.

(4) To provide an adequate supply of industrial and traded sector sites that are available for immediate development.

SECTION 82. ORS 285B.286 is amended to read:

285B.286. For traded sector industries, the [*Economic and Community Development Department*] **Oregon Business Development Department** shall undertake industry development activities that may include, but are not limited to, all of the following:

(1) Focus groups and other meetings and related studies to identify traded sector industry members and issues of common concern within an industry.

(2) State technical and financial support for formation of industry associations, publication of association directories and related efforts to create or expand the activities of industry associations.

(3) Helping establish research consortia **as well as partnering with universities and other research institutions to assist in the retention and recruitment of targeted industries.**

(4) Joint training and education programs and curricula related to the specific needs of traded sector industries.

(5) Cooperative market development activities.

(6) Analysis of the need, feasibility and cost for establishing product certification and testing facilities and services.

(7) State technical and financial support to facilitate certification of sites as ready for development for traded sector industry. The support may include performing site assessments to determine the costs associated with development of individual sites.

(8) Assistance to 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.

SECTION 83. ORS 285B.290 is amended to read:

285B.290. The Industry [Outreach] **Competitiveness** Fund is established in the State Treasury, separate and distinct from the General Fund. The Industry [Outreach] **Competitiveness** 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] **Competitiveness** Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the [Economic and Community Development Department] **Oregon Business Development Department** [for all of the following purposes:]

*[(1)] to provide funds for activities outlined in ORS [285B.266] **285B.286**.*

[(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.]

SECTION 84. 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" or "revenue bond" means a revenue bond, as defined in ORS 286A.001.

(2) "Economic development project" includes any properties, real or personal, used or useful in connection with a revenue producing enterprise, an exempt facility or a nonprofit entity, and 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] **Oregon Business 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] **Oregon Business 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 85. 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] **Oregon Business Development Commission** shall request that the State Treasurer issue the bonds.

(2) The commission shall collect fees set forth in rules established by the [Economic and Community Development Department.] **Oregon Business Development Department**. Moneys collected under this subsection shall be deposited in the Oregon [Community Development Fund] **Business, Innovation and Trade 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 86. 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] **Oregon Business Development Commission** has reviewed the project.

(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 and related vehicles, rolling stock or equipment when the project does not require any private activity volume cap under ORS 286A.605 to 286A.625.

SECTION 87. ORS 285B.335 is amended to read:

285B.335. (1) In addition to any other powers granted by law or by charter, the [Economic and Community Development Department] **Oregon Business Development Department** may:

(a) Enter into agreements to finance the costs of an eligible project by loaning or otherwise making available the proceeds of bonds authorized by ORS 285B.344 to a person, an agency of the federal government or state government, as defined in ORS 174.111, under terms and with security approved by the department;

(b) Lease and sublease eligible projects to a person, an agency of the federal government or state government, as defined in ORS 174.111, subject to subsection (2) of this section;

(c) Pledge or assign all or part of the revenues of one or more eligible projects owned or to be acquired by the state to the holders of bonds issued under this section or to a trustee for the holders, and segregate the revenues or provide for payment of the revenues to the trustee.

(d) Mortgage or otherwise encumber eligible projects in favor of the holders of bonds issued under this section, a trustee for the holders of the bonds, or an escrow agent, vendor, lender, other financing party or trustee for the bonds without obligating the state except with respect to the project;

(e) Make contracts, execute instruments and do what is necessary or desirable to exercise the powers granted by this section, to perform the covenants or duties of this state or to secure the payment of bonds issued under this section. Contracts that may be made by the state include, but are not limited to, contracts entered into prior to construction, acquisition or installation of an eligible project that authorize, subject to terms and conditions the state finds necessary or desirable, a lessee to provide for construction, acquisition or installation of buildings, improvements or equipment to be included in the project.

(f) Enter into and perform contracts and agreements with participating institutions for the planning, construction, installation, acquisition, leasing or financing of facilities of an eligible project, including a contract or agreement that establishes a body for the supervision and general management of the facilities.

(g) Accept loans or grants for the planning, construction, installation, acquisition, leasing or other provision of an eligible project from an authorized agency of the federal government, and enter into agreements with the agency respecting the loans or grants.

(h) Acquire, own, sell, assign or otherwise hold legal or equitable title to or an interest in eligible projects or hold federal tax ownership of eligible projects.

(2) A lease or sublease entered into under subsection (1)(b) of this section must provide that:

(a) Rents charged for the use of the project are established and revised as necessary to produce sufficient revenue to allow for payment of the principal of and interest on bonds issued under this chapter when due; and

(b) The lessee or sublessee is required to pay:

(A) The expenses of the operation and maintenance of the project including, but not limited to, adequate insurance on the project and insurance against liability for injury to persons or property arising from the operation of the project; and

(B) The taxes and special assessments levied upon the leased or subleased premises and payable during the term of the lease or sublease.

(3) During the term of a lease or sublease entered into under subsection (1)(b) of this section, ad valorem taxes must be imposed on the real and personal property of the eligible project in the same manner as the taxes would be imposed if the lessee or sublessee were the owner of the eligible project.

SECTION 88. ORS 285B.338 is amended to read:

285B.338. In carrying out its duties under ORS 285B.320 to 285B.371, the [*Oregon Economic and Community Development Commission,*] **Oregon Business Development Commission** acting for and in behalf of the state as its duly authorized agency, may:

(1) Acquire, construct and hold in whole or in part any lands, buildings, easements, water and air rights, improvements to lands and buildings and capital equipment to be located permanently or used exclusively on such lands or in such buildings, which are deemed necessary in connection with an eligible project to be situated within the state, and construct, reconstruct, improve, better and extend such projects, and enter into contracts therefor; and

(2) Sell and convey all properties acquired in connection with eligible projects, including without limitation the sale and conveyance thereof subject to any mortgage and the sale and conveyance thereof under an option granted to the lessee of the eligible project, for such price, and at such time as the state may determine. However, no sale or conveyance of such properties shall ever be made in such manner as to impair the rights of interests of the holder, or holders, or any bonds issued under the authority of ORS 285B.320 to 285B.371.

SECTION 89. ORS 285B.341 is amended to read:

285B.341. Except as provided in ORS 285B.335 and 285B.338, the state does not have the power to operate any eligible project as a business or in any manner whatsoever, and except as provided in ORS 285B.335 and 285B.338, nothing in ORS 285B.320 to 285B.371 authorizes the state to expend any funds on any eligible project, other than the revenues of such projects, or the proceeds of revenue bonds issued hereunder, or other funds granted to the state for the purposes of an eligible project. For the purpose of exercising the powers and authority granted under ORS 285B.335 or 285B.338, the state and the [*Oregon Economic and Community Development Commission,*] **Oregon Business Development Commission** are not subject to the requirements of ORS 279.835 to 279.855 or ORS chapter 279A, 279B or 279C.

SECTION 90. ORS 285B.344 is amended to read:

285B.344. (1) At the request of the [*Economic and Community Development Department,*] **Oregon Business Development Department**, the State Treasurer may issue under ORS 285B.320 to 285B.371 and ORS chapter 286A bonds secured by revenues from eligible economic development projects or from other financing sources to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension of projects. The bonds shall be identified by project. Refunding bonds may be issued to refinance such bonds.

(2) The department or the State Treasurer may appoint bond counsel as prescribed under ORS 286A.130.

(3) Any escrow agent, bond registrar, paying agent or trustee, if any, designated to carry out all or part of the powers specified in ORS 285B.335 must agree to furnish financial statements and audit reports for each bond issue.

SECTION 91. ORS 285B.362 is amended to read:

285B.362. The official action authorizing the issuance of bonds under ORS 285B.320 to 285B.371 to finance or refinance in whole or in part, the acquisition, construction, installation, reconstruction, improvement, betterment or extension of any eligible project may contain covenants, notwithstanding that such covenants may limit the exercises of powers conferred by ORS 285B.320 to 285B.371 in the following respects and in such other respects as the [Economic and Community Development Department] **Oregon Business Development Department** may decide:

(1) The rents to be charged for the use of properties acquired, constructed, installed, reconstructed, improved, bettered or extended under the authority of ORS 285B.320 to 285B.371;

(2) The use and disposition of the revenues of such projects;

(3) The creation and maintenance of sinking funds and the regulation, use and disposition thereof;

(4) The creation and maintenance of funds to provide for maintaining the eligible project and replacement of properties depreciated, damaged, destroyed or condemned;

(5) The purpose or purposes to which the proceeds of sale of bonds may be applied and the use and disposition of such proceeds;

(6) The nature of mortgages or other encumbrances on the eligible project made in favor of the holder or holders of such bonds or in favor of any escrow agent, vendor, lender, other financing party or trustee therefor;

(7) The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of any bonds may bring any suit or action on such bonds or on any coupons appurtenant thereto;

(8) The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of the eligible project;

(9) The insurance to be carried upon the eligible project and the use and disposition of insurance moneys;

(10) The keeping of books of account and the inspection and audit thereof;

(11) The terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;

(12) The rights, liabilities, powers and duties arising upon the breach by the municipality or redevelopment agency of any covenants, conditions or obligations;

(13) The appointing of and vesting in a trustee or trustees of the right to enforce any covenants made to secure or to pay the bonds; the powers and duties of such trustee or trustees, and the limitation of their liabilities;

(14) The terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under ORS 285B.320 to 285B.371;

(15) A procedure by which the terms of any official action authorizing bonds or of any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which may consent thereto, and the manner in which such consent may be given; and

(16) The subordination of the security of any bonds issued under ORS 285B.320 to 285B.371 and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the state, to other bonds or obligations of the state issued to finance the eligible project or that may be outstanding when the bonds thus subordinated are issued and delivered.

SECTION 92. ORS 285B.371 is amended to read:

285B.371. The state, acting through the [*Oregon Economic and Community Development Commission*] **Oregon Business Development Commission**, may loan the proceeds of the bonds authorized by ORS 285B.320 to 285B.371 for eligible projects without the necessity of the state having any ownership or leasehold interest in the eligible projects. Loans made pursuant to this section shall be secured, if at all, to the extent deemed necessary or desirable by the [*Oregon Economic and Community Development*] commission.

SECTION 93. 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*] **Oregon Business Development Department** by rule, and that is aimed at strengthening the economic development, **community 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 **or community** development; or

(D) Training related to economic **or community** 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.

(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*.] **Oregon Infrastructure Finance Authority**.

(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.

(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.

(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.

(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.

(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.

(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] **authority** determines to be necessary or useful in planning for a potential development project.
- (10) "Project" means a development, community development, planning or emergency project.
- (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.
- (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.
- (13) "Rural area" has the meaning given that term in ORS 285A.010.
- [(14) "Sewage system" means a facility necessary for collecting, pumping, treating or disposing of sanitary sewage.]
- [(15)] (14) "Solid waste disposal site" has the meaning given the term "disposal site" in ORS 459.005.
- [(16) "Storm water drainage system" means a facility necessary for collecting, controlling, conveying, treating or disposing of storm water runoff.]
- [(17)] (15) "Telecommunications system" means equipment or a facility for the electronic transmission of voice, data, text, image or video.
- [(18)] (16) "Transportation" means a system for movement of freight or passengers.
- [(19)] (17) "Utilities" means a solid waste disposal site or a water, sewage, storm water drainage, energy or telecommunications system.
- [(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 94. ORS 285B.413 is amended to read:

285B.413. (1) The Legislative Assembly finds that:

- (a) The improvement, expansion and new construction of the state's [water and sewage systems, telecommunications systems, roads and public transportation] **infrastructure systems** provide the basic framework for continuing and expanding economic activity in this state, thereby [providing jobs] **improving the quality of life** and economic opportunity for the people of Oregon.
- (b) It is essential to maintain usable and developable industrial and commercial lands in Oregon.
- (2) Because municipalities in this state often suffer from a lack of available financing and technical capacity for these projects, it is the purpose of ORS 285B.410 to 285B.482 to provide financial or other assistance to enable municipalities to construct, improve and repair those facilities that are essential for supporting continuing and expanded economic activity. It is the intent of the Legislative Assembly, by providing that assistance, to stimulate industrial growth and commercial enterprise and to promote employment opportunities in Oregon.
- (3) Moneys in the Special Public Works Fund shall be used primarily to provide loans to municipalities for development and planning projects. Grants shall be given only when loans are not feasible due to the financial need of the municipality or [special circumstances of the project.] **under circumstances that the Oregon Business Development Department specifies by administrative rule.** The [Economic and Community Development Department] **Oregon Infrastructure Finance**

Authority is authorized to determine the level of grant or loan funding, if any, on a case-by-case basis.

SECTION 95. ORS 285B.419 is amended to read:

285B.419. (1) The [*Economic and Community Development Department*] **Oregon Business Development Department** shall adopt rules and policies for the administration of the Special Public Works Fund. All forms of assistance are subject to the rules and policies of the department.

(2) The [*department*] **authority** shall manage the Special Public Works Fund and any expenditures from its accounts and transfers between its accounts so that the fund provides a continuing source of financing for development or planning projects consistent with ORS 285B.413.

(3) The [*department*] **authority** may commit moneys in the Special Public Works Fund or reserve future income to the fund for disbursal in future years under ORS 285B.440. The [*department*] **authority** shall commit or reserve moneys under this subsection only after:

(a) Allowing for contingencies;

(b) Finding that there will be sufficient unobligated net income to the fund to make the future payments, consistent with the financial requirements of subsections (2) and (3) of this section; and

(c) Providing in any contract for the commitment that the liability of the state to make the annual payments shall be contingent on the availability of moneys in the Special Public Works Fund.

(4) In assisting municipalities with projects, the [*department*] **authority** shall cooperate to the maximum extent possible with other state and federal agencies.

SECTION 96. ORS 285B.422 is amended to read:

285B.422. (1) The [*Economic and Community Development Department*] **Oregon Infrastructure Finance Authority** may provide financial or other assistance to a municipality for a development project [*as defined in ORS 285B.410*].

(2) The project must be municipally owned and operated either by the municipality or under a management contract or an operating agreement with the municipality. If the project consists:

(a) Solely of the purchase or acquisition of land by the municipality, the land must be identified in the applicable land use or capital plan as necessary for a potential development project or be zoned solely for commercial or industrial use.

(b) Of a privately owned railroad, the railroad must be designated by the owner and operator as subject to abandonment within three years, pursuant to federal law governing abandonment of common carrier railroad lines.

(c) Of a telecommunications system, the governing body of the municipality shall adopt a resolution, after a public hearing, finding that the proposed telecommunications system project is necessary and would not otherwise be provided by a for-profit entity within a reasonable time and for a reasonable cost.

(3) If the project is an energy system, the municipality and the serving utility must execute an ownership and operating agreement for the proposed energy system. This subsection does not apply when the energy system will be located within the recognized service territory of the municipality.

(4) The [*department*] **authority** may not use funds to provide assistance for:

(a) Projects that primarily focus on relocating business or economic activity from one part of the state to another, except in cases where the business or economic activity would otherwise locate outside of Oregon; or

(b) Ongoing operations or maintenance expenses.

SECTION 97. Section 32, chapter 773, Oregon Laws 2003, is amended to read:

Sec. 32. [*On the effective date of this 2003 Act, moneys in the Community Facilities Account shall be transferred to other accounts within the Special Public Works Fund as designated by the Director of the Economic and Community Development Department.*] On and after the effective date of this [2003] **2009** Act, all repayments of financial assistance provided from the Community Facilities Account shall be credited to the accounts within the Special Public Works Fund designated by the [director.] **administrator of the Oregon Infrastructure Finance Authority**.

SECTION 98. ORS 285B.428 is amended to read:

285B.428. Any municipality may apply for financial or other assistance from the Special Public Works Fund by submitting a completed application and related information as required by the [Economic and Community Development Department] **Oregon Business Development Department** by rule. The application shall be filed, reviewed and approved or rejected in accordance with rules adopted by the department.

SECTION 99. ORS 285B.437 is amended to read:

285B.437. (1) If the [Economic and Community Development Department] **Oregon Infrastructure Finance Authority** approves assistance from the Special Public Works Fund for a project, the [department] **authority**, on behalf of the state, and the municipality may enter into a contract to implement the assistance. The contract shall include:

(a) A provision that the liability of the state under the contract is contingent upon the availability of moneys in the Special Public Works Fund for use in the project;

(b) If any portion of the assistance is in the form of a loan or the purchase of a bond of a municipality, a provision granting the [department] **authority** a lien on or a security interest in the collateral as determined by the [department] **authority** to be necessary to secure repayment of the loan or bond; and

(c) Other provisions as the [department] **authority** considers necessary or appropriate to implement the assistance.

(2) When the [department] **authority** approves financial assistance under ORS 285B.410 to 285B.482 for a project, the [department] **authority** shall pay moneys for the project from the Special Public Works Fund in accordance with the terms of the contract.

(3) Notwithstanding any other provision of law or any restriction on indebtedness contained in a charter, a municipality may borrow from the Special Public Works Fund by entering into a contract with the [department] **authority**. The contract may be repaid from:

(a) The revenues of the project, including special assessment revenues;

(b) Amounts withheld under ORS 285B.449 (1);

(c) The general fund of the municipality; or

(d) Any other source.

(4) A loan contract authorized under subsection (3) of this section shall be authorized by an ordinance, order or resolution adopted by the governing body of the municipality.

SECTION 100. 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] **Oregon Infrastructure Finance Authority** may determine the level of grant or loan funding, if any, on a case-by-case basis.

(b) If the [department] **authority** approves funding, the [department] **authority** 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] **Oregon Business Development 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] **authority** 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] **authority** 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] **authority** 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 101. ORS 285B.449 is amended to read:

285B.449. (1) If a municipality fails to comply with a contract entered into under ORS 285B.410 to 285B.482, the [*Economic and Community Development Department*] **Oregon Business Development Department** may seek appropriate legal remedies to secure any repayment due the Special Public Works Fund. If any municipality defaults on payments due to the Special Public Works Fund under ORS 285B.410 to 285B.482, the State of Oregon may withhold any amounts otherwise due to the municipality to apply to the indebtedness. The department may waive this right to withhold.

(2) Moneys withheld under subsection (1) of this section shall be deposited in the Special Public Works Fund and shall be used to repay any account in the fund from which funds were expended to pay obligations upon which the municipality defaulted.

SECTION 102. 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. **Interest earned by the Special Public Works Fund shall be credited to the fund.** All moneys credited to the Special Public Works Fund are appropriated continuously to the [*Economic and Community Development Department*] **Oregon Business Development Department for the Oregon Infrastructure Finance Authority for the purposes set forth in this section.**

(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*;] **authority**;
- (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 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] **authority**.

(4) The [department] **authority** shall administer the Special Public Works Fund.

(5) The [department] **authority** 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] **authority** 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 that the [department] **authority** considers appropriate 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] **authority** 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] **authority** 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] **authority'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 103. ORS 285B.460 is amended to read:

285B.460. (1) The [Economic and Community Development Department] **Oregon Infrastructure Finance Authority** may provide financial or other assistance to a municipality for a planning project [as defined in ORS 285B.410].

(2) The planning project may be a stand-alone project.

(3) The planning project may include an environmental action on a brownfield. For purposes of this subsection:

(a) "Brownfield" has the meaning given that term in ORS 285A.185.

(b) "Environmental action" has the meaning given that term in ORS 285A.188.

SECTION 104. ORS 285B.462 is amended to read:

285B.462. (1) The [Economic and Community Development Department] **Oregon Infrastructure Finance Authority** may provide financial or other assistance to a municipality for an emergency project [as defined in ORS 285B.410].

(2) The [department] **authority** may award grant funding to an emergency project only if federal disaster relief assistance has been committed for the emergency project.

(3) Assistance from the Special Public Works Fund for an emergency project may not exceed the total local matching funds requirement for the federal disaster relief assistance committed to the project.

SECTION 105. ORS 285B.465 is amended to read:

285B.465. For purposes of ORS 285B.410 to 285B.482, the allowable costs of a project include:

(1) Financing costs, including capitalized interest;

(2) Direct project management costs;

(3) Costs of consultant services and expenses;

(4) Construction costs and expenses;

(5) Costs of property acquisition, including any easement or right of way directly related to and necessary for the project;

(6) Costs of acquiring off-site property for purposes directly related to the project, such as wetland mitigation; and

(7) Other costs that the [Economic and Community Development Department] **Oregon Infrastructure Finance Authority** determines to be necessary or useful.

SECTION 106. ORS 285B.467 is amended to read:

285B.467. [(1) The Economic and Community Development Department shall by rule adopt standards to determine eligibility for revenue bond financing under ORS 285B.467 to 285B.479 of development projects that have qualified under ORS 285B.419 to 285B.437 and 285B.449.]

(1) The **Oregon Infrastructure Finance Authority** shall determine eligibility for revenue bond financing under ORS 285B.467 to 285B.479 of development projects that have qualified under ORS 285B.419 to 285B.437 and 285B.449 pursuant to rules adopted by the **Oregon Business Development Department**.

(2) [Upon determining] After a determination is made that a development project is eligible for revenue bond financing under ORS 285B.467 to 285B.479, the department shall forward a request

for the issuance of revenue bonds to the State Treasurer, who shall determine whether to issue revenue bonds.

(3) When a project is determined to be eligible for revenue bond financing under ORS 285B.467 to 285B.479, allowable costs as described in ORS 285B.465 may be paid from bond proceeds.

(4) Administrative expenses of the [department] **authority** in processing applications and investigating proposed projects and bond sales may not be derived from bond proceeds.

(5) The [department] **authority** may pledge all or any portion of the existing or future assets and receipts of the Special Public Works Fund to pay debt service on bonds issued pursuant to ORS 285B.410 to 285B.482. The pledge shall take effect immediately, without delivery of the pledged funds to third parties, and the lien of the pledge shall be superior to all other liens of any nature.

(6) The [department] **authority** is authorized to establish separate accounts within the fund for separate bond issues.

SECTION 107. ORS 285B.470 is amended to read:

285B.470. [*In addition to any other powers granted by law in relation to a development project,*] The [Economic and Community Development Department] **Oregon Infrastructure Finance Authority** may:

(1) Make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted by this section, or in the performance of its covenants or duties, or in order to secure the payment of its bonds;

(2) Enter into and perform contracts and agreements with municipalities as the [department] **authority** may consider proper and feasible for or concerning the planning, construction, installation, lease or other acquisition, and the financing of projects; and

(3) Enter into covenants for the benefit of bond owners regarding the use and expenditure of moneys in the Special Public Works Fund.

SECTION 108. ORS 285B.473 is amended to read:

285B.473. (1) At the request of the [Economic and Community Development Department,] **Oregon Business Development Department**, the State Treasurer may issue under ORS 285B.467 to 285B.479 and ORS chapter 286A revenue bonds secured by moneys paid to the Special Public Works Fund pledged therefor to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension of development projects. Refunding bonds may be issued to refinance the revenue bonds.

(2) The department or the State Treasurer may appoint bond counsel as prescribed in ORS 286A.130.

SECTION 109. 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] **Oregon Business 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.

SECTION 110. ORS 285B.503 is amended to read:

285B.503. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Oregon Unified International Trade Fund. **Interest earned by the Oregon Unified International Trade Fund shall be credited to the fund.** The moneys in the fund are continuously appropriated to the [Economic and Community Development Department] **Oregon Business Development Department for the Oregon Infrastructure Finance Authority** for:

- (a) Paying all or a portion of the costs of:
 - (A) A project for the extension and improvement of Jackson County Airport runway.
 - (B) A project for the extension of a natural gas pipeline to the Coos Bay and North Bend area from a location near Roseburg.
 - (C) A project for improvements to the Klamath Falls International Airport maintained by the City of Klamath Falls.
- (b) Transfer to the Oregon Port Revolving Fund created by ORS 285A.708.
- (2) A separate account within the Oregon Unified International Trade Fund shall be established for each project listed in subsection (1) of this section.
- (3) The Oregon Unified International Trade Fund shall consist of moneys allocated to the fund under section 9, chapter 644, Oregon Laws 1997, and such other moneys as may be appropriated to the fund by the Legislative Assembly, including interest on such moneys.

SECTION 111. ORS 285B.506 is amended to read:

285B.506. (1) [After July 25, 1997, the Director of the Economic and Community Development Department] **The administrator of the Oregon Infrastructure Finance Authority** shall enter into a grant agreement with the primary sponsor of a project listed in ORS 285B.503 that commits the State of Oregon to make the deposits specified in section 9, chapter 644, Oregon Laws 1997, and commits the [Economic and Community Development Department] **Oregon Infrastructure Finance Authority** to pay those deposits, plus earnings, to the primary sponsor as soon as funds are available in the appropriate account of the Oregon Unified International Trade Fund and are required by the primary sponsor for payment of project costs. Notwithstanding any other law, the commitment of the State of Oregon and the [department] **authority** under this section shall be conditioned solely on receipt by this state of unobligated net lottery proceeds sufficient to make the deposits specified in section 9, chapter 644, Oregon Laws 1997.

(2) The total amount paid to the primary sponsor under the grant agreement shall not exceed the amount deposited in the appropriate account for the sponsor's project in the Oregon Unified International Trade Fund, plus any interest earnings on the amounts in the account. The grant agreement shall:

- (a) Pledge the unobligated net lottery proceeds to pay the amounts due to the primary sponsor under the grant agreement;
- (b) Specify the administrative procedures for making payments to the primary sponsor;
- (c) Provide for notification to the [director] **administrator** if the primary sponsor determines that it is unable to undertake the project;
- (d) Allow assignment of the right to receive amounts payable under the grant agreement to third parties;
- (e) Obligate the primary sponsor to remit any unexpended grant funds and any earnings thereon to the State of Oregon after the sponsor's project is complete and all its costs have been paid; and
- (f) Contain other terms and conditions that are necessary or appropriate, as determined by the [Director of the Economic and Community Development Department,] **administrator**, to implement ORS 285B.500 to 285B.512 and section 9, chapter 644, Oregon Laws 1997, to protect the interests and investments of the State of Oregon in the projects specified in ORS 285B.503.

(3) The grant agreement, when executed by the [director] **administrator** and accepted by the primary sponsor, shall be a valid, binding and irrevocable contractual obligation of the State of Oregon in accordance with its terms. However, amounts due under the grant agreement shall be payable solely from the unobligated net lottery proceeds required by section 9, chapter 644, Oregon Laws 1997, to be deposited in the appropriate account in the Oregon Unified International Trade Fund.

(4) The primary sponsor may pledge or assign its right to receive amounts due under the grant agreement as security for any contractual obligation the primary sponsor undertakes to pay or finance costs of the project. Any pledge or assignment authorized by ORS 285B.500 to 285B.515 and 777.277 to 777.287 and section 9, chapter 644, Oregon Laws 1997, shall be valid and binding upon the primary sponsor, the [*Economic and Community Development Department*,] **authority**, the State of Oregon and all other persons from the date it is made. The unobligated net lottery proceeds so pledged shall be immediately subject to the lien of the pledge without physical delivery, filing or other act, and the lien of the pledge shall be superior to all other claims and liens of any kind whatsoever. Upon notice from the primary sponsor that it has pledged the unobligated net lottery proceeds or assigned the right to receive amounts due under the grant agreement, the [*department*] **authority** shall fully cooperate with the primary sponsor and the pledgee or assignee to give effect to the pledge or assignment, including but not limited to acknowledging in writing to the primary sponsor and the pledgee or assignee the existence and validity of the pledge or assignment and agreeing that amounts due under the grant agreement shall be paid to the pledgee or assignee or into the custodial accounts established for the benefit of the pledgee or assignee.

(5) The grant agreement shall not contain provisions or be construed or enforced in any manner that may cause the grant agreement to constitute a debt or liability of the state that violates section 7, Article XI of the Oregon Constitution.

SECTION 112. ORS 285B.512 is amended to read:

285B.512. (1) The deposit of unobligated net lottery proceeds to an account in the Oregon Unified International Trade Fund shall cease if and when the [*Director of the Economic and Community Development Department*] **administrator of the Oregon Infrastructure Finance Authority** certifies in writing that deposits are no longer required because:

(a) Sufficient funds are on hand in the account to pay all amounts required to be paid under the grant agreement;

(b) All amounts required to be paid under the grant agreement have been paid; or

(c) The primary sponsor has notified the [*director*] **administrator** pursuant to the grant agreement that the primary sponsor is unable to undertake the project.

(2) Upon receipt of the [*director's*] **administrator's** written certification pursuant to subsection (1) of this section, the State Treasurer shall thereafter credit any amounts remaining in the account that are not required to pay amounts due under the grant agreement, and any lottery revenues that otherwise would have been deposited in the account under section 9, chapter 644, Oregon Laws 1997, to the Administrative Services Economic Development Fund. In addition, any unexpended grant funds and earnings which are remitted to the State of Oregon pursuant to the grant agreement shall be credited to the Administrative Services Economic Development Fund.

SECTION 113. ORS 285B.515 is amended to read:

285B.515. As used in ORS 285B.500 to 285B.512 and section 9, chapter 644, Oregon Laws 1997, "primary sponsor" or "project sponsor" means a city, county, agency or person who acts as a financial contributor to a project listed in ORS 285B.503, as determined by the [*Economic and Community Development Department*] **Oregon Infrastructure Finance Authority** in a grant agreement under ORS 285B.506.

SECTION 114. ORS 285B.533 is amended to read:

285B.533. (1) Infrastructure lottery bonds shall be issued under ORS 286A.560 to 286A.585 only at the request of the [*Director of the Economic and Community Development Department*.] **Director of the Oregon Business Development Department.** Infrastructure lottery bonds may be issued in an amount sufficient to provide no more than \$6 million of net proceeds to pay costs of infrastructure projects, plus the amounts required to pay bond-related costs.

(2) The net proceeds from the sale of the infrastructure lottery bonds shall be allocated to the [*Economic and Community Development Department*] **Oregon Business Development Department for the Oregon Infrastructure Finance Authority** for the State of Oregon's match of federal moneys under the Safe Drinking Water Act.

(3) The net proceeds from the sale of the infrastructure lottery bonds that are available to pay costs of infrastructure projects shall be credited to the Water Fund created by ORS 285B.563. All such net proceeds are appropriated continuously to the [Economic and Community Development Department] **Oregon Business Development Department for the authority** only for payment of costs of infrastructure projects described in subsection (2) of this section and for payment of bond-related costs that are allocable to infrastructure lottery bonds.

(4) The [Economic and Community Development Department] **authority** and any municipality receiving proceeds of infrastructure lottery bonds shall, if so directed by the Oregon Department of Administrative Services, take any action specified by the Oregon Department of Administrative Services that is necessary to maintain the excludability of lottery bond interest from gross income under the United States Internal Revenue Code.

SECTION 115. ORS 285B.551 is amended to read:

285B.551. (1) Pursuant to ORS 286A.560 to 286A.585, 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)(a) 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 \$248.7 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.

(b) Lottery bonds issued [*pursuant to*] **under** this section may be issued only at the request of [*the Director of the Economic and Community Development Department.*] **the Director of the Oregon Business Development Department.**

(c) The director may not request the issuance of lottery bonds [*pursuant to*] **under** 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. **Interest earned by the Economic Infrastructure Project Fund shall be credited to the fund.** All moneys in the Economic Infrastructure Project Fund are continuously appropriated to the [*Economic and Community Development Department*] **Oregon Business 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*] **Oregon Business Development Department** shall allocate the moneys deposited in the Economic Infrastructure Project Fund for the purposes described in this subsection in accordance with the priorities developed by the Oregon [*Economic and Community*] **Business** Development Commission in accordance with ORS 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*] **Oregon Business, Innovation and Trade 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*] **under** 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 116. Section 2, chapter 756, Oregon Laws 2005, is amended to read:

Sec. 2. The aggregate principal amount of lottery bonds issued pursuant to section 4, **chapter 756, Oregon Laws 2005**, [*of this 2005 Act*] to assist in the funding of the construction of a new passenger terminal at the North Bend Airport may not exceed the sum of \$10 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. Lottery bonds issued pursuant to section 4, **chapter 756, Oregon Laws 2005**, [*of this 2005 Act*] shall be issued only at the request of [*the Director of the Economic and Community Development Department*] the Director of the **Oregon Business Development Department**. The director may not request the issuance of lottery bonds pursuant to section 4, **chapter 756, Oregon Laws 2005**, [*of this 2005 Act*] until the executive director of the Coos County Airport District certifies in writing that all necessary permits for the proposed construction have been obtained by the airport district and has provided documentation to the [*Director of the Economic and Community Development Department*] **Director of the Oregon Business Development Department** that verifies that the district will have sufficient funding to complete the project.

SECTION 117. Section 3, chapter 756, Oregon Laws 2005, is amended to read:

Sec. 3. (1) The North Bend Airport Improvement Fund is established in the State Treasury, separate and distinct from the General Fund. The net proceeds of lottery bonds issued pursuant to section 4, **chapter 756, Oregon Laws 2005**, [*of this 2005 Act*] shall be deposited in the fund. All moneys in the North Bend Airport Improvement Fund are continuously appropriated to the [*Economic and Community Development Department*] **Oregon Business Development Department for the Oregon Infrastructure Finance Authority** for the purpose of providing grants to the Coos County Airport District to assist in the funding of the construction of a new passenger terminal at the North Bend Airport. Interest earned on moneys in the fund shall be credited to the fund.

(2) Subject to subsection (3) of this section, moneys in the fund shall be made available for distribution to the Coos County Airport District in the form of grants for the purpose specified in section 1, **chapter 756, Oregon Laws 2005** [*of this 2005 Act*].

(3) The [*Director of the Economic and Community Development Department*] **administrator of the Oregon Infrastructure Finance Authority** shall enter into a grant agreement with the Coos County Airport District that requires the [*department*] **authority** to disburse the aggregate amount of \$10 million from the fund to the district when:

(a) Moneys are available; and

(b) The executive director of the Coos County Airport District has provided the documentation required under section 2, **chapter 756, Oregon Laws 2005** [*of this 2005 Act*].

SECTION 118. Section 4, chapter 756, Oregon Laws 2005, as amended by section 106a, chapter 783, Oregon Laws 2007, is amended to read:

Sec. 4. (1)(a) For the biennium beginning July 1, 2005, the State Treasurer is authorized to issue lottery bonds pursuant to ORS [286.560 to 286.580] **286A.560 to 286A.585** in the amount of \$6 million for payment of grants to the Coos County Airport District related to the construction of a passenger terminal facility at the North Bend Airport, plus an additional amount estimated by the State Treasurer for payment of bond-related costs of the [*Economic and Community Development Department*] **Oregon Business Development Department, the Oregon Infrastructure Finance Authority** and the State Treasurer.

(b) For the biennium beginning July 1, 2007, the State Treasurer is authorized to issue lottery bonds pursuant to ORS [286.560 to 286.580] **286A.560 to 286A.585** in the amount of \$4 million for payment of grants to the Coos County Airport District related to the construction of a passenger terminal facility at the North Bend Airport, plus an additional amount estimated by the State Treasurer for payment of bond-related costs of the [*Economic and Community Development Department*] **Oregon Business Development Department, the Oregon Infrastructure Finance Authority** and the State Treasurer.

(2)(a) Net proceeds of lottery bonds issued under subsection (1)(a) of this section, in the amount of \$6 million, shall be deposited in the North Bend Airport Improvement Fund established by section 3, chapter 756, Oregon Laws 2005, not later than December 15, 2005.

(b) Net proceeds of lottery bonds issued under subsection (1)(b) of this section, in the amount of \$4 million, shall be deposited in the North Bend Airport Improvement Fund established by section 3, chapter 756, Oregon Laws 2005, not later than December 15, 2007.

SECTION 119. Section 7, chapter 746, Oregon Laws 2007, is amended to read:

Sec. 7. (1) Notwithstanding ORS [286.505 to 286.545] **286A.035** for the biennium beginning July 1, 2007, at the request of the [*Director of the Economic and Community Development Department,*] **Director of the Oregon Business Development Department**, the State Treasurer is authorized to issue lottery bonds pursuant to ORS [286.560 to 286.580] **286A.560 to 286A.585** in the amount of \$7 million for payment of the expenses of the City of Hillsboro for the establishment of the City of Hillsboro Downtown Parking Facility, plus an additional amount to be estimated by the State Treasurer for payment of bond-related costs incurred by the [*Economic and Community Development Department,*] **Oregon Business Development Department, the Oregon Infrastructure Finance Authority**, the Oregon Department of Administrative Services and the State Treasurer.

(2) The bond-related costs incurred by the [*Economic and Community Development Department,*] **Oregon Business Development Department, the Oregon Infrastructure Finance Authority**, the Oregon Department of Administrative Services and the State Treasurer for the lottery bonds authorized by this section shall be paid from the gross proceeds of the lottery bonds, from allocations for the purposes of ORS [286.576 (1)(c)] **286A.576 (1)(c)** or from moneys in the City of Hillsboro Downtown Parking Facility Fund established under section 9, **chapter 746, Oregon Laws 2007 [of this 2007 Act]**.

SECTION 120. Section 9, chapter 746, Oregon Laws 2007, is amended to read:

Sec. 9. (1) The City of Hillsboro Downtown Parking Facility Fund is established separate and distinct from the General Fund. The moneys in the City of Hillsboro Downtown Parking Facility Fund and the interest earnings of the fund are continuously appropriated to the [*Economic and Community Development Department*] **Oregon Business Development Department for the Oregon Infrastructure Finance Authority** for the purpose described in subsection (2) of this section, for payment of the [*department's*] **authority's** expenses incurred for entering into, modifying and administering the grant agreement authorized by this section in an amount up to \$36,000 and for payment of bond-related costs. The fund consists of moneys deposited in the fund under section 7, **chapter 746, Oregon Laws 2007 [of this 2007 Act]**, and may include fees, moneys or other revenues available for payment of expenses of establishing the facility.

(2) Subject to subsection (3) of this section, moneys in the fund shall be available for immediate distribution to the City of Hillsboro to pay the expenses of the facility.

(3) The [*Director of the Economic and Community Development Department*] **administrator of the Oregon Infrastructure Finance Authority** shall enter into a grant agreement with the City of Hillsboro that requires:

(a) The city to agree in the grant agreement authorized by this section:

(A) To indemnify the state government, as defined in ORS 174.111, to the fullest extent permitted by law for any liability the state government might incur in connection with a borrowing by the city for the facility.

(B) Not to request or accept moneys from the state General Fund for the facility.

(C) To refund the difference to the [*director*] **administrator** for deposit in the City of Hillsboro Downtown Parking Facility Fund if, upon completion of the facility, the aggregate expenditure of state and local moneys is less than \$8.6 million.

(b) The [*department*] **authority** to disburse, over the course of the development of the facility, an aggregate amount of \$7 million to the City of Hillsboro from the City of Hillsboro Downtown Parking Facility Fund when:

(A) Moneys are available;

(B) The [*director*] **administrator** determines that the city has entered into one or more contracts that have an aggregate value of at least \$16 million for final design, construction or acquisition of components of the facility; and

(C) The [director] **administrator** determines that the city has provided documentation that it will have sufficient financing to complete the facility.

(4) If, on or before June 30, 2008, the [director] **administrator** has not distributed bond proceeds to the City of Hillsboro under the requirements of this section and the grant agreement, the [director] **administrator** shall:

- (a) Evaluate the likelihood that the bond proceeds will be distributed before June 30, 2009; and
- (b) Report the findings of the evaluation to the Oregon Department of Administrative Services and the State Treasurer on or before September 1, 2008.

SECTION 121. ORS 285B.560 is amended to read:

285B.560. As used in ORS 285B.560 to 285B.599:

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

[(2)] (1) "Direct project management costs" means new expenses incurred by a municipality solely to support, plan for and manage an infrastructure project, funded in whole or in part through financial assistance under ORS 285B.560 to 285B.599, during the planning and construction phases of the project.

[(3)] (2) "Fund" means the Water Fund.

[(4)] (3) "Municipality" has the meaning given that term in ORS 285B.410.

[(5)] (4) "Safe drinking water project" means a project for constructing or improving a drinking water system or a water development project, as defined in ORS 541.700 (6)(a), (b) and (d) to (f), that is owned and operated by a municipality.

[(6)] (5) "Waste water system improvement project" means a project for constructing or improving a system for waste water collection or treatment, including storm drainage systems.

[(7)] (6) "Water project" means a safe drinking water project or a waste water system improvement project.

SECTION 122. 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. **Interest earned by the Water Fund shall be credited to the fund.** All moneys in the Water Fund are continuously appropriated to the [Economic and Community Development Department] **Oregon Business Development Department for the Oregon Infrastructure Finance Authority** for the purposes described in ORS 285B.560 to 285B.599, including the direct project management costs.

(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] **authority** 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] **authority** 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] **authority** may award a grant [only] if a loan is not feasible due to:

(A) Financial hardship to the municipality, as determined by the [department,] **authority**, based on consideration of anticipated water service charges or anticipated waste water service 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 authority may also award grants from the fund to:**

(A) **Identify and implement sustainable technologies and practices;**

(B) **Build asset management capacity for municipalities;**

(C) **Plan for strategic initiatives that focus on the regionalization of water systems; or**

(D) **Provide third party technical assistance to communities in the development of water systems that include asset management components.**

[(d)] (e) The [department] **authority** 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] **authority** in selling revenue bonds on behalf of municipalities in order to carry out the purposes of ORS 285B.560 to 285B.599.

(4) 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*] **authority** 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] **authority** 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*] **authority** 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] **authority** may reduce the value of the fund when the [department] **authority**:

(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] **authority** 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] **authority**.

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

(10) The [department] **authority** 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*] **authority'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.

SECTION 122a. If House Bill 2009 becomes law, section 122 of this 2009 Act (amending ORS 285B.563) is repealed and ORS 285B.563, as amended by section 200, chapter __, Oregon Laws 2009 (Enrolled House Bill 2009), is amended to read:

285B.563. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Water Fund. **Interest earned by the Water Fund shall be credited to the fund.** All moneys in the Water Fund are continuously appropriated to the [*Economic and Community Development Department*] **Oregon Business Development Department for the Oregon Infrastructure Finance Authority** for the purposes described in ORS 285B.560 to 285B.599, including the direct project management costs.

(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*] **authority** 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*] **authority** 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*] **authority** may award a grant [*only*] if a loan is not feasible due to:

(A) Financial hardship to the municipality, as determined by the [*department*] **authority**, based on consideration of anticipated water service charges or anticipated waste water service 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 authority may also award grants from the fund to:**

(A) **Identify and implement sustainable technologies and practices;**

(B) **Build asset management capacity for municipalities;**

(C) **Plan for strategic initiatives that focus on the regionalization of water systems; or**

(D) **Provide third party technical assistance to communities in the development of water systems that include asset management components.**

[(d)] (e) The [*department*] **authority** 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*] **authority** in selling revenue bonds on behalf of municipalities in order to carry out the purposes of ORS 285B.560 to 285B.599.

(4) 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*] **authority** 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*] **authority** 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 Oregon Health Authority. 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*] **Oregon Infrastructure Finance Authority** 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*] **authority** may reduce the value of the fund when the [*department*] **authority**:

(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*] **authority** 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*] **authority**.

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

(10) The [*department*] **authority** 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*] **authority'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.

SECTION 123. ORS 285B.572 is amended to read:

285B.572. [(1) *The Economic and Community Development Department shall adopt by rule standards to determine the eligibility of a water project for revenue bond financing under ORS 285B.560 to 285B.599.*]

(1) **The Oregon Infrastructure Finance Authority shall determine eligibility of a water project for revenue bond financing under ORS 285B.560 to 285B.599 pursuant to rules adopted by Oregon Business Development Department.**

(2) Upon determining that a water project is eligible for revenue bond financing, the [*department*] **authority** shall forward a description of the project to the State Treasurer. The State Treasurer shall determine whether to issue revenue bonds.

SECTION 124. ORS 285B.575 is amended to read:

285B.575. (1) At the request of the [*Economic and Community Development Department*,] **Oregon Business Development Department**, the State Treasurer may issue in the name of the State of Oregon revenue bonds secured by moneys paid to the Water Fund and pledged to finance or refinance in whole or in part the cost of a water project. The revenue bonds issued under this section shall be issued in the manner prescribed by ORS chapter 286A, and refunding bonds may be issued to refinance the revenue bonds.

(2) The department or the State Treasurer may appoint bond counsel as prescribed under ORS 286A.130.

SECTION 125. ORS 285B.581 is amended to read:

285B.581. (1) Any loan of moneys to a municipality by the state shall include a plan for repayment by the municipality of moneys borrowed from the Water Fund for a water project and interest on those moneys at a rate expressly specified. The repayment plan:

(a) Shall provide for evidence of debt assurance of, and security for, repayment by the municipality as is considered necessary by the [*Economic and Community Development Department*.] **Oregon Infrastructure Finance Authority**.

(b) May set forth the allocation of special assessments or contractual responsibilities among the owners of benefited properties for repayment to the municipality of the amount of the loan.

(c) May not exceed the usable life of the contracted project or 25 years from the year of project completion, whichever is less.

(2) Notwithstanding any other provision of law or any restriction on indebtedness contained in a charter, a municipality may borrow from the fund by entering into a loan contract with the [*Economic and Community Development Department*.] **authority**. The contract may be repaid from:

(a) The revenues of any water project, including special assessment revenues;

(b) Amounts withheld under ORS 285B.599;

(c) The general fund of the municipality; or

(d) Any other source.

(3) A loan contract authorized under subsection (2) of this section may provide that a portion of the proceeds of the loan be applied to fund a reserve fund to secure the repayment of the loan or secure the repayment of revenue bonds issued to fund the loan.

(4) A loan contract authorized under subsection (2) of this section shall be authorized by an ordinance, order or resolution adopted by the governing body of the municipality.

SECTION 126. ORS 285B.584 is amended to read:

285B.584. [*In addition to any other powers granted by law in relation to a water project, the Economic and Community Development Department*] **The Oregon Infrastructure Finance Authority** may:

(1) Make all contracts, execute all instruments and do all things necessary or convenient for the exercise of the powers granted by this section, or for the performance of its covenants or duties, or in order to secure the payment of its bonds;

(2) Enter into and perform such contracts and agreements with municipalities as the [*department*] **authority** may consider proper and feasible for or concerning the planning, construction, installation, lease or other acquisition, and the financing of water projects; and

(3) Enter into covenants for the benefit of bond owners regarding the use and expenditure of moneys in the Water Fund.

SECTION 127. ORS 285B.590 is amended to read:

285B.590. In addition to making loans to municipalities for water projects, the [*Economic and Community Development Department*] **Oregon Infrastructure Finance Authority** may provide any other form of financial or other assistance that the [*department*] **authority** may consider appropriate to assist municipalities with water projects, including direct purchase by the [*department*] **authority** of goods and services related to a water project.

SECTION 128. ORS 285B.593 is amended to read:

285B.593. Out of the moneys in the Water Fund, the [*Economic and Community Development Department*] **Oregon Infrastructure Finance Authority** may make technical assistance grants and

loans to municipalities as specified by the [department] **Oregon Business Development Department** by rule. Technical assistance grants and loans shall be for the purpose of completing preliminary planning, legal, fiscal and economic investigations, reports and studies to determine the economic and engineering feasibility of water projects.

SECTION 129. ORS 285B.599 is amended to read:

285B.599. (1) If a municipality fails to comply with a contract entered into under ORS 285B.581, the [Economic and Community Development Department] **Oregon Business Development Department** may seek appropriate legal remedies to secure any repayment due the Water Fund. If any municipality defaults on payments due the fund, the State of Oregon may withhold any amounts otherwise due the municipality to apply to the indebtedness. The department may waive the right to withhold moneys under this subsection.

(2) Moneys withheld under subsection (1) of this section shall be deposited in the fund and shall be used to repay any account in the fund from which funds were expended to pay obligations upon which the municipality defaulted.

SECTION 130. 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] **Oregon Business 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. 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 131. ORS 285B.743 is amended to read:

285B.743. (1) Any individual or business firm may file with the [Economic and Community Development Department] **Oregon Business 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.740 to 285B.758. The department may adopt rules for processing applications from applicants that are not eligible to receive a loan under this section.

SECTION 132. ORS 285B.746 is amended to read:

285B.746. (1) The [Economic and Community Development Department] **Oregon Business 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 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 36 months.

(b) The business must have annual revenues of less than \$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 having a severe disability by the Department of Human Services or the Commission for the Blind.

SECTION 133. ORS 285B.749 is amended to read:

285B.749. (1) The [Economic and Community Development Department] **Oregon Business 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 in an amount equal to or greater than 20 percent of the amount of the loan.

(2) The [Economic and Community Development] department 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.

SECTION 134. ORS 285B.758 is amended to read:

285B.758. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Oregon Entrepreneurial Development Loan Fund. All moneys in the fund are continuously appropriated to the [Economic and Community Development Department] **Oregon Business Development Department** for the following purposes:

(a) Administrative costs of the department incurred in processing loan applications, investigating the eligibility of loan applicants and servicing outstanding loans;

(b) Paying for loan origination and loan servicing by contractors under ORS 285B.740 to 285B.758; and

(c) Payment of loans to applicants under ORS 285B.740 to 285B.758.

(2) The Oregon Entrepreneurial Development Loan Fund shall consist of:

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

(b) Interest earned on moneys in the fund; and

(c) Moneys received as repayment of principal and interest on loans made from the fund under ORS 285B.740 to 285B.758.

**DISADVANTAGED, MINORITY, WOMEN
AND EMERGING SMALL BUSINESS ENTERPRISES**

SECTION 135. ORS 200.025 is amended to read:

200.025. (1) There is created, in the Office of the Governor, the Advocate for Minority, Women and Emerging Small Business who shall be appointed by the Governor.

(2) There is created in the [Department of Consumer and Business Services] **Oregon Business Development Department** the Office for Minority, Women and Emerging Small Business, the employees of which shall be appointed by the Director of the **Oregon Business Development Department** [of Consumer and Business Services].

(3)(a) **The director may prescribe the duties and assignments of all officers and employees of the Office for Minority, Women and Emerging Small Business. The director shall establish the compensation of all officers and employees of the office.**

(b) **The officers and employees of the office shall be allowed reimbursement for reasonable and necessary travel and other expenses incurred in the performance of their duties.**

[(3)] (4) The Advocate for Minority, Women and Emerging Small Business shall:

(a) Advise the Governor and the director on activities and initiatives that may promote the economic integration of minorities, women and emerging small businesses into the business sector;

(b) Prepare an annual report to the Governor, director and Legislative Assembly on the status of minorities and women in the marketplace, accomplishments and resolutions of issues of concern to minority and women's enterprises and recommendations for executive and legislative actions; and

(c) Carry out other duties that may be assigned by the Governor.

[(4)] (5) The Office for Minority, Women and Emerging Small Business shall:

(a) Provide information to minority, women and emerging small businesses;

(b) Assist in the development and implementation of an aggressive strategy for this state, based on research and monitoring, that encourages participation of minorities, women and emerging small businesses in the state's economy;

(c) Make recommendations to the director on the research, development and implementation of the plan for the involvement of disadvantaged and minority groups and emerging small businesses in all state programs;

(d) Maintain an Oregon Opportunity Register and Clearinghouse for information on public agency and other contract solicitations for professional services, supplies and services and other bid opportunities, in consultation with the State Board of Higher Education, the Department of Transportation and other entities;

(e) Monitor the certification and compliance program for disadvantaged, minority, women and emerging small businesses under ORS 200.055;

(f) Investigate complaints and possible abuses of the certification program; and

(g) Assist in the promotion and coordination of plans, programs and operations of state government that strengthen minority and women participation in the economic life of this state.

SECTION 136. ORS 200.045 is amended to read:

200.045. (1) To determine whether a bidder that has failed to meet emerging small business enterprise contract requirements may be awarded the contract, the public contracting agency must decide whether the bidder's efforts to obtain participation by emerging small business enterprises were good faith efforts to meet the requirements.

(2) Performing all of the following actions by a bidder constitutes a rebuttable presumption that the bidder has made a good faith effort to satisfy the subcontracting requirement for emerging small businesses. It shall be a rebuttable presumption that the bidder has not made a good faith effort if the bidder has not acted consistently with such actions. Efforts that are merely superficial are not good faith efforts:

(a) The bidder attended any presolicitation or prebid meetings that were scheduled by the contracting agency to inform emerging small business enterprises of contracting and subcontracting or material supply opportunities available on the project;

(b) The bidder identified and selected specific economically feasible units of the project to be performed by emerging small business enterprises in order to increase the likelihood of participation by such enterprises;

(c) The bidder advertised in general circulation, trade association, minority and trade oriented, women-focus publications, if any, concerning the subcontracting or material supply opportunities;

- (d) The bidder provided written notice to a reasonable number of specific emerging small business enterprises, identified from a list of certified emerging small business enterprises provided or maintained by the **Oregon Business Development** Department [*of Consumer and Business Services*] for the selected subcontracting or material supply work, in sufficient time to allow the enterprises to participate effectively;
 - (e) The bidder followed up initial solicitations of interest by contacting the enterprises to determine with certainty whether the enterprises were interested;
 - (f) The bidder provided interested emerging small business enterprises with adequate information about the plans, specifications and requirements for the selected subcontracting or material supply work;
 - (g) The bidder negotiated in good faith with the enterprises, and did not without justifiable reason reject as unsatisfactory bids prepared by any emerging small business enterprises;
 - (h) Where applicable, the bidder advised and made efforts to assist interested emerging small business enterprises in obtaining bonding, lines of credit or insurance required by the contracting agency or contractor;
 - (i) The bidder's efforts to obtain emerging small business enterprise participation were reasonably expected to produce a level of participation sufficient to meet the goals or requirement of the public contracting agency; and
 - (j) The bidder used the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other organizations identified by the Advocate for Minority, Women and Emerging Small Business that provide assistance in the recruitment and placement of emerging small business enterprises.
- (3) To determine whether a bidder is a responsible bidder, the performance of all the following actions constitutes a rebuttable presumption that the bidder is responsible. It shall be a rebuttable presumption that the bidder is not responsible if the bidder has not acted consistently with the actions described in this subsection. Efforts that are merely superficial are not good faith efforts.
- (a) The bidder attended any presolicitation or prebid meetings that were scheduled by the contracting agency to inform minority or women business enterprises of contracting and subcontracting or material supply opportunities available on the project;
 - (b) The bidder identified and selected specific economically feasible units of the project to be performed by minority or women business enterprises in order to increase the likelihood of participation by such enterprises;
 - (c) The bidder advertised in general circulation, trade association, minority and trade oriented, women-focus publications, if any, concerning the subcontracting or material supply opportunities;
 - (d) The bidder provided written notice to a reasonable number of specific minority or women business enterprises, identified from a list of certified minority or women business enterprises provided or maintained by the **Oregon Business Development** Department [*of Consumer and Business Services*] for the selected subcontracting or material supply work, in sufficient time to allow the enterprises to participate effectively;
 - (e) The bidder followed up initial solicitations of interest by contacting the enterprises to determine with certainty whether the enterprises were interested;
 - (f) The bidder provided interested minority or women business enterprises with adequate information about the plans, specifications and requirements for the selected subcontracting or material supply work;
 - (g) The bidder negotiated in good faith with interested, capable and competitive minority or women business enterprises submitting bids;
 - (h) Where applicable, the bidder advised and made efforts to assist interested minority or women business enterprises in obtaining bonding, lines of credit or insurance required by the contracting agency or contractor;
 - (i) The bidder's efforts to obtain minority or women business enterprise participation were reasonably expected to produce a level of participation sufficient to meet the goals of the public contracting agency; and

(j) The bidder used the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other organizations identified by the Advocate for Minority, Women and Emerging Small Business that provide assistance in the recruitment and placement of disadvantaged, minority or women business enterprises.

SECTION 137. ORS 200.055 is amended to read:

200.055. (1) Any disadvantaged, minority, women or emerging small business enterprise is entitled to be certified as such upon application to the **Oregon Business Development** Department [*of Consumer and Business Services*]. If the application is approved by the department, the department shall certify the applicant as a disadvantaged, minority, women or emerging small business enterprise. The enterprise shall be considered so certified by any public contracting agency.

(2) In consultation with the State Board of Higher Education and the Department of Transportation, and with the approval of the Advocate for Minority, Women and Emerging Small Business, the **Oregon Business Development** Department [*of Consumer and Business Services*] by rule shall adopt a uniform standard form and procedure designed to provide complete documentation that a business enterprise is certified as a disadvantaged, minority, women or emerging small business enterprise. The department [*of Consumer and Business Services*] shall compile and make available upon request a list of certified disadvantaged, minority, women or emerging small business enterprises.

(3) Any business enterprise that is refused certification as a disadvantaged business enterprise or denied recertification as such or whose certification is revoked may appeal directly to the United States Department of Transportation.

(4) Any business enterprise that is refused certification as a minority, women or emerging small business enterprise or has its certification revoked may request a contested case hearing as provided in ORS chapter 183.

(5) The **Oregon Business Development** Department [*of Consumer and Business Services*] shall be the sole agency authorized to certify enterprises as disadvantaged, minority, women or emerging small business enterprises eligible to perform on public contracts in this state.

(6) The **Oregon Business Development** Department [*of Consumer and Business Services*] by rule may establish a fee not to exceed \$100 for a copy of the list of certified disadvantaged, minority, women and emerging small business enterprises and may assess state agencies for services under ORS 200.005 to 200.075.

(7) The Department of Transportation may collect a fee, not to exceed \$200, from a bidder upon bidder prequalifications to cover the costs of the **Oregon Business Development** Department [*of Consumer and Business Services*] in administering ORS 200.005 to 200.075. The Department of Transportation shall transfer such fees to the credit of the account established under subsection (8) of this section.

(8) The **Oregon Business Development** Department [*of Consumer and Business Services*] shall establish a special account in which to deposit fees and assessments. The special account is continuously appropriated to the department [*of Consumer and Business Services*] to meet its expenses in administering ORS 200.005 to 200.075.

SECTION 138. ORS 200.057 is amended to read:

200.057. (1) A business may be certified as an emerging small business by the **Oregon Business Development** Department [*of Consumer and Business Services*] for up to 12 years and may be:

(a) Designated a tier one firm for up to six years unless the business no longer qualifies as a tier one firm.

(b) Designated a tier two firm for up to six years unless the business no longer qualifies as a tier two firm.

(2) The department shall adjust annually the amount of the average annual gross receipts required to qualify as a tier one firm or a tier two firm using the most recent three-year average of the Portland-Salem Consumer Price Index for All Urban Consumers for All Items, as reported by the United States Bureau of Labor Statistics.

(3) Notwithstanding the time limits established by subsection (1) of this section, if a tier one firm provides compelling information showing, in the judgment of the department [*of Consumer and*

Business Services], that the firm has not been afforded an opportunity to bid on emerging small business projects during a year of eligibility, the department shall extend the tier one designation of the firm for one year. A tier one firm may receive the extension described in this subsection only once.

SECTION 139. ORS 200.065 is amended to read:

200.065. (1) It shall be unlawful for any person fraudulently to obtain or retain or attempt to obtain or retain or to aid another person fraudulently to obtain or retain or attempt to obtain or retain certification as a disadvantaged, minority, women or emerging small business enterprise.

(2) It shall be unlawful knowingly to make a false claim that any person is qualified for certification or is certified under ORS 200.055 for the purpose of gaining a contract or subcontract or other benefit.

(3) The public contracting agency may withhold payment, suspend or terminate the contract and may impose on any person a civil penalty not to exceed 10 percent of the contract or subcontract price or \$5,000, whichever is less, for each violation of subsection (1) or (2) of this section. The penalty shall be paid to the Office for Minority, Women and Emerging Small Business.

(4) The **Oregon Business Development** Department [*of Consumer and Business Services*] or an affected public contracting agency shall investigate any complaint that a person has violated subsection (1) or (2) of this section. In investigating such a complaint, the department or an affected public contracting agency may require any additional information, administer oaths, take depositions and issue subpoenas to compel the attendance of witnesses and the production of books, papers, records, memoranda or other information necessary to carry out its duties. If any person fails to comply with any subpoena issued under this subsection or refuses to testify on any matter on which a person may lawfully be interrogated, the procedure provided in ORS 183.440 shall be followed to compel compliance.

(5) An affected public contracting agency or the department [*of Consumer and Business Services may*] disqualify any person found to have violated subsection (1) or (2) of this section or who admits to such violation under oath during the course of an investigation from bidding or participating in any public contract for a period of time specified by the agency or department, not to exceed three years. Any contracting agency that has notice of the finding of the fraudulent certification may also disqualify the person from bidding on or participating in any public contract.

SECTION 140. ORS 200.110 is amended to read:

200.110. (1) The [*Economic and Community*] **Oregon Business** Development Department may recognize the mentor relationship between contractors and minority business enterprises or women business enterprises certified under this chapter. The mentor relationship shall offer the opportunity to foster and encourage minority and women business enterprises, to expand the capacity of presently existing minority and women businesses and to offer the opportunity for less experienced minority and women businesses to gain training and assistance.

(2) Guidelines for eligibility for the mentor relationship include, but are not limited to:

(a) Minority and women business enterprises that meet the certification requirements of the U.S. Department of Transportation are eligible for participation in a mentor program. Other minority and women business enterprises are also eligible if they meet the certification requirements of this chapter. An agency may grant approval of an enterprise application for certification concurrent with approval of a mentor arrangement.

(b) The minority or women business enterprise must be an independent organization, and the ownership by the individuals must be real. Other employment and business interests by the individuals are not precluded, if such employment or business interests do not conflict with the power of the minority or women owners to direct the management and policies of the minority or women enterprise to make day-to-day as well as major decisions on matters of management, policy and operations.

(c) The mentor program is intended to provide minority and women business enterprises with advice, assistance and training. The enterprise shall be responsible for management and operations of the business. The mentor shall not be responsible for the management of the firm. The mentor

and the enterprise shall remain separate and independent business entities with the exception that facilities may be provided to the enterprise by the mentor if a separate lease agreement is maintained by the parties.

(d) Part ownership in a minority or women business enterprise by a nondisadvantaged party, including a mentor, is permitted if in compliance with 49 C.F.R. 23. Any property, equipment, supplies or other services which are sold, rented or donated to the enterprise and any investment made by nondisadvantaged individuals must be reported to the agency involved in the mentor program. Documentation shall be provided by bills of sale, lease agreements or similar documents.

(e) The mentor relationship may include an arrangement with an independent third party, such as a bank or accountant, to act as an agent. Third parties may receive progress payments for work accomplished by the minority or women business enterprise, made out jointly to the agent and the enterprise, and make payments, on behalf of the enterprise, to material suppliers or for federal and state payroll taxes.

(3) Types of assistance a mentor may provide to the minority or women business enterprise include:

- (a) Financial assistance;
- (b) Technical and management assistance;
- (c) Equipment rental and use of personnel; and
- (d) Bonding assistance.

SECTION 141. ORS 200.120 is amended to read:

200.120. (1) Mentor relationships may be documented by a written development plan, approved by the [Economic and Community] **Oregon Business** Development Department in consultation with the Oregon Association of Minority Entrepreneurs. The development plan shall:

- (a) Clearly set forth the objectives of the parties and their respective roles;
- (b) Be for a specified length of time;
- (c) Determine measurable goals to be reached by the minority or women business enterprise; and
- (d) Provide that if resources of the mentor are utilized by the minority or women business enterprise in the performance of contracts or subcontracts for the mentor or for another contractor, the resources shall be separately identified, accounted for and compensated directly by the minority or women business enterprise to the mentor. If the plan provides for extensive use of the mentor's resources by the minority or women business enterprise, the arrangement may be closely monitored.

(2) The development plan may also include training to be provided by the mentor to the minority or women business enterprise. Training may include:

- (a) Business planning;
- (b) Record keeping;
- (c) Technical training;
- (d) Capital formation;
- (e) Loan packaging;
- (f) Financial counseling;
- (g) Bonding; and
- (h) Equipment utilization.

(3) The development plan may be reviewed annually by the [Economic and Community] **Oregon Business** Development Department and the Oregon Association of Minority Entrepreneurs to review the progress of the mentor program.

(4) The development plan shall contain a provision that the mentor relationship may be terminated by mutual consent or upon determination that:

- (a) The mentor firm no longer meets the eligibility standards for certification as a minority or women business enterprise;
- (b) Either party has failed or is unable to meet its obligations under the development plan;
- (c) The minority or women business enterprise is not progressing or is not likely to progress in accordance with the development plan;

(d) The minority or women business enterprise has reached a satisfactory level of self-sufficiency to compete without resorting to special treatment provided in the development plan; or

(e) The plan or provisions thereof are contrary to the requirements of federal, state, or local law or regulation, or otherwise contrary to public policy.

(5) Copies of the development plan shall be retained by all parties to it, and by the [*Economic and Community*] **Oregon Business** Development Department and the Oregon Association of Minority Entrepreneurs.

(6) The development plan may include a provision that the arrangement shall be dissolved by either party for reason by notifying the [*Economic and Community*] **Oregon Business** Development Department and the Oregon Association of Minority Entrepreneurs.

SECTION 142. ORS 200.170 is amended to read:

200.170. (1) Subject to subsection (2) of this section, to participate in the emerging small business program under ORS 200.160 to 200.200, an applicant must:

(a) Be certified by the **Oregon Business Development** Department [*of Consumer and Business Services*] under ORS 200.005 to 200.075 as an emerging small business;

(b) Show that the applicant's place of business and the work in which the applicant seeks to participate are located in this state; and

(c) Show that the applicant is in compliance with applicable licensing and registration requirements.

(2) The Department of Transportation may limit eligibility for participation on a specific project or contract to emerging small businesses that are located in or draw a part of their workforce from economically distressed areas or enterprise zones in this state, as designated by the [*Economic and Community*] **Oregon Business** Development Department in consultation with the Employment Department.

(3) An applicant who participates under ORS 200.160 to 200.200 must perform at least 51 percent of the labor provided by the applicant on a public improvement or maintenance project using the applicant's own workforce.

MARINE NAVIGATION IMPROVEMENT

SECTION 143. ORS 777.267 is amended to read:

777.267. (1) There is established in the State Treasury the Marine Navigation Improvement Fund. **Interest earned by the Marine Navigation Improvement Fund shall credited to the fund.** The moneys in the fund and interest earnings on the moneys in the fund are continuously appropriated to the [*Economic and Community Development Department*] **Oregon Business Development Department for the Oregon Infrastructure Finance Authority** for the purposes of:

(a) Paying a portion of the costs of dredging activities that are carried out in the harbors and channels on the Oregon coast and along the Columbia River when federal law or regulation requires a portion of the costs of such dredging to be paid by nonfederal interests; and

(b) Paying the study and construction costs of other new navigation improvement projects that directly support a federally authorized navigation improvement project.

(2) The Marine Navigation Improvement Fund established by this section consists of moneys appropriated to the fund by the Legislative Assembly, repayment of loans made with moneys in the fund and bond proceeds deposited in the fund.

(3) Moneys in the fund shall be used primarily to make loans to ports for eligible projects. The [*department*] **authority** may award a grant or provide other assistance from moneys in the fund to a port for an eligible project only if a loan is not feasible due to the financial hardship of the port or other special circumstances, as set forth in rules adopted by the department.

(4) Eligibility for assistance from the Marine Navigation Improvement Fund shall be limited to and funded, subject to the availability of funds, in the following order of priority:

(a) Federally authorized studies and construction of new navigation improvement projects.

(b) Other new navigation improvement projects if the projects directly support or provide access to a federally authorized navigation improvement project or a federally authorized navigation channel.

(5) Financial assistance for construction costs under subsection (4)(a) of this section shall be limited to those projects that have completed all federally required studies and have confirmed positive cost-benefit ratios as required by the National Economic Development Plan.

(6) Financial assistance for construction costs under subsection (4)(b) of this section is limited to projects sponsored by a port, as defined in ORS 777.005 or 778.005, that meet criteria developed by the [department] authority.

(7) Financial assistance for studies of other new construction projects under subsection (1)(b) of this section is limited to projects that meet criteria developed by the [department] authority.

SECTION 144. ORS 777.277 is amended to read:

777.277. As used in ORS 777.277 to 777.287:

(1) "Channel Deepening Account" means the account in the Marine Navigation Improvement Fund created by ORS 777.282.

(2) "Channel Deepening Debt Service Account" means the account in the Marine Navigation Improvement Fund created by ORS 777.282.

(3) "Channel deepening project" means a project to deepen the deep draft Columbia River navigation channel from an authorized depth of 40 feet.

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

[(5) "Director" means the Director of the Economic and Community Development Department.]

[(6)] (4) "Grant agreement" means the grant agreement described in ORS 777.284.

[(7)] (5) "Oregon nonfederal share" means that portion of the cost of the channel deepening project that is allocable to the Oregon sponsors and that is not paid by the federal government, the State of Washington or the Washington sponsors.

[(8)] (6) "Oregon sponsors" means the Port of St. Helens, the Port of Portland or any agency acting on behalf of the government of the State of Oregon as a financial contributor to the channel deepening project.

[(9)] (7) "Primary sponsor" means the Port of Portland as representative of the Oregon sponsors.

[(10)] (8) "Project cooperation agreement" means a written agreement between the United States Government and a nonfederal sponsor that requires the United States Government to construct, and the nonfederal sponsor to share in the cost of, a project authorized under the Water Resources Development Act or a similar Act of the United States Congress.

[(11)] (9) "Washington sponsors" means the Port of Vancouver, the Port of Kalama, the Port of Woodland, the Port of Longview or any agency acting on behalf of the government of the State of Washington as a financial contributor to the channel deepening project.

SECTION 145. ORS 777.282 is amended to read:

777.282. (1) The Channel Deepening Account is hereby created in the Marine Navigation Improvement Fund.

(2) Any earnings **and interest earned** on amounts in the Channel Deepening Account shall be credited to the Channel Deepening Account. [*All moneys on deposit from time to time in the Channel Deepening Account, including investment earnings thereon, shall be allocated and are hereby appropriated continuously]* The moneys in the Channel Deepening Account are continuously appropriated to the [Economic and Community Development Department,] Oregon Business Development Department for the Oregon Infrastructure Finance Authority and shall be transferred by the [department] authority to the primary sponsor pursuant to and upon the terms and conditions set forth in the grant agreement entered into under ORS 777.284 to pay the Oregon nonfederal share.

[(3) *Notwithstanding directions for transfer of moneys to the primary sponsor in subsection (2) of this section and the grant agreement entered into under ORS 777.284 prior to August 29, 2003, the Economic and Community Development Department shall transfer moneys in the Channel Deepening Account on August 29, 2003, to the Channel Deepening Debt Service Account for payment of bond-related costs for lottery bonds issued under ORS 285B.551 (5) and section 12, chapter 741, Oregon*

Laws 2003, and for lottery bonds issued for channel deepening under ORS 285B.551 (3) and section 6, chapter 942, Oregon Laws 2001.]

[(4)] (3) The Channel Deepening Debt Service Account is hereby created in the Marine Navigation Improvement Fund.

[(5)] (4) Any earnings **and interest earned** on amounts in the Channel Deepening Debt Service Account must be credited to the Channel Deepening Debt Service Account. *[All moneys on deposit from time to time in the Channel Deepening Debt Service Account, including investment earnings thereon, and all amounts required by this section to be deposited in the Channel Deepening Debt Service Account, shall be allocated and are hereby appropriated continuously to the Economic and Community Development Department]* **The moneys in the Channel Deepening Debt Service Account are continuously appropriated to the Oregon Business Development Department for the Oregon Infrastructure Finance Authority** for payment of bond-related costs for lottery bonds issued under ORS 285B.551 (5) and section 12, chapter 741, Oregon Laws 2003, and for lottery bonds issued for channel deepening under ORS 285B.551 (3) and section 6, chapter 942, Oregon Laws 2001.

[(6)] (5) The restrictions on the use of moneys in the Marine Navigation Improvement Fund set forth in ORS 777.267 do not apply to moneys in the Channel Deepening Account or the Channel Deepening Debt Service Account.

SECTION 146. ORS 777.284 is amended to read:

777.284. (1) [Within six months after August 29, 2003, the Director of the Economic and Community Development Department] The Director of the Oregon Business Development Department shall enter into, or modify, a grant agreement with the primary sponsor *[that commits the Economic and Community Development Department] committing the Oregon Business Development Department* to request that the State Treasurer issue lottery bonds as provided in ORS 285B.551 (3) and section 6, chapter 942, Oregon Laws 2001, to obtain lottery bond proceeds for deposit in the Channel Deepening Account for payment of the Oregon nonfederal share.

(2) The total amount paid to the primary sponsor pursuant to the grant agreement may not exceed the lesser of the amount of the Oregon nonfederal share or the total amount deposited in the Channel Deepening Account. The grant agreement:

- (a) Shall specify a method for determining the total amount of the Oregon nonfederal share; and
- (b) May not contain provisions or be construed or enforced in any manner that would cause the grant agreement to constitute a debt or liability of the state that violates section 7, Article XI of the Oregon Constitution.

CONFORMING AMENDMENTS

SECTION 147. ORS 183.635 is amended to read:

183.635. (1) Except as provided in this section, all agencies must use administrative law judges assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct contested case hearings, without regard to whether those hearings are subject to the procedural requirements for contested case hearings.

- (2) The following agencies need not use administrative law judges assigned from the office:
 - (a) Attorney General.
 - (b) Boards of stewards appointed by the Oregon Racing Commission.
 - (c) Bureau of Labor and Industries and the Commissioner of the Bureau of Labor and Industries.
 - (d) Department of Corrections.
 - (e) Department of Education, State Board of Education and Superintendent of Public Instruction.
 - (f) Department of Higher Education and institutions of higher education listed in ORS 352.002.
 - (g) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C. 722(c) and disability determination cases under 42 U.S.C. 405.
 - (h) Department of Revenue.
 - (i) Department of State Police.
 - (j) Employment Appeals Board.

- (k) Employment Relations Board.
- (L) Energy Facility Siting Council.
- (m) Fair Dismissal Appeals Board.
- (n) Governor.
- (o) Land Conservation and Development Commission.
- (p) Land Use Board of Appeals.
- (q) Local government boundary commissions created pursuant to ORS 199.430.
- (r) Oregon Youth Authority.
- (s) Psychiatric Security Review Board.
- (t) Public Utility Commission.
- (u) Secretary of State.
- (v) State Accident Insurance Fund Corporation.
- (w) State Apprenticeship and Training Council.
- (x) State Board of Parole and Post-Prison Supervision.
- (y) State Land Board.
- (z) State Treasurer.
- (aa) Wage and Hour Commission.

(3) The Workers' Compensation Board is exempt from using administrative law judges assigned from the office for any hearing conducted by the board under ORS chapters 147, 654 and 656. Except as specifically provided in this subsection, the Department of Consumer and Business Services must use administrative law judges assigned from the office only for contested cases arising out of the department's powers and duties under:

- (a) ORS chapter 59;
- [(b) ORS 200.005 to 200.075;]
- [(c)] (b) ORS chapter 455;
- [(d)] (c) ORS chapter 674;
- [(e)] (d) ORS chapters 706 to 716;
- [(f)] (e) ORS chapter 717;
- [(g)] (f) ORS chapters 722, 723, 725 and 726; and
- [(h)] (g) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 744, 746, 748 and 750.

(4) Notwithstanding any other provision of law, in any proceeding in which an agency is required to use an administrative law judge assigned from the office, an officer or employee of the agency may not conduct the hearing on behalf of the agency.

(5) Notwithstanding any other provision of ORS 183.600 to 183.690, an agency is not required to use an administrative law judge assigned from the office if:

- (a) Federal law requires that a different administrative law judge or hearing officer be used; or
- (b) Use of an administrative law judge from the office could result in a loss of federal funds.

(6) Notwithstanding any other provision of this section, the Department of Environmental Quality must use administrative law judges assigned from the office only for contested case hearings conducted under the provisions of ORS 183.413 to 183.470.

SECTION 148. ORS 285C.612 is amended to read:

285C.612. (1) The Oregon [*Economic and Community*] **Business** Development Commission shall collect the fees set forth in subsection (2) of this section from an applicant that seeks to have the real and personal property constituting the eligible project declared eligible for the tax exemption provided in ORS 307.123. The fee may be collected even though the project has not been determined to be eligible for the tax exemption.

(2) The fees described in subsection (1) of this section are as follows:

(a) \$10,000, or \$5,000 if the project is located in a rural area, upon application to the commission; and

(b) \$50,000, or \$10,000 if the project is located in a rural area, when the eligible project is determined by the commission to be eligible for the tax exemption provided in ORS 307.123. The

commission shall pay 50 percent of this fee to the Department of Revenue for the purpose of administration of ORS 307.123.

(3) The fees collected under subsection (2) of this section shall be deposited in the Oregon [Community Development] **Business, Innovation and Trade** Fund created under ORS 285A.227.

SECTION 149. ORS 468B.415 is amended to read:

468B.415. (1) There is established a safety committee for the Oregon coast. A subcommittee shall be appointed for Coos Bay and Yaquina Bay. In addition, the Department of Environmental Quality also shall consult with the State of Washington to establish a joint regional safety committee for the Columbia River and may appoint a subcommittee for the Willamette River. The safety committee shall operate under the direction of the [Economic and Community Development Department] **Oregon Infrastructure Finance Authority** pursuant to ORS 285A.615.

(2) Each committee shall consist of not more than 11 members, appointed by the [Director of the Economic and Community Development Department] **administrator of the Oregon Infrastructure Finance Authority** in consultation with the Director of the Department of Environmental Quality. At a minimum, the following groups should be considered for representation on the committees:

- (a) Local port authorities;
- (b) Tank vessel operators;
- (c) Tug and barge operators;
- (d) Pilots' organizations;
- (e) Cargo vessel operators;
- (f) Commercial fishermen;
- (g) Pleasure boat operators;
- (h) Environmental organizations;
- (i) Local planning authorities; and
- (j) The public at large.

(3) The members shall be appointed to the safety committee for a term of four years. The [Director of the Economic and Community Development Department] **administrator** in consultation with the Director of the Department of Environmental Quality shall appoint the chairperson of each committee to serve a term of four years.

(4) A majority of the members shall constitute a quorum for the transaction of business.

(5) The duties of the safety committees shall include but are not limited to:

- (a) Planning for safe navigation and operation of covered vessels within each harbor;
- (b) Developing safety plans;
- (c) Reviewing and making recommendations to the Oregon Board of Maritime Pilots, ports and the United States Coast Guard on the following:

- (A) Pilotage requirements for all single boiler or single engine and single screw tank vessels carrying oil in pilotage grounds;

- (B) Reducing deadweight tonnage specifications for pilotage service for vessels carrying oil;

- (C) Guidelines for tugs on tank vessels for tow cable size and material specifications, cable maintenance practices, cable handling equipment design and barge recovery plan preparation;

- (D) Establishing regional speed limits, based on escort vehicle limitations, for all tank vessels in inland navigable waters and critical approaches to inland navigable waters;

- (E) Requiring towing systems and plans on all tank vessels carrying oil; and

- (F) The feasibility of establishing a pilot program for a near-miss reporting system that is coordinated with vessel inspection information compiled as a result of inspections under ORS 468B.370 and 468B.375.

(6) Members of the safety committees established under this section are entitled to compensation and expenses as provided in ORS 292.495.

(7) The Department of Environmental Quality shall serve in an advisory capacity to the safety committees and review the safety plans. In addition, the United States Coast Guard shall be invited to also act in an advisory capacity to the safety committees and may participate in the review of safety plans.

SECTION 150. ORS 657.665 is amended to read:

657.665. (1) Except as provided in subsections (2) to (4) of this section, all information in the records of the Employment Department pertaining to the administration of the unemployment insurance, employment service and labor market information programs:

(a) Is confidential and for the exclusive use and information of the Director of the Employment Department in administering the unemployment insurance, employment service and labor market information programs in Oregon.

(b) May not be used in any court action or in any proceeding pending in the court unless the director or the state is a party to the action or proceeding or unless the proceeding concerns the establishment, enforcement or modification of a support obligation and support services are being provided by the Division of Child Support or the district attorney pursuant to ORS 25.080.

(c) Is exempt from disclosure under ORS 192.410 to 192.505.

(2) The Employment Department shall disclose information:

(a) To any claimant or legal representative, at a hearing before an administrative law judge, to the extent necessary for the proper presentation of an unemployment insurance claim.

(b) Upon request to the United States Secretary of Labor. The Employment Department shall disclose the information in a form and containing the information that the United States Secretary of Labor may require. The information disclosed is confidential and may not be used for any other purpose.

(c) Pursuant to section 303(a)(7) of the Social Security Act, upon request to any agency of the United States charged with the administration of public works or assistance through public employment. Under this paragraph, the Employment Department shall disclose the name, address, ordinary occupation and employment status of each recipient of unemployment insurance benefits and a statement of the recipient's right to further benefits under this chapter. The information disclosed is confidential and may not be used for any other purpose.

(d) Pursuant to section 303(c)(1) of the Social Security Act, to the Railroad Retirement Board. Under this paragraph, the Employment Department shall disclose unemployment insurance records. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the board.

(e) Pursuant to section 303(d) of the Social Security Act, upon request to officers and employees of the United States Department of Agriculture and to officers or employees of any state food stamp agency for the purpose of determining an individual's eligibility for or the amount of food stamps. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Department of Agriculture.

(f) Pursuant to section 303(e)(1) and (2)(A)(ii) of the Social Security Act, to state or local child support enforcement agencies enforcing child support obligations under Title IV-D of the Social Security Act for the purposes of establishing child support obligations, locating individuals owing child support obligations and collecting child support obligations from those individuals. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the child support enforcement agency.

(g) Pursuant to sections 303(f) and 1137 of the Social Security Act, to agencies participating in the income and eligibility verification system for the purpose of verifying an individual's eligibility for benefits, or the amount of benefits, under unemployment insurance, Temporary Assistance for Needy Families, Medicaid, food stamps, Supplemental Security Income, child support enforcement or Social Security programs. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the requesting agency.

(h) Pursuant to section 303(h) of the Social Security Act and section 3304(a)(16)(B) of the Federal Unemployment Tax Act, to the United States Department of Health and Human Services National Directory of New Hires. The information disclosed is confidential and may not be used for any other

purpose. The costs of disclosing information under this paragraph shall be paid by the United States Department of Health and Human Services.

(i) Pursuant to section 303(i) of the Social Security Act, to officers and employees of the United States Department of Housing and Urban Development and to representatives of a public housing agency for the purpose of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of the United States Department of Housing and Urban Development. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Department of Housing and Urban Development or the public housing agency.

(j) Pursuant to regulations of the United States Secretary of Health and Human Services issued under section 3304(a)(16)(A) of the Federal Unemployment Tax Act, and except as required by section 303 of the Social Security Act, to the state, a political subdivision or a federally recognized Indian tribe that has signed an agreement with the Department of Human Services to administer Part A of Title IV of the Social Security Act for the purpose of determining an individual's eligibility for assistance, or the amount of assistance, under a program funded under Part A of Title IV of the Social Security Act. The information disclosed is confidential and may not be used for any other purpose.

(k) Upon request, to the United States Attorney's Office. Under this paragraph, the Employment Department may disclose an individual's employment and wage information in response to a federal grand jury subpoena or for the purpose of collecting civil and criminal judgments, including restitution and special assessment fees. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Attorney's Office.

(3) The Employment Department may disclose information secured from employing units:

(a) To agencies of this state, federal agencies and local government agencies to the extent necessary to properly carry out governmental planning, performance measurement, program analysis, socioeconomic analysis and policy analysis functions performed under applicable law. The information disclosed is confidential and may not be disclosed by the agencies in any manner that would identify individuals, claimants, employees or employing units. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the agency requesting the information.

(b) As part of a geographic information system. Points on a map may be used to represent economic data, including the location, employment size class and industrial classification of businesses in Oregon. Information presented as part of a geographic information system may not give specific details regarding a business's address, actual employment or proprietary information. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the party requesting the information.

(c) In accordance with ORS 657.673.

(4) The Employment Department may:

(a) Disclose information to public employees in the performance of their duties under state or federal laws relating to the payment of unemployment insurance benefits, the provision of employment services and the provision of labor market information.

(b) At the discretion of the Director of the Employment Department and subject to an interagency agreement, disclose information to public officials in the performance of their official duties administering or enforcing laws within their authority and to the agents or contractors of public officials. The public official shall agree to assume responsibility for misuse of the information by the official's agent or contractor.

(c) Disclose information pursuant to an informed consent, received from an employer or claimant, to disclose the information.

(d) Disclose information to partners under the federal Workforce Investment Act of 1998 for the purpose of administering state workforce programs under the Act. The information disclosed is

confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the requesting partner.

(e) Disclose the names and addresses of employing units to the Bureau of Labor and Industries for the purpose of disseminating information to employing units. The names and addresses disclosed are confidential and may not be used for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the bureau.

(f) Disclose information to the Commissioner of the Bureau of Labor and Industries for the purpose of performing duties under ORS 279C.800 to 279C.870, 658.005 to 658.245 or 658.405 to 658.503 or ORS chapter 652, 653 or 659A. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be used for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the bureau.

(g) Disclose information required under ORS 657.660 (3) and (4) to the Public Employees Retirement System for the purpose of determining the eligibility of members of the retirement system for disability retirement allowances under ORS chapter 238. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the Public Employees Retirement System.

(h) Disclose to the Oregon [*Economic and Community*] **Business** Development Commission information required by the commission in performing its duty under ORS 285A.050 to verify changes in employment levels following direct employer participation in [*Economic and Community*] **Oregon Business** Development Department programs or indirect participation through municipalities under ORS 285B.410 to 285B.482. [*and regional boards and partnerships under ORS 285B.230 to 285B.269.*] The information disclosed to the commission may include an employer's employment level, total subject wages payroll and whole hours worked. The information disclosed is confidential and may not be used for any other purpose. The commission may not disclose the information in any manner that would identify an employing unit or employee except to the extent necessary to carry out the commission's duty under ORS 285A.050. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the commission.

(i) Disclose information to the Department of Revenue for the purpose of performing its duties under ORS 293.250 or under the revenue and tax laws of this state. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Revenue in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS 293.250 or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the department. The Department of Revenue may not disclose any information received to any private collection agency or for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Revenue.

(j) Disclose information to the Department of Consumer and Business Services for the purpose of performing its duties under ORS chapters 654 and 656. The information disclosed may include the name, address, number of employees and industrial classification code of an employer and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Consumer and Business Services in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS chapters 654 and 656, including administrative hearings and court proceedings in which the Department of Consumer and Business Services is a party. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Consumer and Business Services.

(k) Disclose information to the Construction Contractors Board for the purpose of performing its duties under ORS chapter 701. The information disclosed to the board may include the names and addresses of employers and status of their compliance with this chapter. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the board.

(L) Disclose information to the State Fire Marshal to assist the State Fire Marshal in carrying out duties under ORS 453.307 to 453.414. The information disclosed may include the name, address, telephone number and industrial classification code of an employer. The information disclosed is confidential and may not be disclosed by the State Fire Marshal in any manner that would identify an employing unit except to the extent necessary to carry out duties under ORS 453.307 to 453.414. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the office of the State Fire Marshal.

(m) Disclose information to the Oregon Student Assistance Commission for the purpose of performing the commission's duties under ORS chapter 348 and Title IV of the Higher Education Act of 1965. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the commission in any manner that would identify an employing unit or employee except to the extent necessary to carry out the commission's duties under ORS chapter 348 or Title IV of the Higher Education Act of 1965. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the commission.

(n) Disclose information to the Department of Transportation to assist the Department of Transportation in carrying out the duties of the Department of Transportation relating to collection of delinquent and liquidated debts, including taxes, under ORS 184.610 to 184.666, 184.670 to 184.733 and 805.263, ORS chapter 319 and the Oregon Vehicle Code. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Transportation in any manner that would identify an employing unit or employee except to the extent necessary to carry out the Department of Transportation's duties relating to collection of delinquent and liquidated debts or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the Department of Transportation. The Department of Transportation may not disclose any information received to any private collection agency or for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Transportation.

(o) Disclose to any person establishment level information secured pursuant to this chapter from federal, state and local government employing units. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the party requesting the information.

(p) Disclose to any person the industrial classification code assigned to an employing unit. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the party requesting the information.

(5) Any officer appointed by or any employee of the Director of the Employment Department who discloses confidential information, except with the authority of the director, pursuant to rules or as otherwise required by law, may be disqualified from holding any appointment or employment with the Employment Department.

(6) Any person or any officer or employee of an entity to whom information is disclosed by the Employment Department under this section who divulges or uses the information for any purpose other than that specified in the provision of law or agreement authorizing the use or disclosure may be disqualified from performing any service under contract or disqualified from holding any appointment or employment with the state agency that engaged or employed that person, officer or

employee. The Employment Department may immediately cancel or modify any information sharing agreement with an entity when a person or an officer or employee of that entity discloses confidential information, other than as specified in law or agreement.

TRANSITION PROVISIONS

SECTION 151. (1) The unexpended balances of amounts authorized to be expended by the Oregon Economic and Community Development Commission for the biennium beginning July 1, 2009, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred to the Oregon Business Development Commission by this 2009 Act are transferred to and are available for expenditure by the Oregon Business Development Commission for the biennium beginning July 1, 2009, for the purpose of administering and enforcing the duties, functions and powers transferred by this 2009 Act.

(2) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the Oregon Economic and Community Development Commission remain applicable to expenditures by the Oregon Business Development Commission under this section.

SECTION 152. The transfer of duties, functions and powers to the Oregon Business Development Commission by this 2009 Act does not affect any action, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the Oregon Business Development Commission is substituted for the Oregon Economic and Community Development Commission in the action, proceeding or prosecution.

SECTION 153. (1) Nothing in this 2009 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred to the Oregon Business Development Commission by this 2009 Act. The Oregon Business Development Commission may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the Oregon Economic and Community Development Commission legally incurred under contracts, leases and business transactions executed, entered into or begun before the effective date of this 2009 Act accruing under or with respect to the duties, functions and powers transferred to the Oregon Business Development Commission by this 2009 Act are transferred to the Oregon Business Development Commission. For the purpose of succession to these rights and obligations, the Oregon Business Development Commission is a continuation of the Oregon Economic and Community Development Commission and not a new authority.

SECTION 154. Notwithstanding the transfer of duties, functions and powers to the Oregon Business Development Commission by this 2009 Act, the rules of the Economic and Community Development Department with respect to the duties, functions or powers of the Oregon Economic and Community Development Commission that are in effect on the effective date of this 2009 Act continue in effect until superseded or repealed by rules of the Oregon Business Development Department. References in such rules to the Oregon Economic and Community Development Commission or to an officer or employee of the Oregon Economic and Community Development Commission are considered to be references to the Oregon Business Development Commission or an officer or employee of the Oregon Business Development Commission.

SECTION 155. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, in the context of the duties, functions and powers transferred to the Oregon Business Development Commission by this 2009 Act, reference is made to the Oregon Economic and Community Development Commission, or an officer or employee of the Oregon Economic and Community Development Commission, whose duties, functions or powers are transferred to

the Oregon Business Development Commission by this 2009 Act, the reference is considered to be a reference to the Oregon Business Development Commission or an officer or employee of the Oregon Business Development Commission who is charged with carrying out such duties, functions and powers.

SECTION 156. (1) The amendments to ORS 285A.040 by section 10 of this 2009 Act are intended to change the name of the Oregon Economic and Community Development Commission to the Oregon Business Development Commission.

(2) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the "Oregon Economic and Community Development Commission," wherever they occur in Oregon Revised Statutes, other words designating the "Oregon Business Development Commission."

SECTION 157. (1) The unexpended balances of amounts authorized to be expended by the Economic and Community Development Department for the biennium beginning July 1, 2009, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred to the Oregon Business Development Department by this 2009 Act are transferred to and are available for expenditure by the Oregon Business Development Department for the biennium beginning July 1, 2009, for the purpose of administering and enforcing the duties, functions and powers transferred by this 2009 Act.

(2) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the Economic and Community Development Department remain applicable to expenditures by the Oregon Business Development Department under this section.

SECTION 158. The transfer of duties, functions and powers to the Oregon Business Development Department by this 2009 Act does not affect any action, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the Oregon Business Development Department is substituted for the Economic and Community Development Department in the action, proceeding or prosecution.

SECTION 159. (1) Nothing in this 2009 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred to the Oregon Business Development Department by this 2009 Act. The Oregon Business Development Department may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the Economic and Community Development Department legally incurred under contracts, leases and business transactions executed, entered into or begun before the effective date of this 2009 Act accruing under or with respect to the duties, functions and powers transferred to the Oregon Business Development Department by this 2009 Act are transferred to the Oregon Business Development Department. For the purpose of succession to these rights and obligations, the Oregon Business Development Department is a continuation of the Economic and Community Development Department and not a new authority.

SECTION 160. Notwithstanding the transfer of duties, functions and powers to the Oregon Business Development Department by this 2009 Act, the rules of the Economic and Community Development Department with respect to such duties, functions or powers that are in effect on the effective date of this 2009 Act continue in effect until superseded or repealed by rules of the Oregon Business Development Department. References in such rules of the Economic and Community Development Department to the Economic and Community Development Department or to an officer or employee of the Economic and Community Development Department are considered to be references to the Oregon Business Development Department or an officer or employee of the Oregon Business Development Department.

SECTION 161. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, in

the context of the duties, functions and powers transferred to the Oregon Business Development Department by this 2009 Act, reference is made to the Economic and Community Development Department, or an officer or employee of the Economic and Community Development Department, whose duties, functions or powers are transferred to the Oregon Business Development Department by this 2009 Act, the reference is considered to be a reference to the Oregon Business Development Department or an officer or employee of the Oregon Business Development Department who is charged with carrying out such duties, functions and powers.

SECTION 162. (1) The amendments to ORS 285A.070 by section 15 of this 2009 Act are intended to change the name of the Economic and Community Development Department to the Oregon Business Development Department.

(2) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the "Economic and Community Development Department," wherever they occur in Oregon Revised Statutes, other words designating the "Oregon Business Development Department."

SECTION 163. (1) The unexpended balances of amounts authorized to be expended by the Oregon Economic and Community Development Commission or the Economic and Community Development Department for the biennium beginning July 1, 2009, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred to the Oregon Infrastructure Finance Authority by this 2009 Act are transferred to the Oregon Business Development Department for the Oregon Infrastructure Finance Authority and are available for expenditure by the Oregon Infrastructure Finance Authority for the biennium beginning July 1, 2009, for the purpose of administering and enforcing the duties, functions and powers transferred by this 2009 Act.

(2) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the Oregon Economic and Community Development Commission or the Economic and Community Development Department remain applicable to expenditures by the Oregon Infrastructure Finance Authority under this section.

SECTION 164. The transfer of duties, functions and powers to the Oregon Infrastructure Finance Authority by this 2009 Act does not affect any action, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the Oregon Business Development Department is substituted for the Oregon Economic and Community Development Commission or the Economic and Community Development Department in the action, proceeding or prosecution.

SECTION 165. (1) Nothing in this 2009 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred to the Oregon Infrastructure Finance Authority by this 2009 Act. The Oregon Infrastructure Finance Authority may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the Oregon Economic and Community Development Commission and the Economic and Community Development Department legally incurred under contracts, leases and business transactions executed, entered into or begun before the effective date of this 2009 Act accruing under or with respect to the duties, functions and powers transferred to the Oregon Infrastructure Finance Authority by this 2009 Act are transferred to the Oregon Infrastructure Finance Authority. For the purpose of succession to these rights and obligations, the Oregon Infrastructure Finance Authority is a continuation of the Oregon Economic and Community Development Commission or the Economic and Community Development Department and not a new authority.

SECTION 166. Notwithstanding the transfer of duties, functions and powers to the Oregon Infrastructure Finance Authority by this 2009 Act, the rules of the Economic and Community Development Department with respect to such duties, functions or powers that

are in effect on the effective date of this 2009 Act continue in effect until superseded or repealed by rules of the Oregon Business Development Department. References in such rules of the Economic and Community Development Department to the Oregon Economic and Community Development Commission or the Economic and Community Development Department or to an officer or employee of the Oregon Economic and Community Development Commission or the Economic and Community Development Department are considered to be references to the Oregon Infrastructure Finance Authority or an officer or employee of the Oregon Infrastructure Finance Authority.

SECTION 167. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, in the context of the duties, functions and powers transferred to the Oregon Infrastructure Finance Authority by this 2009 Act, reference is made to the Oregon Economic and Community Development Commission or the Economic and Community Development Department, or an officer or employee of the Oregon Economic and Community Development Commission or the Economic and Community Development Department, whose duties, functions or powers are transferred to the Oregon Infrastructure Finance Authority by this 2009 Act, the reference is considered to be a reference to the Oregon Infrastructure Finance Authority or an officer or employee of the Oregon Infrastructure Finance Authority who is charged with carrying out such duties, functions and powers.

SECTION 168. (1) The amendments to ORS 285A.227 by section 28 of this 2009 Act are intended to change the name of the Oregon Community Development Fund to the Oregon Business, Innovation and Trade Fund.

(2) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the "Oregon Community Development Fund," wherever they occur in Oregon Revised Statutes, other words designating the "Oregon Business, Innovation and Trade Fund."

SECTION 169. (1) The amendments to ORS 285B.260 by section 79 of this 2009 Act are intended to change the name of the Regional Investment Fund to the Local Economic Opportunity Fund.

(2) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the "Regional Investment Fund," wherever they occur in Oregon Revised Statutes, other words designating the "Local Economic Opportunity Fund."

SECTION 170. (1) The amendments to ORS 285B.290 by section 83 of this 2009 Act are intended to change the name of the Industry Outreach Fund to the Industry Competitiveness Fund.

(2) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the "Industry Outreach Fund," wherever they occur in Oregon Revised Statutes, other words designating the "Industry Competitiveness Fund."

SECTION 171. ORS 285A.483, 285A.486, 285A.489, 285A.495, 285B.239, 285B.242, 285B.245, 285B.248, 285B.263, 285B.264 and 285B.269 are repealed.

SECTION 172. Notwithstanding the terms of office specified by section 1 of this 2009 Act, of the members first appointed by the Governor to the Oregon Infrastructure Finance Authority Board:

- (1) Two shall serve for a term ending June 30, 2010.
- (2) Two shall serve for a term ending June 30, 2011.
- (3) Two shall serve for a term ending June 30, 2012.

UNIT CAPTIONS AND EMERGENCY CLAUSE

SECTION 173. The unit captions used in this 2009 Act are provided only 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 2009 Act.

SECTION 174. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House June 18, 2009

Repassed by House June 29, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 29, 2009

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President of Senate

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State