

SENATE AMENDMENTS TO SENATE BILL 1507

By COMMITTEE ON FINANCE AND REVENUE

February 22

1 On page 1 of the printed bill, line 2, after “amending” delete the rest of the line and insert
2 “ORS 284.367, 284.368, 305.792, 315.271, 315.514, 315.613, 316.116 and 469B.403 and section 6, chapter
3 739, Oregon Laws 2007;”.

4 On page 5, after line 42, insert:

5 “**SECTION 6.** ORS 284.367 is amended to read:

6 “284.367. (1) The Oregon Production Investment Fund is established in the State Treasury, sep-
7 arate and distinct from the General Fund. Interest earned by the Oregon Production Investment
8 Fund shall be credited to the fund.

9 “(2) Moneys in the Oregon Production Investment Fund shall consist of:

10 “(a) Amounts donated to the fund;

11 “(b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

12 “(c) Other amounts deposited in the fund from any source; and

13 “(d) Interest earned by the fund.

14 “(3) [*Ninety-five*] **Eighty-nine and one-half** percent of moneys in the fund are continuously ap-
15 propriated to the Oregon Business Development Department for the purposes of making:

16 “(a) Reimbursements to filmmakers **or local media production services companies** under ORS
17 284.368;

18 “(b) Payments to a tax credit marketer for marketing services provided by the marketer as de-
19 scribed in ORS 284.369; and

20 “(c) Refunds described in ORS 315.514 (5).

21 “(4) [*Five*] **Seven and one-half** percent of moneys in the fund are continuously appropriated to
22 the department for the purpose of making reimbursements to local filmmakers or local media pro-
23 duction services companies under ORS 284.368 (3). Total annual reimbursements to local media
24 production services companies **under this subsection** may not exceed [*five*] **seven and one-half**
25 percent of the moneys deposited annually in the fund. On July 1 of each fiscal year, any moneys that
26 remain unexpended or unallocated from the previous fiscal year may be used by the department for
27 the purpose of making reimbursements to filmmakers **or local media production services compa-**
28 **nies** under ORS 284.368 (2).

29 “(5) **Three percent of moneys in the fund are continuously appropriated to the depart-**
30 **ment for the purpose of making payments to filmmakers under ORS 284.368 (4). Total annual**
31 **payments to filmmakers under this subsection may not exceed five percent of the moneys**
32 **deposited annually in the fund. On July 1 of each fiscal year, any moneys that remain unex-**
33 **pended or unallocated from the previous fiscal year may be used by the department for the**
34 **purpose of making payments to filmmakers under this section. Any excess over five percent**
35 **that remains unexpended or unallocated shall be used by the department for the purpose of**

1 **making reimbursements to filmmakers or local media production services companies under**
2 **ORS 284.368 (2).**

3 “[5] (6) Expenditures from the fund are not subject to ORS 291.232 to 291.260.

4 “**SECTION 7.** ORS 284.368 is amended to read:

5 “284.368. (1) As used in this section:

6 “(a) ‘Actual Oregon expenses’ means the costs paid in Oregon for principal photography, pro-
7 duction or postproduction in Oregon of a film, or for media production services, including but not
8 limited to the purchase or rental cost of equipment, food, lodging, real property and permits and
9 payments made for salaries, wages and benefits for work in Oregon.

10 “(b) ‘Film’ means a television movie or one or more episodes of a single television series, or a
11 movie produced for release to theaters, video or the Internet. ‘Film’ does not include the production
12 of a commercial or one or more segments of a newscast or sporting event.

13 “(c) ‘Filmmaker’ means a person who owns a television or film production company.

14 “(d) ‘Local filmmaker’ means a person who owns a television or film production company that
15 has its principal place of business in this state.

16 “(e) ‘**Local media production project**’ means, if made or performed by a local media pro-
17 **duction services company, a single interactive video game or a portion thereof, or**
18 **postproduction services for a single film.**

19 “[e] (f) ‘Local media production services company’ means a media production services company
20 that has its principal place of business in this state.

21 “[f] (g) ‘Media production services’ includes postproduction services and interactive video
22 game development. ‘Media production services’ does not include the production of a commercial or
23 one or more segments of a newscast or sporting event.

24 “[g] (h) ‘Media production services company’ means a person who is engaged in media pro-
25 duction services.

26 “(i) ‘**Portland metropolitan zone**’ means the area within a 30-mile radius of the center
27 **of the Burnside Bridge in Portland.**

28 “[h] (j) ‘Resident of this state’ has the meaning given that term in ORS 316.027.

29 “(2)(a) The Oregon Business Development Department may reimburse a filmmaker **or local**
30 **media production services company** for a portion of the actual Oregon expenses incurred by the
31 filmmaker **or local media production services company.**

32 “(b) Maximum reimbursement for a single film **or a single local media production project** shall
33 be the total of:

34 “(A) 10 percent of payments made for employee salaries, wages and benefits for work done in
35 Oregon; and

36 “(B) 20 percent of all other actual Oregon expenses.

37 “(c) **Notwithstanding paragraph (b) of this subsection, maximum reimbursement for a**
38 **single film may not exceed 50 percent of total moneys received by the Oregon Production**
39 **Investment Fund during the biennium in which the actual Oregon expenses are incurred.**

40 “[c] (d) To qualify for reimbursement under this subsection, total actual Oregon expenses for
41 *[the]* **a film or a local media production project** must equal or exceed \$1 million.

42 “(3)(a) The department may reimburse a local filmmaker or local media production services
43 company for all or a portion of the actual Oregon expenses, up to \$1 million, incurred by the local
44 filmmaker or local media production services company.

45 “(b) To qualify for reimbursement under this subsection:

1 “(A) Total actual Oregon expenses paid for the film or media production services must be at
2 least \$75,000;

3 “(B) The local filmmaker or local media production services company must have spent 80 per-
4 cent of the film’s payroll on employees who are residents of this state; and

5 “(C) The local filmmaker or local media production services company must have employed or
6 contracted with a public accountant certified under ORS 673.040 for the provision of payroll ser-
7 vices.

8 “(4) **In combination with the reimbursements allowed under subsections (2) and (3) of this**
9 **section, the department may make an additional payment to a filmmaker for one of the fol-**
10 **lowing:**

11 “(a) **A travel and living expenses rebate of \$200 per employee per day, for any day that**
12 **a film is shot entirely outside the Portland metropolitan zone, not to exceed \$10,000 per day**
13 **or \$50,000 per film; or**

14 “(b) **An increase of 10 percent of the amount otherwise allowable under subsections (2)**
15 **and (3) this section, if for at least six days and at least one day more than half of its total**
16 **shoot days in Oregon the film is shot entirely outside the Portland metropolitan zone.**

17 “[4] (5) Reimbursement under this section shall be made from moneys credited to or deposited
18 in the Oregon Production Investment Fund during the biennium in which the actual Oregon ex-
19 penses were paid or any prior biennium. A reimbursement may not be made to the extent funds are
20 not available in the fund to make the reimbursement.

21 “[5)(a)] (6)(a) Total actual Oregon expenses supporting a claim for reimbursement under this
22 section must be verified by the Oregon Film and Video Office. The filmmaker or local media pro-
23 duction services company must submit to the office proof of the actual Oregon expenses. The proof
24 must include any documentation that may be required by the office in its discretion to verify the
25 actual Oregon expenses.

26 “(b) The office may charge the filmmaker or local media production services company for costs
27 reasonably incurred to verify the actual Oregon expenses, including but not limited to the cost for
28 a review or audit of the supporting documentation by an accountant or auditor. The office may re-
29 quire the department to deduct the costs incurred by the office in performing its review or audit
30 from any reimbursement made to the filmmaker or local media production services company under
31 this section.

32 “(c) The office may adopt rules that establish a procedure for the submission and verification
33 of actual Oregon expenses.

34 “**SECTION 8.** ORS 315.514 is amended to read:

35 “315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the
36 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film
37 production development contributions made by the taxpayer during the tax year to the Oregon
38 Production Investment Fund established under ORS 284.367.

39 “(2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office,
40 conduct an auction of tax credits under this section. The department may conduct the auction in the
41 manner that it determines is best suited to maximize the return to the state on the sale of tax credit
42 certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount
43 shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse
44 the department for the actual costs incurred by the department in administering an auction, not to
45 exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The de-

1 partment shall deposit net receipts from the auction required under this section in the Oregon Pro-
2 duction Investment Fund.

3 “(b) The Oregon Film and Video Office shall adopt rules in order to achieve the following goals:

4 “(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of
5 ~~[\$10]~~ **\$12** million are certified for each fiscal year;

6 “(B) Maximize income and excise tax revenues that are retained by the State of Oregon for state
7 operations; and

8 “(C) Provide the necessary financial incentives for taxpayers to make contributions, taking into
9 consideration the impact of granting a credit upon a taxpayer’s federal income tax liability.

10 “(3) Contributions made under this section shall be deposited in the Oregon Production Invest-
11 ment Fund.

12 “(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as pro-
13 vided in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax
14 credit under this section to the extent the amount certified for tax credit, when added to all amounts
15 previously certified for tax credit under this section, does not exceed ~~[\$10]~~ **\$12** million for the fiscal
16 year in which certification is made.

17 “(b) The Oregon Film and Video Office and the department are not liable, and a refund of a
18 contributed amount need not be made, if a taxpayer who has received tax credit certification is
19 unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

20 “(5) To the extent the Oregon Film and Video Office does not certify contributed amounts as
21 eligible for a tax credit under this section, the taxpayer may request a refund of the amount the
22 taxpayer contributed, and the office shall refund that amount.

23 “(6)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under this
24 section may not exceed the tax liability of the taxpayer and may not be carried over to another tax
25 year.

26 “(b) Any tax credit otherwise allowable under this section that is not used by the taxpayer in
27 a particular tax year may be carried forward and offset against the taxpayer’s tax liability for the
28 next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be
29 carried forward and used in the second succeeding tax year, and likewise, any credit not used in
30 that second succeeding tax year may be carried forward and used in the third succeeding tax year
31 but may not be carried forward for any tax year thereafter.

32 “(c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which
33 the credit would otherwise be allowed begins on or after January 1, 2024.

34 “(7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer,
35 the amount shall be allowed without proration under ORS 316.117.

36 “(8) If the amount of contribution for which a tax credit certification is made is allowed as a
37 deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable
38 income for Oregon tax purposes.

39 “**SECTION 9.** ORS 315.514, as amended by section 8 of this 2016 Act, is amended to read:

40 “315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the
41 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film
42 production development contributions made by the taxpayer during the tax year to the Oregon
43 Production Investment Fund established under ORS 284.367.

44 “(2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office,
45 conduct an auction of tax credits under this section. The department may conduct the auction in the

1 manner that it determines is best suited to maximize the return to the state on the sale of tax credit
2 certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount
3 shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse
4 the department for the actual costs incurred by the department in administering an auction, not to
5 exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The de-
6 partment shall deposit net receipts from the auction required under this section in the Oregon Pro-
7 duction Investment Fund.

8 “(b) The Oregon Film and Video Office shall adopt rules in order to achieve the following goals:

9 “(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of
10 [\$12] \$14 million are certified for each fiscal year;

11 “(B) Maximize income and excise tax revenues that are retained by the State of Oregon for state
12 operations; and

13 “(C) Provide the necessary financial incentives for taxpayers to make contributions, taking into
14 consideration the impact of granting a credit upon a taxpayer’s federal income tax liability.

15 “(3) Contributions made under this section shall be deposited in the Oregon Production Invest-
16 ment Fund.

17 “(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as pro-
18 vided in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax
19 credit under this section to the extent the amount certified for tax credit, when added to all amounts
20 previously certified for tax credit under this section, does not exceed [\$12] \$14 million for the fiscal
21 year in which certification is made.

22 “(b) The Oregon Film and Video Office and the department are not liable, and a refund of a
23 contributed amount need not be made, if a taxpayer who has received tax credit certification is
24 unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

25 “(5) To the extent the Oregon Film and Video Office does not certify contributed amounts as
26 eligible for a tax credit under this section, the taxpayer may request a refund of the amount the
27 taxpayer contributed, and the office shall refund that amount.

28 “(6)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under this
29 section may not exceed the tax liability of the taxpayer and may not be carried over to another tax
30 year.

31 “(b) Any tax credit otherwise allowable under this section that is not used by the taxpayer in
32 a particular tax year may be carried forward and offset against the taxpayer’s tax liability for the
33 next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be
34 carried forward and used in the second succeeding tax year, and likewise, any credit not used in
35 that second succeeding tax year may be carried forward and used in the third succeeding tax year
36 but may not be carried forward for any tax year thereafter.

37 “(c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which
38 the credit would otherwise be allowed begins on or after January 1, 2024.

39 “(7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer,
40 the amount shall be allowed without proration under ORS 316.117.

41 “(8) If the amount of contribution for which a tax credit certification is made is allowed as a
42 deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable
43 income for Oregon tax purposes.

44 “**SECTION 10. (1) The amendments to ORS 315.514 by section 8 of this 2016 Act apply to**
45 **fiscal years beginning on or after July 1, 2016, and before July 1, 2017.**

1 **“(2) The amendments to ORS 284.367, 284.368 and 315.514 by sections 6, 7 and 9 of this 2016**
2 **Act apply to fiscal years beginning on or after July 1, 2017.**

3 **“SECTION 11.** Section 6, chapter 739, Oregon Laws 2007, as amended by section 5, chapter 590,
4 Oregon Laws 2007, section 18, chapter 913, Oregon Laws 2009, and section 2, chapter 730, Oregon
5 Laws 2011, is amended to read:

6 **“Sec. 6. (1)(a)** ORS 315.141, 315.144 and [469.790] **469B.403** apply to tax credits for tax years
7 beginning on or after January 1, 2007, and before January 1, [2018] **2022.**

8 **“(b) Notwithstanding paragraph (a) of this subsection, credits as provided under ORS**
9 **469B.403 (1) to (7) are not allowed for tax years beginning on or after January 1, 2018.**

10 **“(2)** Notwithstanding subsection (1) of this section, a tax credit is not allowed for wheat grain
11 (other than nongrain wheat material) for tax years beginning before January 1, 2009, or on or after
12 January 1, 2018.

13 **“SECTION 12.** ORS 469B.403 is amended to read:

14 **“469B.403.** To be eligible for the tax credit under ORS 315.141, the biomass must be produced
15 or collected in Oregon as a feedstock for bioenergy or biofuel production in Oregon. The credit rates
16 for biomass are:

17 **“(1)** For oilseed crops, \$0.05 per pound.

18 **“(2)** For grain crops, including but not limited to wheat, barley and triticale, \$0.90 per bushel.

19 **“(3)** For virgin oil or alcohol delivered for production in Oregon from Oregon-based feedstock,
20 \$0.10 per gallon.

21 **“(4)** For used cooking oil or waste grease, \$0.10 per gallon.

22 **“(5)** For wastewater biosolids, \$10.00 per wet ton.

23 **“(6)** For woody biomass collected from nursery, orchard, agricultural, forest or rangeland prop-
24 erty in Oregon, including but not limited to prunings, thinning, plantation rotations, log landing or
25 slash resulting from harvest or forest health stewardship, \$10.00 per bone dry ton.

26 **“(7)** For grass, wheat, straw or other vegetative biomass from agricultural crops, \$10.00 per bone
27 dry ton.

28 **“(8)** For animal manure or rendering offal, [\$5.00] **\$3.50** per wet ton.

29 **“SECTION 13.** The amendments to ORS 469B.403 by section 12 of this 2016 Act apply to
30 tax years beginning on or after January 1, 2016, and before January 1, 2022.

31 **“SECTION 14.** Section 15 of this 2016 Act is added to and made a part of ORS chapter
32 **469B.**

33 **“SECTION 15. (1)** Under the procedures for a contested case under ORS chapter 183, the
34 Director of the State Department of Energy may order the suspension or revocation of the
35 certificate or portion of the certificate issued under ORS 315.141 if the director finds that:

36 **“(a)** The certification was obtained by fraud or misrepresentation; or

37 **“(b)** The certification was obtained by mistake or miscalculation.

38 **“(2)** As soon as the order of revocation under this section becomes final, the director
39 shall notify the Department of Revenue and the person that obtained the tax credit certi-
40 fication from the State Department of Energy of the order of revocation. Upon notification,
41 the Department of Revenue immediately shall proceed to collect:

42 **“(a)** In the case in which no portion of a certificate has been transferred under ORS
43 315.144, those taxes not paid by the certificate holder as a result of the tax credits provided
44 to the certificate holder under ORS 315.141 and 469B.403 pursuant to the revoked certifica-
45 tion, from the certificate holder or a successor in interest to the business interests of the

1 certificate holder. All tax credits provided to the holder of the certificate and attributable
2 to the fraudulently or mistakenly obtained certificate or portion of the certificate shall be
3 forfeited.

4 “(b) In the case in which all of a certificate has been transferred under ORS 315.144, an
5 amount equal to the amount of the tax credits allowable to the transferee under ORS 315.141
6 and 469B.403 pursuant to the revoked certification, from the transferor.

7 “(c) In the case in which a portion of a certificate has been transferred under ORS
8 315.144, those taxes not paid by the transferor as a result of the tax credits provided to the
9 transferor under ORS 315.141 and 469B.403 pursuant to the revoked certification, from the
10 transferor or a successor in interest to the business interests of the transferor, and an
11 amount equal to the amount of the tax credits allowable to the transferee under ORS 315.141
12 and 469B.403 pursuant to the revoked certification, from the transferor. All tax credits pro-
13 vided to the transferor and attributable to the fraudulently or mistakenly obtained certificate
14 or portion of the certificate shall be forfeited.

15 “(3)(a) The Department of Revenue shall have the benefit of all laws of this state per-
16 taining to the collection of income and excise taxes and may proceed to collect the amounts
17 described in subsection (2) of this section from the person that obtained certification from
18 the State Department of Energy, or a successor in interest to the business interests of that
19 person. No assessment of tax shall be necessary and no statute of limitation shall preclude
20 the collection of taxes described in this subsection.

21 “(b) For purposes of this subsection, a lender, bankruptcy trustee or other person that
22 acquires an interest through bankruptcy or through foreclosure of a security interest is not
23 considered to be a successor in interest to the business interests of the person that obtained
24 certification.

25 “(4) Notwithstanding subsections (1) to (3) of this section, a certificate or portion of a
26 certificate held by a transferee under ORS 315.144 may not be considered revoked for pur-
27 poses of the transferee, the tax credit allowable to the transferee under ORS 315.144 may
28 not be reduced and a transferee is not liable under subsections (2) and (3) of this section.

29 “SECTION 16. Section 15 of this 2016 Act applies to certifications issued under ORS
30 315.141 in tax years beginning on or after January 1, 2007.”.

31 In line 43, delete “6” and insert “17”.
32 _____