

Requested by SENATE COMMITTEE ON FINANCE AND REVENUE

**PROPOSED AMENDMENTS TO
SENATE BILL 1507**

1 On page 1 of the printed bill, line 2, after “amending” delete the rest of
2 the line and insert “ORS 284.367, 284.368, 305.792, 315.271, 315.514, 315.613,
3 316.116 and 469B.403 and section 6, chapter 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
7 State Treasury, separate and distinct from the General Fund. Interest earned
8 by the Oregon Production Investment 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
12 Legislative Assembly;

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

14 “(d) Interest earned by the fund.

15 “(3) [*Ninety-five*] **Ninety-two and one-half** percent of moneys in the fund
16 are continuously appropriated to the Oregon Business Development Depart-
17 ment for the purposes of making:

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

20 “(b) Payments to a tax credit marketer for marketing services provided
21 by the marketer as described in ORS 284.369; and

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

2 “(4) [*Five*] **Seven and one-half** percent of moneys in the fund are con-
3 tinuously appropriated to the department for the purpose of making re-
4 imbursements to local filmmakers or local media production services
5 companies under ORS 284.368 (3). Total annual reimbursements to local me-
6 dia production services companies **under this subsection** may not exceed
7 [*five*] **seven and one-half** percent of the moneys deposited annually in the
8 fund. On July 1 of each fiscal year, any moneys that remain unexpended or
9 unallocated from the previous fiscal year may be used by the department for
10 the purpose of making reimbursements to filmmakers **or local media pro-**
11 **duction services companies** under ORS 284.368 (2).

12 “(5) Expenditures from the fund are not subject to ORS 291.232 to 291.260.

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

14 “284.368. (1) As used in this section:

15 “(a) ‘Actual Oregon expenses’ means the costs paid in Oregon for princi-
16 pal photography, production or postproduction in Oregon of a film, or for
17 media production services, including but not limited to the purchase or
18 rental cost of equipment, food, lodging, real property and permits and pay-
19 ments made for salaries, wages and benefits for work in Oregon.

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

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

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

28 “(e) **‘Local media production project’ means a single interactive**
29 **video game or a portion thereof, or postproduction services for a single**
30 **film.**

1 “[(e)] (f) ‘Local media production services company’ means a media pro-
2 duction services company that has its principal place of business in this
3 state.

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

8 “[(g)] (h) ‘Media production services company’ means a person who is
9 engaged in media production services.

10 “[(h)] (i) ‘Resident of this state’ has the meaning given that term in ORS
11 316.027.

12 “(2)(a) The Oregon Business Development Department may reimburse a
13 filmmaker **or local media production services company** for a portion of
14 the actual Oregon expenses, **up to \$5.5 million**, incurred by the filmmaker
15 **or local media production services company**.

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

18 “(A) 10 percent of payments made for employee salaries, wages and bene-
19 fits for work done in Oregon; and

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

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

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

28 “(3)(a) The department may reimburse a local filmmaker or local media
29 production services company for all or a portion of the actual Oregon ex-
30 penses, up to [*\$1 million*] **\$5.5 million**, incurred by the local filmmaker or

1 local media production services company.

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

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

5 “(B) The local filmmaker or local media production services company
6 must have spent 80 percent of the film’s payroll on employees who are resi-
7 dents of this state; and

8 “(C) The local filmmaker or local media production services company
9 must have employed or contracted with a public accountant certified under
10 ORS 673.040 for the provision of payroll services.

11 “(4) Reimbursement under this section shall be made from moneys cred-
12 ited to or deposited in the Oregon Production Investment Fund during the
13 biennium in which the actual Oregon expenses were paid or any prior
14 biennium. A reimbursement may not be made to the extent funds are not
15 available in the fund to make the reimbursement.

16 “(5)(a) Total actual Oregon expenses supporting a claim for reimburse-
17 ment under this section must be verified by the Oregon Film and Video Of-
18 fice. The filmmaker or local media production services company must submit
19 to the office proof of the actual Oregon expenses. The proof must include any
20 documentation that may be required by the office in its discretion to verify
21 the actual Oregon expenses.

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

29 “(c) The office may adopt rules that establish a procedure for the sub-
30 mission and verification of actual Oregon expenses.

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

2 “315.514. (1) A credit against the taxes that are otherwise due under ORS
3 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
4 318, is allowed to a taxpayer for certified film production development con-
5 tributions made by the taxpayer during the tax year to the Oregon Pro-
6 duction Investment Fund established under ORS 284.367.

7 “(2)(a) The Department of Revenue shall, in cooperation with the Oregon
8 Film and Video Office, conduct an auction of tax credits under this section.
9 The department may conduct the auction in the manner that it determines
10 is best suited to maximize the return to the state on the sale of tax credit
11 certifications and shall announce a reserve bid prior to conducting the auc-
12 tion. The reserve amount shall be at least 95 percent of the total amount of
13 the tax credit. Moneys necessary to reimburse the department for the actual
14 costs incurred by the department in administering an auction, not to exceed
15 0.25 percent of auction proceeds, are continuously appropriated to the de-
16 partment. The department shall deposit net receipts from the auction re-
17 quired under this section in the Oregon Production Investment Fund.

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

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

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

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

27 “(3) Contributions made under this section shall be deposited in the
28 Oregon Production Investment Fund.

29 “(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office
30 shall, except as provided in ORS 315.516, issue to the taxpayer written cer-

1 tification of the amount certified for tax credit under this section to the
2 extent the amount certified for tax credit, when added to all amounts previ-
3 ously certified for tax credit under this section, does not exceed [~~\$10~~] **\$12**
4 million for the fiscal year in which certification is made.

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

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

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

16 “(b) Any tax credit otherwise allowable under this section that is not used
17 by the taxpayer in a particular tax year may be carried forward and offset
18 against the taxpayer’s tax liability for the next succeeding tax year. Any
19 credit remaining unused in the next succeeding tax year may be carried
20 forward and used in the second succeeding tax year, and likewise, any credit
21 not used in that second succeeding tax year may be carried forward and used
22 in the third succeeding tax year but may not be carried forward for any tax
23 year thereafter.

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

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

30 “(8) If the amount of contribution for which a tax credit certification is

1 made is allowed as a deduction for federal tax purposes, the amount of the
2 contribution shall be added to federal taxable income for Oregon tax pur-
3 poses.

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

6 “315.514. (1) A credit against the taxes that are otherwise due under ORS
7 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
8 318, is allowed to a taxpayer for certified film production development con-
9 tributions made by the taxpayer during the tax year to the Oregon Pro-
10 duction Investment Fund established under ORS 284.367.

11 “(2)(a) The Department of Revenue shall, in cooperation with the Oregon
12 Film and Video Office, conduct an auction of tax credits under this section.
13 The department may conduct the auction in the manner that it determines
14 is best suited to maximize the return to the state on the sale of tax credit
15 certifications and shall announce a reserve bid prior to conducting the auc-
16 tion. The reserve amount shall be at least 95 percent of the total amount of
17 the tax credit. Moneys necessary to reimburse the department for the actual
18 costs incurred by the department in administering an auction, not to exceed
19 0.25 percent of auction proceeds, are continuously appropriated to the de-
20 partment. The department shall deposit net receipts from the auction re-
21 quired under this section in the Oregon Production Investment Fund.

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

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

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

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

1 “(3) Contributions made under this section shall be deposited in the
2 Oregon Production Investment Fund.

3 “(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office
4 shall, except as provided in ORS 315.516, issue to the taxpayer written cer-
5 tification of the amount certified for tax credit under this section to the
6 extent the amount certified for tax credit, when added to all amounts previ-
7 ously certified for tax credit under this section, does not exceed [~~\$12~~] **\$14**
8 million for the fiscal year in which certification is made.

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

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

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

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

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

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

4 “(8) If the amount of contribution for which a tax credit certification is
5 made is allowed as a deduction for federal tax purposes, the amount of the
6 contribution shall be added to federal taxable income for Oregon tax pur-
7 poses.

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

11 **“(2) The amendments to ORS 284.367, 284.368 and 315.514 by sections
12 6, 7 and 9 of this 2016 Act apply to fiscal years beginning on or after
13 July 1, 2017.**

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

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

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

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

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

27 **“469B.403.** To be eligible for the tax credit under ORS 315.141, the biomass
28 must be produced or collected in Oregon as a feedstock for bioenergy or
29 biofuel production in Oregon. The credit rates for biomass are:

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

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

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

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

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

7 “(6) For woody biomass collected from nursery, orchard, agricultural,
8 forest or rangeland property in Oregon, including but not limited to
9 prunings, thinning, plantation rotations, log landing or slash resulting from
10 harvest or forest health stewardship, \$10.00 per bone dry ton.

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

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

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

17 In line 43, delete “6” and insert “14”.

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