

# Senate Bill 459

Sponsored by Senators HASS, BURDICK (Presession 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 **as introduced**.

Decreases reserve amounts in auctions for tax credits for certified Opportunity Grant contributions and certified film production development contributions. Applies to tax years beginning on or after January 1, 2020, 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 department may conduct the auction in the  
12 manner that it determines is best suited to maximize the return to the state on the sale of tax credit  
13 certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount  
14 shall be at least [95] **90** percent of the total amount of the tax credit. Moneys necessary to reimburse  
15 the department for the actual costs incurred by the department in administering an auction, not to  
16 exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The de-  
17 partment shall deposit net receipts from the auction required under this section in the Oregon Pro-  
18 duction Investment Fund.

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

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

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

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

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

28 (4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided  
29 in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit  
30 under this section to the extent the amount certified for tax credit, when added to all amounts

**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 previously certified for tax credit under this section, does not exceed \$14 million for the fiscal year  
2 in which certification is made.

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

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

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

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

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

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

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

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

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

30 (2)(a) The Department of Revenue shall, in cooperation with the Higher Education Coordinating  
31 Commission, conduct an auction of tax credits under this section. The department may conduct the  
32 auction in the manner that it determines is best suited to maximize the return to the state on the  
33 sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction.  
34 The reserve amount shall be at least [95] **90** percent of the total amount of the tax credit. Moneys  
35 necessary to reimburse the department for the actual costs incurred by the department in adminis-  
36 tering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to  
37 the department. Moneys necessary to reimburse the commission for the actual costs incurred by the  
38 commission in administering an auction, not to exceed 0.25 percent of auction proceeds, are contin-  
39 uously appropriated to the commission. The department shall deposit net receipts from the auction  
40 required under this section in the Opportunity Grant Fund.

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

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

43 (4)(a) Upon receipt of a contribution, the commission shall, except as provided in section 3 of  
44 this 2018 Act, issue to the taxpayer written certification of the amount certified for tax credit under  
45 this section to the extent the amount certified for tax credit, when added to all amounts previously

1 certified for tax credit under this section, does not exceed \$14 million for the fiscal year in which  
 2 certification is made.

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

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

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

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

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

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

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

25 **SECTION 3. The amendments to ORS 315.514 and section 2, chapter 108, Oregon Laws**  
 26 **2018, by sections 1 and 2 of this 2019 Act apply to tax years beginning on or after January**  
 27 **1, 2020, and before January 1, 2024.**

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

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