

A-Engrossed
Senate Bill 459

Ordered by the Senate March 4
Including Senate Amendments dated March 4

Sponsored by Senators HASS, BURDICK (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Decreases reserve amounts in auctions for tax credits for certified Opportunity Grant contributions and certified film production development contributions. **Sets deadline for auctions.** Applies to tax years beginning on or after January 1, [2020] **2019**, and before January 1, 2024.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to reserve amounts in tax credit auctions; creating new provisions; amending ORS 315.514
3 and section 2, chapter 108, Oregon Laws 2018; and prescribing an effective date.

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

5 **SECTION 1.** ORS 315.514 is amended to read:

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

10 (2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office,
11 conduct an auction of tax credits under this section. **The auction may be conducted no later than**
12 **April 15 following December 31 of any tax year for which the credit is allowed.** The department
13 may conduct the auction in the manner that it determines is best suited to maximize the return to
14 the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting
15 the auction. The reserve amount shall be at least [95] **90** percent of the total amount of the tax
16 credit. Moneys necessary to reimburse the department for the actual costs incurred by the depart-
17 ment in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously
18 appropriated to the department. The department shall deposit net receipts from the auction required
19 under this section in the Oregon Production Investment Fund.

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

21 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of
22 \$14 million are certified for each fiscal year;

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

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

27 (3) Contributions made under this section shall be deposited in the Oregon Production Invest-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 ment Fund.

2 (4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided
3 in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit
4 under this section to the extent the amount certified for tax credit, when added to all amounts
5 previously certified for tax credit under this section, does not exceed \$14 million for the fiscal year
6 in which certification is made.

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

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

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

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

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

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

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

29 **SECTION 2.** Section 2, chapter 108, Oregon Laws 2018, is amended to read:

30 **Sec. 2.** (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the
31 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified Op-
32 portunity Grant contributions made by the taxpayer during the tax year to the Opportunity Grant
33 Fund established under section 4, **chapter 108, Oregon Laws 2018** [*of this 2018 Act*].

34 (2)(a) The Department of Revenue shall, in cooperation with the Higher Education Coordinating
35 Commission, conduct an auction of tax credits under this section. **The auction may be conducted**
36 **no later than April 15 following December 31 of any tax year for which the credit is allowed.**
37 The department may conduct the auction in the manner that it determines is best suited to maximize
38 the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior
39 to conducting the auction. The reserve amount shall be at least [95] **90** percent of the total amount
40 of the tax credit. Moneys necessary to reimburse the department for the actual costs incurred by
41 the department in administering an auction, not to exceed 0.25 percent of auction proceeds, are
42 continuously appropriated to the department. Moneys necessary to reimburse the commission for the
43 actual costs incurred by the commission in administering an auction, not to exceed 0.25 percent of
44 auction proceeds, are continuously appropriated to the commission. The department shall deposit
45 net receipts from the auction required under this section in the Opportunity Grant Fund.

1 (b) The commission may adopt rules necessary for the administration of the auction.

2 (3) Contributions made under this section shall be deposited in the Opportunity Grant Fund.

3 (4)(a) Upon receipt of a contribution, the commission shall, except as provided in section 3,
4 **chapter 108, Oregon Laws 2018** [*of this 2018 Act*], issue to the taxpayer written certification of the
5 amount certified for tax credit under this section to the extent the amount certified for tax credit,
6 when added to all amounts previously certified for tax credit under this section, does not exceed \$14
7 million for the fiscal year in which certification is made.

8 (b) The commission and the department are not liable, and a refund of a contributed amount
9 need not be made, if a taxpayer that has received tax credit certification is unable to use all or a
10 portion of the tax credit to offset the tax liability of the taxpayer.

11 (5) To the extent the commission does not certify contributed amounts as eligible for a tax credit
12 under this section, the taxpayer may request a refund of the amount the taxpayer contributed, and
13 the commission shall refund that amount.

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

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

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

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

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

30 **SECTION 3. The amendments to ORS 315.514 and section 2, chapter 108, Oregon Laws**
31 **2018, by sections 1 and 2 of this 2019 Act apply to tax years beginning on or after January**
32 **1, 2019, and before January 1, 2024.**

33 **SECTION 4. This 2019 Act takes effect on the 91st day after the date on which the 2019**
34 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

35