

SB 1531-9
(LC 262)
2/17/20 (CMT/stn/ps)

Requested by SENATE COMMITTEE ON FINANCE AND REVENUE

**PROPOSED AMENDMENTS TO
SENATE BILL 1531**

1 On page 1 of the printed bill, line 2, after “amending” delete the rest of
2 the line and delete line 3 and insert “ORS 181A.195, 307.515, 307.519, 307.540,
3 307.651, 307.677, 307.681, 307.827, 314.415, 315.271, 315.514, 315.591, 315.593,
4 315.595, 315.603, 315.643, 317.710, 319.535 and 320.470 and section 9, chapter
5 765, Oregon Laws 2007, section 24, chapter 723, Oregon Laws 2011, and sec-
6 tion 37, chapter 101, Oregon Laws 2018; repealing ORS 315.601 and 315.606;
7 and prescribing an effective date.”.

8 Delete lines 5 through 24 and delete pages 2 through 12 and insert:

9 **“SECTION 1.** ORS 307.515 is amended to read:

10 “307.515. As used in ORS 307.515 to 307.523:

11 “(1) ‘Governing body’ means the city or county legislative body having
12 jurisdiction over the property for which an exemption may be applied for
13 under ORS 307.515 to 307.523.

14 “(2) ‘Lender’ means the provider of a loan secured by the recorded deed
15 of trust or recorded mortgage made to finance the purchase, construction or
16 rehabilitation of a property used for low income housing under the criteria
17 listed in or adopted under ORS 307.517 or 307.518.

18 **“(3) According to the election of a governing body pursuant to ORS**
19 **307.519 (1), ‘low income’ means:**

20 **“(a)** Income at or below 60 percent of the area median income as deter-
21 mined by the Oregon Housing Stability Council based on information from

1 the United States Department of Housing and Urban Development[.];

2 **“(b)(A) For the initial year that persons occupy property for which**
3 **an application for exemption is filed under ORS 307.521, income at or**
4 **below 60 percent of the area median income as determined by the**
5 **Oregon Housing Stability Council based on information from the**
6 **United States Department of Housing and Urban Development; and**

7 **“(B) For every subsequent consecutive year that the persons occupy**
8 **the property, income at or below 80 percent of the area median income**
9 **as determined by the Oregon Housing Stability Council based on in-**
10 **formation from the United States Department of Housing and Urban**
11 **Development; or**

12 **“(c) For housing units on property that is awarded tax credits**
13 **through the federal Low-Income Housing Tax Credit Program and is**
14 **a qualified low-income housing project meeting the requirements of**
15 **26 U.S.C. 42(g)(1)(C), income at or below 80 percent of the area median**
16 **income as determined by the Oregon Housing Stability Council based**
17 **on information from the United States Department of Housing and**
18 **Urban Development, provided the average area median income of all**
19 **housing units on the property is at or below 60 percent of the area**
20 **median income as determined by the Oregon Housing Stability Council**
21 **based on information from the United States Department of Housing**
22 **and Urban Development.**

23 **“SECTION 1a.** ORS 307.519 is amended to read:

24 **“307.519. (1) Except as provided in subsection (2) of this section, the ex-**
25 **emptions granted under ORS 307.515 to 307.523 apply only to the tax levy of**
26 **a governing body that adopts the provisions of ORS 307.515 to 307.523. At**
27 **the time of adoption, the governing body shall elect a definition of ‘low**
28 **income’ under ORS 307.515.**

29 **“(2) The exemptions granted under ORS 307.515 to 307.523 apply to the tax**
30 **levy of all taxing districts in which property certified for exemption is lo-**

1 cated if, upon request of a governing body that has adopted the provisions
2 of ORS 307.515 to 307.523, the rates of taxation of such taxing districts whose
3 governing boards agree to the policy of exemption under ORS 307.515 to
4 307.523, when combined with the rate of taxation of the governing body that
5 adopts the provisions of ORS 307.515 to 307.523, equal 51 percent or more of
6 the total combined rate of taxation on the property granted exemption.

7 “(3) A governing body may adopt additional provisions relating to the
8 exemption granted under ORS 307.515 to 307.523 that do not conflict with the
9 provisions of ORS 307.515 to 307.523.

10 **“SECTION 2. The amendments to ORS 307.515 by section 1 of this**
11 **2020 Act apply to housing for which an application is filed under ORS**
12 **307.515 to 307.523 on or after the effective date of this 2020 Act.**

13 **“SECTION 3. ORS 307.540 is amended to read:**

14 “307.540. As used in ORS 307.540 to 307.548:

15 “(1) ‘Governing body’ means the city or county legislative body having
16 jurisdiction over the property for which an exemption may be applied for
17 under ORS 307.540 to 307.548.

18 “(2) According to the election of a governing body pursuant to ORS
19 307.543 (1), ‘low income’ means:

20 “(a) Income at or below 60 percent of the area median income as deter-
21 mined by the Oregon Housing Stability Council based on information from
22 the United States Department of Housing and Urban Development; [or]

23 “(b)(A) For the initial year that persons occupy property for which an
24 application for exemption is filed under ORS 307.545, income at or below 60
25 percent of the area median income as determined by the Oregon Housing
26 Stability Council based on information from the United States Department
27 of Housing and Urban Development; and

28 “(B) For every subsequent consecutive year that the persons occupy the
29 property, income at or below 80 percent of the area median income as de-
30 termined by the Oregon Housing Stability Council based on information from

1 the United States Department of Housing and Urban Development[.]; or

2 **“(c) For housing units on property that is awarded tax credits**
3 **through the federal Low-Income Housing Tax Credit Program and is**
4 **a qualified low-income housing project meeting the requirements of**
5 **26 U.S.C. 42(g)(1)(C), income at or below 80 percent of the area median**
6 **income as determined by the Oregon Housing Stability Council based**
7 **on information from the United States Department of Housing and**
8 **Urban Development, provided the average area median income of all**
9 **housing units on the property is at or below 60 percent of the area**
10 **median income as determined by the Oregon Housing Stability Council**
11 **based on information from the United States Department of Housing**
12 **and Urban Development.**

13 **“SECTION 4. The amendments to ORS 307.540 by section 3 of this**
14 **2020 Act apply to housing for which an application is filed under ORS**
15 **307.545 on or after the effective date of this 2020 Act.**

16 **“SECTION 5. ORS 307.827 is amended to read:**

17 **“307.827. (1) Environmentally sensitive logging equipment is exempt from**
18 **ad valorem property taxation.**

19 **“(2) As used in this section:**

20 **“(a) ‘Environmentally sensitive logging equipment’ means logging equip-**
21 **ment that was originally manufactured after 1992.**

22 **“(b) ‘Logging equipment’ means machinery and equipment:**

23 **“(A) Used or held for use in logging or forest management operations**
24 **involving timber harvest, including the felling, bucking, yarding, loading or**
25 **utilization of timber, logs or wood fiber in the forest, or used or held for**
26 **use in reforestation, forest vegetation restoration, site preparation, vege-**
27 **tation control, stand and tree improvement or thinning;**

28 **“(B) That is specifically designed for activities related to water quality**
29 **or fish and wildlife habitat protection in the forest; or**

30 **“(C) Consisting of excavators used or held for use in logging road con-**

1 construction, maintenance, reconstruction or improvements, including the clos-
2 ing or obliterating of existing forest roads.

3 “(c) ‘Logging equipment’ does not include:

4 “(A) Equipment used in nonforest applications for more than 20 percent
5 of the tax year, as measured by the operating hours of the equipment.

6 “(B) Equipment used **or held for use** in the manufacturing or milling of
7 forest products.

8 “(C) Power saws, hand tools, blocks or pulleys that are not a part of the
9 equipment, rigging, shop equipment or support equipment.

10 “(D) Logging equipment that is exempt from tax under ORS 307.831.

11 **“SECTION 6. The amendments to ORS 307.827 by section 5 of this**
12 **2020 Act apply to property tax years beginning on or after July 1, 2019.**

13 **“SECTION 7. ORS 307.651 is amended to read:**

14 “307.651. As used in ORS 307.651 to 307.687, unless the context requires
15 otherwise:

16 “(1) ‘Governing body’ means the city legislative body having jurisdiction
17 over the property for which an exemption may be applied for under ORS
18 307.651 to 307.687.

19 “(2) ‘Qualified dwelling unit’ means a dwelling unit that, at the time an
20 application is filed pursuant to ORS 307.667, has a market value for the land
21 and improvements of no more than 120 percent, or a lesser percentage as
22 adopted by the governing body by resolution, of the median sales price of
23 dwelling units located within the city.

24 “(3) ‘Single-unit housing’ means a structure having one or more dwelling
25 units that:

26 “(a) Is, or will be, upon purchase, rehabilitation or completion of con-
27 struction, in conformance with all local plans and planning regulations, in-
28 cluding special or district-wide plans developed and adopted pursuant to ORS
29 chapters 195, 196, 197 and 227.

30 “(b) If newly constructed, is completed within two years after application

1 for exemption is approved under ORS 307.674 [*or before January 1, 2025,*
2 *whichever is earlier*].

3 “(c) Is designed for each dwelling unit within the structure to be pur-
4 chased by and lived in by one person or one family.

5 “(d) Has one or more qualified dwelling units within the single-unit
6 housing.

7 “(e) Is not a floating home, as defined in ORS 830.700, or a manufactured
8 structure, other than a manufactured home described in ORS 197.307 (8)(a)
9 to (f).

10 “(4) ‘Structure’ does not include the land or any site development made
11 to the land, as those terms are defined in ORS 307.010.

12 “**SECTION 8.** ORS 307.677 is amended to read:

13 “307.677. Notwithstanding ORS 307.651 to 307.687:

14 “(1) If the city finds that construction of single-unit housing was not
15 completed [*by a date that is 12 months after the date on which applications*
16 *may no longer be approved under ORS 307.674, and*] **in accordance with**
17 **ORS 307.651 (3)(b), the city may extend the deadline for completion of**
18 **construction for a period not to exceed an additional 24 consecutive**
19 **months if the city** further finds that:

20 “(a) The failure to complete construction was due to circumstances be-
21 yond the control of the owner[, *and that*]; **and**

22 “(b) The owner had been acting and could reasonably be expected to act
23 in good faith and with due diligence[, *the city may extend the deadline for*
24 *completion of construction for a period not to exceed an additional 12 consec-*
25 *utive months*].

26 “(2) If property granted exemption under ORS 307.651 to 307.687 is de-
27 stroyed by fire or act of God, or is otherwise no longer capable of occupancy
28 due to circumstances beyond the control of the owner, the exemption shall
29 cease but no additional taxes or penalty shall be imposed under ORS 307.651
30 to 307.687 upon the property.

1 **“SECTION 9.** ORS 307.681 is amended to read:

2 “307.681. (1) Except as provided in ORS 307.684, if, after an application
3 has been approved under ORS 307.674, the city finds [*that construction of*
4 *single-unit housing was not completed within two years after the date the ap-*
5 *plication was approved or on or before January 1, 2025, whichever is earlier,*
6 *or*] that any provision of ORS 307.651 to 307.687 is not being complied with,
7 or any provision required by the city pursuant to ORS 307.651 to 307.687 is
8 not being complied with, the city shall give notice to the owner, mailed to
9 the owner’s last-known address, of the proposed termination of the ex-
10 emption. The notice shall state the reasons for the proposed termination and
11 shall require the owner to appear at a specified time, not less than 20 days
12 after mailing the notice, to show cause, if any, why the exemption should
13 not be terminated.

14 “(2) If the owner fails to show cause why the exemption should not be
15 terminated, the city shall adopt an ordinance or resolution stating its
16 findings and terminating the exemption. A copy of the ordinance or resolu-
17 tion shall be filed with the county assessor and a copy sent to the owner
18 at the owner’s last-known address within 10 days after its adoption.

19 **“SECTION 10. The amendments to ORS 307.651, 307.677 and 307.681**
20 **by sections 7 to 9 of this 2020 Act apply to property for which an ap-**
21 **plication has been approved under ORS 307.674 before, on or after the**
22 **effective date of this 2020 Act.**

23 **“SECTION 10a** Section 24, chapter 723, Oregon Laws 2011, as amended
24 by section 31, chapter 723, Oregon Laws 2011, is amended to read:

25 **“Sec. 24.** (1) The amendments to ORS 305.612, 311.356, 311.666, 311.668,
26 311.670, 311.672, 311.676, 311.679, 311.681, 311.684, 311.686, 311.688, 311.689,
27 311.691, 311.693, 311.695, 311.700, 311.701, 314.430 and 410.422 by sections 1 to
28 4, 6 to 18, 20, 21 and 29 [*of this 2011 Act*], **chapter 723, Oregon Laws 2011,**
29 apply to property tax years beginning on or after July 1, 2011.

30 “(2) The amendments to ORS 311.674 by section 5 [*of this 2011 Act*],

1 **chapter 723, Oregon Laws 2011**, apply to interest that accrues on taxes
2 advanced to counties for tax-deferred property for property tax years begin-
3 ning on or after July 1, 2011.

4 “(3) A claim for an initial year of deferral, or for continued deferral, un-
5 der ORS 311.666 to 311.701 may not be filed on or after April 16, [2021]
6 **2022**, and deferral may not be granted for a property tax year beginning after
7 July 1, [2021] **2022**.

8 **“SECTION 11.** ORS 314.415 is amended to read:

9 “314.415. (1) If the Department of Revenue determines pursuant to ORS
10 305.270 that the amount of the tax due is less than the amount theretofore
11 paid, the excess shall be refunded by the department with interest at the rate
12 established under ORS 305.220 for a period beginning 45 days after the due
13 date of the return or [on] the date the tax was paid, or, in the case of a re-
14 turn filed under ORS 118.100, the date that the return is filed, whichever is
15 later, and ending at the time the refund is made.

16 “(2)(a) The department may not allow or make a refund after three years
17 from the time the return was filed, or two years from the time the tax (or
18 a portion of the tax) was paid, whichever period expires later, unless before
19 the expiration of this period a claim for refund is filed by the taxpayer in
20 compliance with ORS 305.270. In any case, if the original return is not filed
21 within three years of the due date, excluding extensions, of the return, the
22 department may allow or make a refund only of amounts paid within two
23 years from the date of the filing of the claim for refund. If a refund is dis-
24 allowed for the tax year during which excess tax was paid for any reason set
25 forth in this subsection, the department may not allow the excess as a credit
26 against any tax occurring on a return filed for a subsequent year.

27 “(b) The department may not make a refund if the tax owed, after offsets,
28 is less than \$1.

29 “(c) If a taxpayer would qualify under section 6511(h) of the Internal
30 Revenue Code for a suspension of the running of the periods specified for

1 filing a claim for refund of federal income tax, the period specified in para-
2 graph (a) of this subsection shall also be suspended.

3 “(d) The department may not pay an employee interest on a refund of a
4 tax withheld by an employer if the interest would be for any period prior to
5 the time the employee files a personal income tax return for the tax year
6 involved or for any period prior to the day that is 45 days after the date
7 when the employee’s annual return for that year was filed or was due,
8 whichever is later.

9 “(e) The department may not pay interest on a refund of estimated tax
10 paid under ORS 314.505 to 314.525 or 316.557 to 316.589 if the interest would
11 be for any period prior to the time the taxpayer files a tax return for the tax
12 year involved or for any period prior to the day that is 45 days after the date
13 when the tax return for that year was filed or was due, whichever is later.

14 “(f) The amount of the refund, exclusive of interest on the refund, may
15 not exceed the portion of the tax paid during the period preceding the filing
16 of the claim or, if no claim is filed, then during the period preceding the
17 allowance of the refund during which a claim might have been filed. Where
18 there has been an overpayment of any tax imposed, the amount of the over-
19 payment and interest on the overpayment shall be credited against any tax,
20 penalty or interest then due from the taxpayer, and only the balance shall
21 be refunded.

22 “(g) Except as provided in ORS 305.265 (12), if, pursuant to a notice of
23 deficiency or assessment, the taxpayer pays the amount specified in the no-
24 tice, or any part thereof, and if, upon appeal, the Oregon Tax Court or the
25 Oregon Supreme Court orders that all or any part of the deficiency amount
26 specified in the notice and paid by the taxpayer be refunded, the amount so
27 ordered to be refunded shall bear interest at the rate established for refunds
28 in ORS 305.220. Interest shall be computed from the date of payment to the
29 department. Nothing in this subsection shall require that interest be paid
30 upon any amount for any period for which interest upon the same amount

1 for the same period is required to be paid under ORS 305.419.

2 “(3)(a) Notwithstanding any provision to the contrary in ORS 305.265 or
3 305.270 or subsection (1) or (2) of this section, if, prior to the expiration of
4 the period prescribed in subsection (2) of this section, the department and
5 the taxpayer consent in writing to the refund of tax after the expiration of
6 the period prescribed:

7 “(A) The department shall make the refund prior to the expiration of the
8 period agreed upon; and

9 “(B) The department may not make or allow a refund after the expiration
10 of the period agreed upon unless a claim for refund is filed by the taxpayer
11 before the expiration of the period agreed upon in compliance with the
12 manner prescribed by the department. The period so agreed upon may be
13 extended by subsequent agreements in writing made before the expiration of
14 the period previously agreed upon.

15 “(b) The department may consent to extend the period during which a
16 refund may be made only if the taxpayer has consented to the assessment
17 of additional tax, if additional taxes are determined upon audit, after the
18 expiration of the applicable period prescribed in ORS 314.410 (1) to (3).

19 “(4)(a) If the claim for credit or refund relates to an overpayment on ac-
20 count of the deductibility by the taxpayer, or by a partnership, of the
21 worthlessness of a share of stock in a corporation, of the right to subscribe
22 for or to receive a share of stock in a corporation, or of a debt, in lieu of
23 the three-year period of limitation prescribed in subsection (2) of this section,
24 the period shall be seven years from the date prescribed by law for the filing
25 of the return for the year with respect to which the claim is made.

26 “(b) If the claim described in paragraph (a) of this subsection is made
27 after the expiration of the three-year period prescribed in subsection (2) of
28 this section, the department may not allow interest with respect to any
29 credit or refund determined to be due upon the claim for the period begin-
30 ning at the close of the three-year period prescribed in subsection (2) of this

1 section and ending at the expiration of six months after the date on which
2 the claim is filed.

3 “(5)(a) If the claim for credit or refund relates to an overpayment attrib-
4 utable to a net operating loss carryback or a net capital loss carryback, in
5 lieu of the three-year period of limitation prescribed in subsection (2) of this
6 section, the period shall be the period that ends three years after the time
7 prescribed by law for filing the return (including extensions) for the taxable
8 year of the net operating loss or net capital loss that results in such
9 carryback. In the case of such a claim, the amount of the credit or refund
10 may exceed the portion of the tax paid within the period provided in sub-
11 section (1), (2) or (3) of this section, whichever is applicable, to the extent
12 of the amount of the overpayment attributable to the carryback. If the al-
13 lowance of a credit or refund of an overpayment of tax attributable to a net
14 operating loss carryback or a net capital loss carryback is otherwise pre-
15 vented by the operation of any law or rule of law other than ORS 305.150,
16 relating to closing agreements, the credit or refund may be allowed or made
17 if the claim for credit or refund is filed within the period provided in this
18 subsection. To the extent that the carryback was not an issue in any pro-
19 ceeding in which the determination of a court, including the Oregon Tax
20 Court, has become final, the claimed credit or refund applicable to that
21 carryback may be allowed or made under this subsection.

22 “(b) For purposes of subsection (1) or (2) of this section, if any overpay-
23 ment of tax results from a carryback of a net operating loss or net capital
24 loss, the overpayment shall be deemed not to have been made prior to the
25 later of:

26 “(A) The due date of the return for the taxable year in which such net
27 operating loss or net capital loss arises;

28 “(B) The date the return for the year in which the net operating loss or
29 net capital loss arises is filed; or

30 “(C) The date of filing of the return for the year to which the net oper-

1 ating loss or net capital loss is carried back.

2 “(6) Notwithstanding any provision to the contrary in ORS 305.265 or
3 305.270 or this section, if the taxpayer has agreed with the United States
4 Commissioner of Internal Revenue for an extension, or a renewal of an ex-
5 tension, of the period for proposing and assessing deficiencies in federal in-
6 come tax for any year, the period within which a claim for credit or refund
7 may be filed or credit or refund allowed or made if no claim is filed shall
8 be the period provided within subsections (1) to (5) of this section or six
9 months after the date of the expiration of the agreed period for assessing
10 deficiency in federal income tax, whichever period expires later.

11 “(7) If a joint return is filed, the department may make separate refunds
12 at the request of either spouse. The separate refunds shall bear the same
13 proportion to the total refund as the adjusted gross income of each spouse
14 bears to the adjusted gross income of both spouses, or as otherwise deter-
15 mined by the department.

16 “(8) If a taxpayer entitled to a refund under subsection (1) of this section
17 dies, the department may issue a draft for payment of such refund under the
18 terms and conditions set out in ORS 293.490 to 293.500 exercising the same
19 powers and subject to the same restrictions pursuant to which the State
20 Treasurer is authorized to pay the amounts of warrants, checks or orders
21 under those statutes.

22 “**SECTION 12.** ORS 315.271 is amended to read:

23 “315.271. (1) A credit against taxes otherwise due under ORS chapter 316,
24 317 or 318 shall be allowed for donations to a fiduciary organization for
25 distribution to individual development accounts established under ORS
26 458.685. The credit shall equal a percentage of the taxpayer’s donation
27 amount, as determined by the fiduciary organization, but not to exceed 90
28 percent of any donation amount. To qualify for a credit under this section,
29 donations to a fiduciary organization must be made prior to January [1,
30 2022] **31, 2020.**

1 “(2) If a credit allowed under this section is claimed, the amount upon
2 which the credit is based that is allowed or allowable as a deduction from
3 federal taxable income under section 170 of the Internal Revenue Code shall
4 be added to federal taxable income in determining Oregon taxable income.
5 As used in this subsection, the amount upon which a credit is based is the
6 allowed credit divided by the applicable percentage, as determined by the
7 fiduciary organization.

8 “(3) The allowable tax credit that may be used in any one tax year shall
9 not exceed the tax liability of the taxpayer.

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

18 “(5) The total credits allowed to all taxpayers in any tax year under this
19 section and ORS 458.690 may not exceed \$7.5 million. The total credit al-
20 lowed to a taxpayer in any tax year under this section and ORS 458.690 may
21 not exceed \$500,000.

22 “**SECTION 12a.** Section 9, chapter 765, Oregon Laws 2007, as amended
23 by section 7, chapter 701, Oregon Laws 2015, is amended to read:

24 “**Sec. 9. Except as provided in ORS 315.271 (4),** a credit may not be
25 claimed under ORS 315.271 and 458.690 for tax years beginning on or after
26 January 1, [2022] **2021.**

27 “**SECTION 13.** ORS 315.514 is amended to read:

28 “315.514. (1) A credit against the taxes that are otherwise due under ORS
29 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
30 318, is allowed to a taxpayer for certified film production development con-

1 tributions made by the taxpayer [*during the tax year*] to the Oregon Pro-
2 duction Investment Fund established under ORS 284.367.

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

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

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

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

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

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

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

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

3 **“(b) The Oregon Film and Video Office may issue a certification for
4 a credit under this section, and a credit may be allowed, for the tax
5 year in which a contribution is made, or for the tax year immediately
6 preceding the tax year in which a contribution is made, if no return
7 has yet been filed for the preceding tax year.**

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

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

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

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

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

30 “(7) If a tax credit is claimed under this section by a nonresident or

1 part-year resident taxpayer, the amount shall be allowed without proration
2 under ORS 316.117.

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

7 **“SECTION 14.** ORS 315.643 is amended to read:

8 “315.643. (1) A credit against the taxes that are otherwise due under ORS
9 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
10 318, is allowed to a taxpayer for certified Opportunity Grant contributions
11 made by the taxpayer [*during the tax year*] to the Opportunity Grant Fund
12 established under ORS 348.266. **A credit is allowed for the tax year in
13 which a contribution is made, or for the tax year immediately pre-
14 ceding the tax year in which a contribution is made, if no return has
15 yet been filed for the preceding tax year.**

16 “(2)(a) The Department of Revenue shall, in cooperation with the Higher
17 Education Coordinating Commission, conduct an auction of tax credits under
18 this section. The auction may be conducted no later than April 15 following
19 December 31 of any tax year for which the credit is allowed. The department
20 may conduct the auction in the manner that it determines is best suited to
21 maximize the return to the state on the sale of tax credit certifications and
22 shall announce a reserve bid prior to conducting the auction. The reserve
23 amount shall be at least 90 percent of the total amount of the tax credit.
24 Moneys necessary to reimburse the department for the actual costs incurred
25 by the department in administering an auction, not to exceed 0.25 percent
26 of auction proceeds, are continuously appropriated to the department. Mon-
27 eys necessary to reimburse the commission for the actual costs incurred by
28 the commission in administering an auction, not to exceed 0.25 percent of
29 auction proceeds, are continuously appropriated to the commission. The de-
30 partment shall deposit net receipts from the auction required under this

1 section in the Opportunity Grant Fund.

2 “(b) The commission may adopt rules necessary for the administration of
3 the auction.

4 “(3) Contributions made under this section shall be deposited in the Op-
5 portunity Grant Fund.

6 “(4)(a) Upon receipt of a contribution, the commission shall, except as
7 provided in ORS 315.646, issue to the taxpayer written certification of the
8 amount certified for tax credit under this section to the extent the amount
9 certified for tax credit, when added to all amounts previously certified for
10 tax credit under this section, does not exceed \$14 million for the fiscal year
11 in which certification is made.

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

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

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

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

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

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

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

11 **“SECTION 15.** ORS 315.591 is amended to read:

12 “315.591. As used in ORS 315.591 to 315.606:

13 “(1) ‘Infrastructure’ includes tracks, switches, sidings, roadbeds, railroad
14 bridges and industrial leads owned **or leased** by a short line railroad.

15 **“(2) ‘Publicly owned short line railroad’ means a short line railroad**
16 **owned or leased by the state, a city, a county, a port or any other**
17 **public or municipal corporation.**

18 “[2] (3) ‘Short line railroad’ means a class II or class III railroad as
19 defined in 49 C.F.R. 1201.

20 “[3] (4) ‘Short line railroad rehabilitation project’ means a project that
21 involves the maintenance, reconstruction or replacement of infrastructure.

22 “[4] (5) ‘Short line railroad rehabilitation project costs’ means costs that
23 are directly related to the work necessary to maintain, reconstruct or replace
24 infrastructure. ‘Short line railroad rehabilitation project costs’ does not in-
25 clude costs that are funded by or used to qualify for any state or federal
26 grants, or costs that are used to claim a federal tax credit.

27 “[5] *‘Tier I short line railroad’ means a short line railroad owned or*
28 *leased by a person for whom the total length of short line railroad track owned*
29 *or leased in Oregon is equal to or greater than 200 miles. The total amount*
30 *of short line railroad track in Oregon calculated under this subsection includes*

1 *any short line railroad track owned or leased by the person, or if the person*
2 *is a corporation, by the person’s parent corporation or subsidiaries, regardless*
3 *of whether the track is owned or leased by one or more railroads.]*

4 *“(6) ‘Tier II short line railroad’ means a short line railroad that is not a*
5 *tier I short line railroad or is a short line railroad owned or leased by the*
6 *state, a city, a county, a port or any other public or municipal corporation.]*

7 **“SECTION 16.** ORS 315.593 is amended to read:

8 “315.593. (1) A credit against taxes imposed by ORS chapter 316 (or, if the
9 taxpayer is a corporation, under ORS chapter 317 or 318) is allowed to a
10 taxpayer, based upon short line railroad rehabilitation project costs actually
11 paid or incurred by the taxpayer during the tax year for which the credit is
12 claimed.

13 “(2) The credit allowed under this section shall be the least of:

14 *“(a) In the case of a tier I short line railroad, \$1,000 multiplied by the*
15 *number of miles of short line railroad track the taxpayer owns or leases in this*
16 *state on the day the short line railroad rehabilitation project is completed;]*

17 **“(a) \$700,000 for all short line railroad rehabilitation project costs**
18 **actually paid or incurred by the taxpayer in this state or, if the tax-**
19 **payer is a corporation, by the taxpayer’s parent corporation or sub-**
20 **sidaries, regardless of whether the shortline railroad rehabilitation**
21 **project costs are paid or incurred by one or more railroads;**

22 *“(b) [In the case of a tier II short line railroad,] \$3,500 multiplied by the*
23 *number of miles of short line railroad track the taxpayer owns or leases in*
24 *this state on the day the short line railroad rehabilitation project is com-*
25 *pleted; or*

26 *“(c) Fifty percent of the short line railroad rehabilitation project costs*
27 *paid or incurred by the taxpayer during the tax year in which the credit is*
28 *claimed.*

29 “(3) For the credit to be allowed under this section:

30 “(a) The infrastructure must be located in Oregon; and

1 “(b) The taxpayer must:

2 “(A) Own or lease the infrastructure;

3 “(B) Be a short line railroad; and

4 “(C) Receive a final written certification from the Department of Trans-
5 portation before claiming the credit.

6 “(4) The amount of the credit claimed under this section for any one tax
7 year may not exceed the tax liability of the taxpayer.

8 “(5) Any tax credit otherwise allowable under this section that is not used
9 by the taxpayer in a particular tax year may be carried forward and offset
10 against the taxpayer’s tax liability for the next succeeding tax year. Any
11 credit remaining unused in that next succeeding tax year may be carried
12 forward and used in the second succeeding tax year, and likewise, any credit
13 not used in that second succeeding tax year may be carried forward and used
14 in the third succeeding tax year, and likewise, any credit not used in that
15 third succeeding tax year may be carried forward and used in the fourth
16 succeeding tax year, and likewise, any credit not used in that fourth suc-
17 ceeding tax year may be carried forward and used in the fifth succeeding tax
18 year but may not be carried forward for any tax year thereafter.

19 “(6) The credit allowed under this section is not in lieu of any depreci-
20 ation or amortization deduction for the short line railroad rehabilitation
21 project to which the taxpayer otherwise may be entitled for purposes of ORS
22 chapter 316, 317 or 318 for the tax year.

23 “(7) The taxpayer’s adjusted basis for determining gain or loss may not
24 be decreased by any tax credit allowed under this section.

25 “[(8)(a) *The Department of Revenue may by rule require that the Depart-*
26 *ment of Transportation provide information about a certification issued under*
27 *ORS 315.595, including the name and taxpayer identification number of the*
28 *taxpayer or other person receiving certification, the date the certification was*
29 *issued in its final form, the approved amount of credit and the first tax year*
30 *for which the credit may be claimed.*]

1 “[(b) A taxpayer that is a pass-through entity that has received certification
2 under ORS 315.595 shall provide to the Department of Revenue, within two
3 months after the close of the tax year in which the certification was issued, the
4 name, taxpayer identification number and any other information required by
5 the department of each owner receiving a distributive share of the credit, in a
6 manner prescribed by the department.]

7 “[(9) The Department of Revenue shall prescribe by rule the manner and
8 the timing of submission of the information described in subsection (8) of this
9 section to the department.]

10 “[(10)] **(8)** The credit shall be claimed on a form prescribed by the De-
11 partment of Revenue that contains the information required by the depart-
12 ment.

13 “[(11)] **(9)** In the case of a credit allowed under this section:

14 “(a) A nonresident shall be allowed the credit under this section in the
15 proportion provided in ORS 316.117.

16 “(b) If a change in the status of a taxpayer from resident to nonresident
17 or from nonresident to resident occurs, the credit allowed by this section
18 shall be determined in a manner consistent with ORS 316.117.

19 “(c) If a change in the taxable year of a taxpayer occurs as described in
20 ORS 314.085, or if the Department of Revenue terminates a taxpayer’s taxable
21 year under ORS 314.440, the credit allowed under this section shall be pro-
22 rated or computed in a manner consistent with ORS 314.085.

23 **“(10) A person that has earned a tax credit under this section may**
24 **transfer the credit to a taxpayer subject to tax under ORS chapter 316,**
25 **317 or 318. The transfer must comply with ORS 315.056.**

26 **“(11) The Director of Transportation may order the suspension or**
27 **revocation of a certification issued under this section, as provided in**
28 **ORS 315.061.**

29 **“SECTION 17.** ORS 315.595 is amended to read:

30 “315.595. (1) Prior to construction of a short line railroad rehabilitation

1 project, a taxpayer may apply to the Department of Transportation for pre-
2 liminary certification of the project in the manner prescribed by rules
3 adopted under this section, which must include:

4 “(a) Timelines and deadlines for submission of application materials;

5 “(b) A description of the information required by the department to de-
6 termine that the taxpayer qualifies for the credit allowed under ORS 315.593;

7 “(c) Criteria for determining the amount of the tax credit allowed under
8 ORS 315.593, including standards for what constitutes completion of a short
9 line railroad rehabilitation project;

10 “(d) The process by which an applicant will be notified of an incomplete
11 application and the time allowed for the applicant to provide the missing
12 information; and

13 “(e) The month and date by which the department must notify an appli-
14 cant of the preliminary certification decision and the potential amount of the
15 tax credit for which the applicant has received preliminary certification.

16 “(2) **Except as provided in subsection (3) of this section**, if the total
17 amount of potential tax credits allowed under ORS 315.593 for all taxpayers
18 that have applied for preliminary certification exceeds the limit in ORS
19 [315.593] **315.603**, the department shall allocate the tax credits allowed under
20 ORS 315.593 *[as follows]* **in the following order**:

21 “[*a*) *By giving first priority to all tier II short line railroads that own or*
22 *lease less than 75 miles of short line railroad track in this state; and]*

23 “[*b*) *By giving second priority to all tier II short line railroads not de-*
24 *scribed in paragraph (a) of this subsection.*]

25 “(a) **For publicly owned short line railroads, allocate an amount**
26 **equal to the amount calculated under ORS 315.593;**

27 “(b) **If any amount remains after making the allocation under par-**
28 **agraph (a) of this subsection, for all other taxpayers, allocate an**
29 **amount equal to the lesser of the amount calculated under ORS 315.593**
30 **or \$250,000; and**

1 “(c) If any amount remains after making the allocation under par-
2 agraph (b) of this subsection, for any taxpayer for which the amount
3 allocated under paragraph (b) of this subsection is less than the
4 amount allowable under ORS 315.593, allocate an additional amount
5 by dividing the amount available among that group of taxpayers pro-
6 portionally, based on the amount each taxpayer would have otherwise
7 received under ORS 315.593.

8 “(3) [*If the department must allocate tax credits to a group of taxpayers in*
9 *an amount that is less than the amount the taxpayers would otherwise receive*
10 *under ORS 315.593,]* **If the amount allocated under subsection (2)(a) of**
11 **this section would exceed the limit in ORS 315.603, the department shall**
12 divide the available tax credits among the [*group*] **taxpayers described in**
13 **subsection (2)(a) of this section** proportionally, based on the amount each
14 taxpayer would have otherwise received under ORS 315.593. **If the amount**
15 **allocated under subsection (2)(b) of this section would exceed the limit**
16 **in ORS 315.603, the department shall reduce the dollar amount de-**
17 **scribed in subsection (2)(b) of this section to an amount that is nec-**
18 **essary to meet the limit in ORS 315.603 and that allows the greatest**
19 **number of taxpayers described in subsection (2)(b) of this section to**
20 **receive a credit that is equal to the amount calculated under ORS**
21 **315.593.**

22 “(4) **The Department of Revenue may require that the Department**
23 **of Transportation provide information about the certification issued**
24 **under this section, if required by ORS 315.058.**

25 “**SECTION 18.** ORS 315.603 is amended to read:

26 “315.603. The total amount of potential tax credits allowed under ORS
27 315.593 at the time of preliminary certification under ORS 315.595 may not
28 exceed [~~\$4~~] **\$2 million for any [*biennium*] calendar year.**

29 “**SECTION 19. (1) The amendments to ORS 314.415 by section 11 of**
30 **this 2020 Act apply to tax refunds owing as of January 1, 2018.**

1 “(2) The amendments to ORS 315.271 by section 12 of this 2020 Act
2 apply to tax years beginning on or after January 1, 2020, and before
3 January 1, 2022.

4 “(3) The amendments to ORS 315.514 and 315.643 by sections 13 and
5 14 of this 2020 Act apply to tax years beginning on or after January 1,
6 2019, and before January 1, 2024.

7 “(4) The amendments to ORS 315.591, 315.593, 315.595 and 315.603 by
8 sections 15 to 18 of this 2020 Act apply to tax years beginning on or
9 after January 1, 2020, and before January 1, 2026.

10 “SECTION 20. ORS 315.601 and 315.606 are repealed.

11 “SECTION 21. ORS 317.710 is amended to read:

12 “317.710. (1) A corporation shall make a return with respect to the tax
13 imposed by this chapter as provided in this section.

14 “(2) If the corporation is a member of an affiliated group of corporations
15 making a consolidated federal return, it shall file a return and determine its
16 Oregon taxable income as provided in ORS 317.715. The corporation’s tax li-
17 ability shall be joint and several with any other corporation that is included
18 in a consolidated state return with the corporation under subsection (5) of
19 this section.

20 “(3) If the corporation makes a separate return for federal income tax
21 purposes, it shall file a separate return under this chapter. The corporation
22 shall determine its Oregon taxable income and tax liability separately from
23 any other corporation.

24 “(4) For purposes of subsection (3) of this section, if the corporation is
25 not subject to taxation under the Internal Revenue Code a return for federal
26 income tax purposes includes any form of return required to be made in lieu
27 of an income tax return under the Internal Revenue Code or regulations
28 thereunder.

29 “(5)(a) Except as otherwise provided in this section, if two or more cor-
30 porations subject to taxation under this chapter are members of the same

1 affiliated group making a consolidated federal return and are members of the
2 same unitary group, they shall file a consolidated state return.

3 “(b) If any corporation that is a member of an affiliated group is permit-
4 ted or required to determine its Oregon taxable income on a separate basis
5 under ORS 314.667, or if any corporation is permitted or required by statute
6 or rule to use different apportionment factors than a corporation with which
7 it is affiliated, the corporation may not be included in a consolidated state
8 return under paragraph (a) of this subsection.

9 “(c) Whenever two or more corporations are required to file a consol-
10 idated state return under paragraph (a) of this subsection, any reference in
11 this chapter to a corporation for purposes of deriving Oregon taxable income
12 shall be treated as a reference to all corporations that are included in the
13 consolidated state return.

14 “(d) A corporation that would not be a member of an affiliated group fil-
15 ing a consolidated state return based solely on the application of section
16 [1504(b)(6)] **1504(b)(4)** of the Internal Revenue Code must be included in the
17 consolidated state return filed by the affiliated group.

18 “(6) If so directed by the department, by rule or instructions on the state
19 tax return form, every corporation required to make a return under this
20 chapter shall also file with the return a true copy of the corporation’s federal
21 income tax return for the same taxable year. For purposes of this subsection,
22 the corporation’s federal income tax return includes a consolidated federal
23 return for an affiliated group of which the corporation is a member. The
24 department may, by rule or instructions, permit a corporation to submit
25 specified excerpts from its federal return in lieu of submitting a copy of the
26 entire federal return. The federal return or any part thereof required to be
27 filed with the state return is incorporated in and shall be a part of the state
28 return.

29 “(7)(a) Each foreign or alien insurer and each domestic insurer owned and
30 controlled, directly or indirectly, by one or more foreign insurers:

1 “(A) Shall determine its Oregon taxable income under ORS 317.650 to
2 317.665;

3 “(B) Shall make a return of the tax imposed by this chapter on a separate
4 basis; and

5 “(C) May not be included in a consolidated state return.

6 “(b) An interinsurance and reciprocal exchange and its attorney in fact
7 with respect to its attorney in fact net income as a corporate attorney in fact
8 acting as attorney in compliance with ORS 731.458, 731.462, 731.466 and
9 731.470 for the reciprocal or interinsurance exchange may file a consolidated
10 return under the circumstances in the manner and subject to the rules
11 adopted by the department.

12 “(8) The Department of Revenue may prescribe by rule the method by
13 which a consolidated state return shall be filed under this section.

14 **“SECTION 22.** ORS 319.535 is amended to read:

15 “319.535. (1) In lieu of paying the per-gallon tax on the use of fuel in a
16 motor vehicle imposed under ORS 319.530, a person may pay to the Depart-
17 ment of Transportation annually, for each motor vehicle that consumes nat-
18 ural gas or propane, a special use fuel license fee computed under subsection
19 (2) of this section based on the following schedule:

20 “

21 COMBINED WEIGHT	BASE
22 (Pounds)	
23	
24 0 - 10,000	\$60
25 10,001 - 26,000	\$300
26 26,001 and above	\$400

27 “

28 “(2) The special use fuel license fee equals the applicable base amount
29 from the schedule in subsection (1) of this section multiplied by the use fuel
30 tax rate imposed under ORS 319.530 in effect at the time of payment, divided

1 by 12 cents.

2 “(3)(a) A person wishing to pay the special use fuel license fee shall apply
3 to the department on a form prescribed by the department and shall include
4 such information as the department requires.

5 “(b) Upon receipt of a complete and valid application under this sub-
6 section, the department shall issue to the applicant without charge an
7 emblem for display on the motor vehicle to which the application relates.

8 “(c) An emblem issued under this section that is displayed in a conspicu-
9 ous place on the motor vehicle for which the emblem is issued shall be ac-
10 cepted by a seller of fuel as proof of exemption from the per-gallon tax
11 imposed under ORS 319.530.

12 “(4) **Not later than September 15 of each even-numbered year, the**
13 **department and the Oregon Transportation Commission shall:**

14 “(a) **Review the special use fuel license fees computed under this**
15 **section; and**

16 “(b) **Recommend to the interim committees of the Legislative As-**
17 **sembly related to transportation any adjustment to the fees that the**
18 **department and commission deem appropriate.**

19 “**SECTION 23.** ORS 320.470 is amended to read:

20 “320.470. (1) Notwithstanding the confidentiality provisions of ORS
21 320.475, the Department of Revenue may disclose information received under
22 ORS 320.400 to 320.490 and 803.203 to the Department of Transportation for
23 the purposes of carrying out the provisions of ORS **320.405**, 320.410 and
24 803.203.

25 “(2) The Department of Transportation may disclose information obtained
26 under ORS 320.410 and 803.203 to the Department of Revenue for the pur-
27 poses of carrying out the provisions of ORS 320.400 to 320.490 and 803.203.

28 “(3) Any officer or employee of the Department of Transportation to
29 whom information is disclosed under subsection (1) of this section is not re-
30 quired to execute a certificate under ORS 314.840 (3)(a).

1 “(4) Except as otherwise provided in ORS 320.400 to 320.490 and 803.203,
2 a person aggrieved by an act or determination of the Department of Revenue
3 or its authorized agent under ORS 320.400 to 320.490 and 803.203 may appeal,
4 within 90 days after the act or determination, to the Oregon Tax Court in
5 the manner provided in ORS 305.404 to 305.560. These appeal rights are the
6 exclusive remedy available to determine the person’s liability for the trans-
7 portation project taxes.

8 **“SECTION 24.** ORS 181A.195 is amended to read:

9 “181A.195. (1) As used in this section:

10 “(a) ‘Authorized agency’ means state government as defined in ORS
11 174.111 *[and]*, the Oregon State Bar **or a municipal tax collection agency**
12 **in a city with a population of 250,000 or more.** ‘Authorized agency’ does
13 not include:

14 “(A) The Oregon State Lottery Commission or the Oregon State Lottery;
15 or

16 “(B) A criminal justice agency, as defined in ORS 181A.010, that is au-
17 thorized by federal law to receive fingerprint-based criminal records checks
18 from the Federal Bureau of Investigation.

19 “(b) ‘Subject individual’ means a person from whom an authorized agency
20 may require fingerprints pursuant to statute for the purpose of enabling the
21 authorized agency to request a state or nationwide criminal records check.

22 “(2)(a) An authorized agency may request that the Department of State
23 Police conduct a criminal records check on a subject individual for non-
24 criminal justice purposes.

25 “(b) A criminal records check under this subsection must, if requested by
26 the authorized agency, include a name-based check of the national sex
27 offender registry maintained by the National Crime Information Center.

28 “(c) If a nationwide criminal records check of a subject individual is
29 necessary, the authorized agency may request that the Department of State
30 Police conduct the check, including fingerprint identification, through the

1 Federal Bureau of Investigation.

2 “(3) The Department of State Police shall provide the results of a criminal
3 records check conducted pursuant to subsection (2) of this section to the
4 authorized agency requesting the check.

5 “(4) The Federal Bureau of Investigation shall return or destroy the fin-
6 gerprint cards used to conduct the criminal records check and may not keep
7 any record of the fingerprints, except that the Federal Bureau of Investi-
8 gation may retain the fingerprint cards and records of the fingerprints for
9 purposes described in ORS 181A.205. If the federal bureau policy authorizing
10 return or destruction of the fingerprint cards is changed, the Department of
11 State Police shall cease to send the cards to the federal bureau but shall
12 continue to process the information through other available resources.

13 “(5) If the Federal Bureau of Investigation returns the fingerprint cards
14 to the Department of State Police, the Department of State Police shall de-
15 stroy the fingerprint cards and may not retain facsimiles or other material
16 from which a fingerprint can be reproduced, except that the Department of
17 State Police may retain the fingerprint cards or create facsimiles for the
18 purpose of providing information under ORS 181A.205.

19 “(6) If only a state criminal records check is conducted, after the criminal
20 records check is completed, the Department of State Police shall destroy the
21 fingerprint cards and the results of the criminal records check provided to
22 the authorized agency and may not retain facsimiles or other material from
23 which a fingerprint can be reproduced, except that the Department of State
24 Police may retain the fingerprint cards and results or create facsimiles for
25 the purpose of providing information under ORS 181A.205.

26 “(7) An authorized agency may conduct criminal records checks on sub-
27 ject individuals through the Law Enforcement Data System maintained by
28 the Department of State Police in accordance with rules adopted, and pro-
29 cedures established, by the Department of State Police.

30 “(8) An authorized agency and the Department of State Police shall per-

1 mit a subject individual for whom a fingerprint-based criminal records check
2 was conducted to inspect the individual's own state and national criminal
3 offender records and, if requested by the subject individual, provide the in-
4 dividual with a copy of the individual's own state and national criminal
5 offender records.

6 “(9) Each authorized agency, in consultation with the Department of State
7 Police, may adopt rules to implement this section and other statutes relating
8 to criminal offender information obtained through fingerprint-based criminal
9 records checks. The rules may include but need not be limited to:

10 “(a) Identifying applicable categories of subject individuals as specified
11 by the Oregon Department of Administrative Services under ORS 181A.215
12 who are subject to criminal records checks by the authorized agency.

13 “(b) Identifying applicable information that may be required from a sub-
14 ject individual to permit a criminal records check as specified by the Oregon
15 Department of Administrative Services under ORS 181A.215.

16 “(c) Specifying which programs or services are subject to this section.

17 “(d) If the authorized agency uses criminal records checks for agency
18 employment purposes:

19 “(A) Determining when and under what conditions a subject individual
20 may be hired on a preliminary basis pending a criminal records check; and

21 “(B) Defining the conditions under which a subject individual may par-
22 ticipate in training, orientation and work activities pending completion of
23 a criminal records check.

24 “(e) Establishing fees in an amount not to exceed the actual cost of ac-
25 quiring and furnishing criminal offender information.

26 “(10)(a) Except as otherwise provided in ORS 181A.400, 181A.875, 342.143,
27 342.223, 443.735, 475B.785 to 475B.949 and 703.090 and paragraph (d) of this
28 subsection, an authorized agency, using the rules adopted by the Oregon
29 Department of Administrative Services under ORS 181A.215, shall determine
30 whether a subject individual is fit to hold a position, provide services, be

1 employed or be granted a license, certification, registration or permit. If a
2 subject individual is determined to be unfit, then the individual may not hold
3 the position, provide services, be employed or be granted a license, certi-
4 fication, registration or permit.

5 “(b)(A) Subject to subparagraph (B) of this paragraph, an authorized
6 agency making a fitness determination of an individual under this subsection
7 may request results of a previously made fitness determination from an au-
8 thorized agency that has already made a fitness determination for the indi-
9 vidual. An authorized agency that receives a request under this paragraph
10 shall provide the requested information.

11 “(B) An authorized agency may make a request under this paragraph only
12 for individuals:

13 “(i) Who are applying to hold a position, provide services, be employed
14 or be granted a license, certification, registration or permit;

15 “(ii) Who are in a category of individuals as specified by the Oregon De-
16 partment of Administrative Services by rule under ORS 181A.215; and

17 “(iii) For whom a fitness determination has already been made.

18 “(c) Except as otherwise provided in ORS 181A.400, in making the fitness
19 determination under this subsection, the authorized agency shall consider:

20 “(A) The nature of the crime;

21 “(B) The facts that support the conviction or pending indictment or that
22 indicate the making of a false statement;

23 “(C) The relevancy, if any, of the crime or the false statement to the
24 specific requirements of the subject individual’s present or proposed position,
25 services, employment, license, certification or registration; and

26 “(D) Intervening circumstances relevant to the responsibilities and cir-
27 cumstances of the position, services, employment, license, certification, reg-
28 istration or permit, such as:

29 “(i) The passage of time since the commission of the crime;

30 “(ii) The age of the subject individual at the time of the crime;

1 “(iii) The likelihood of a repetition of offenses or of the commission of
2 another crime;

3 “(iv) The subsequent commission of another relevant crime;

4 “(v) Whether the conviction was set aside and the legal effect of setting
5 aside the conviction; and

6 “(vi) The recommendation of an employer.

7 “(d) A subject individual is not entitled to a fitness determination under
8 this subsection if the subject individual:

9 “(A) Is or seeks to be employed in any capacity having contact with a
10 recipient of support services or a resident of a residential facility or adult
11 foster home, as provided in ORS 443.004 (3), and has been convicted of any
12 crime listed in ORS 443.004 (3) or (5).

13 “(B) Is prohibited by federal law from holding a position, providing ser-
14 vices, being employed or being granted a license, certification, registration
15 or permit for which the fitness determination is requested by an authorized
16 agency.

17 “(11)(a) In conducting a fitness determination regarding a subject indi-
18 vidual other than an individual described in paragraph (b) of this subsection,
19 the Department of Human Services or the Oregon Health Authority may not
20 consider:

21 “(A) A conviction that is more than 10 years old unless the conviction is
22 for a crime listed in ORS 443.004 (3) or (5);

23 “(B) A charge or arrest for which there was no conviction unless the
24 charge or arrest is for a crime listed in ORS 443.004 (3) or (5);

25 “(C) A conviction on a charge relating to marijuana if the charge is no
26 longer a criminal offense;

27 “(D) A conviction under ORS 813.010, if the subject individual had no
28 more than one conviction under ORS 813.010 in the five-year period prior to
29 the date of the criminal records check;

30 “(E) A deferred sentence, conditional discharge or participation in a di-

1 version program for any crime unless the crime is listed in ORS 443.004 (3)
2 and (5); and

3 “(F) A pending indictment for a crime unless the crime is listed in ORS
4 443.004 (3) or (5).

5 “(b) The department or the authority may consider a charge, arrest, con-
6 viction, deferred sentence, conditional discharge, participation in a diversion
7 program or pending indictment that may not be considered under paragraph
8 (a) of this subsection in making a fitness determination for a subject indi-
9 vidual who is:

10 “(A) Described in ORS 418.016;

11 “(B) An employee, volunteer, contractor or provider in, or an agent of, a
12 proctor foster home as defined in ORS 418.205 or a child-caring agency as
13 defined in ORS 418.205;

14 “(C) An exempt family child care provider, as defined in ORS 329A.430,
15 the provider’s household members who are 16 years of age or older or a fre-
16 quent visitor of a provider who is subject to a criminal records check;

17 “(D) An employee or volunteer in a facility that:

18 “(i) Provides care to children and is operated by a school district, as de-
19 fined in ORS 332.002, a political subdivision of this state, a preschool re-
20 corded program, as defined in ORS 329A.250, or a government agency; and

21 “(ii) Is not required to be certified under ORS 329A.280; or

22 “(E) An emergency medical services provider, as defined in ORS 682.025,
23 for the purpose of determining the fitness of the emergency medical services
24 provider to receive or hold a license under ORS 670.280.

25 “(12) Criminal offender information is confidential. Authorized agencies
26 and the Department of State Police shall adopt rules to restrict dissem-
27 ination of information received under this section to persons with a demon-
28 strated and legitimate need to know the information.

29 “(13) If a subject individual refuses to consent to the criminal records
30 check or refuses to be fingerprinted, the authorized agency shall deny the

1 employment of the individual, or revoke or deny any applicable position,
2 authority to provide services, license, certification, registration or permit.

3 “(14) If an authorized agency requires a criminal records check of em-
4 ployees, prospective employees, contractors, vendors or volunteers or appli-
5 cants for a license, certification, registration or permit, the application forms
6 of the authorized agency must contain a notice that the person is subject to
7 fingerprinting and a criminal records check.

8 **“SECTION 25. Section 26 of this 2020 Act is added to and made a**
9 **part of ORS 181A.160 to 181A.250.**

10 **“SECTION 26. (1) For the purpose of requesting a state or nation-**
11 **wide criminal records check under ORS 181A.195, a municipal tax col-**
12 **lection agency in a city with a population of 250,000 or more may**
13 **require the fingerprints of a person who:**

14 **“(a)(A) Is employed or applying for employment by the city; or**

15 **“(B) Provides services or seeks to provide services to the city as a**
16 **contractor or volunteer; or**

17 **“(b) Is, or will be, working or providing services in a position in**
18 **which the person will have access to federal tax information.**

19 **“(2) A municipal tax collection agency in a city with a population**
20 **of 250,000 or more may enter into a written agreement with the De-**
21 **partment of State Police for purposes of conducting criminal records**
22 **checks under this section. An agreement entered into under this sub-**
23 **section must include terms pertaining to the scope of work and re-**
24 **imbursement of costs.**

25 **“SECTION 27. Section 37, chapter 101, Oregon Laws 2018, is amended to**
26 **read:**

27 **“Sec. 37. On or before [December 1, 2020] January 2, 2023, the Depart-**
28 **ment of Revenue shall report in the manner required by ORS 192.245 to a**
29 **committee of the Legislative Assembly related to revenue regarding the rel-**
30 **ative efficacy of the provisions of ORS 317.716 (2017 Edition), in comparison**

1 to the provisions of section 951A of the Internal Revenue Code, requiring
2 shareholders of controlled foreign corporations to include global intangible
3 low-taxed income in gross income.

4 **“SECTION 28. This 2020 Act takes effect on the 91st day after the**
5 **date on which the 2020 regular session of the Eightieth Legislative**
6 **Assembly adjourns sine die.”**

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