

DRAFT

SUMMARY

Creates income and corporate excise tax credits for investments in facilities used for manufacturing, siting of headquarters or research. Enhances credit amount for facility that provides environmental benefit.

Creates income tax credit for adding net full-time employment positions.

Restores corporate excise tax credit allowed for qualified research activities and sets increased maximum credit amount. Uses tiered credit percentages based on amount of increase in qualified research expenses. Provides for refundability of credit for taxpayer with fewer than 150 employees. Increases maximum amount of alternative qualified research credit allowed to taxpayer with insufficient increase in research expenses to claim standard credit.

Exempts from commercial activity subject to corporate activity tax amount of qualified research credit allowed against corporate excise tax.

Applies to tax years beginning on or after January 1, 2024, and before January 1, 2030.

Extends sunsets of certain programs providing economic incentives. Appropriates moneys for deposit in Small Business Expansion Loan Fund.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to economic incentives; creating new provisions; amending ORS 285B.627, 285C.255, 285C.406, 314.772, 317.152, 317.154, 317.850 and 318.031 and section 6, chapter 911, Oregon Laws 1989, and section 6, chapter 905, Oregon Laws 2007; and prescribing an effective date.

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

INVESTMENT, RENOVATION AND JOB CREATION TAX CREDIT

SECTION 1. Section 2 of this 2023 Act is added to and made a part

1 of ORS chapter 315.

2 **SECTION 2.** (1) A credit is allowed against the taxes otherwise due
3 under ORS chapter 316 or, if the taxpayer is a corporation, under ORS
4 chapter 317 or 318, for expanding or locating a qualified facility that
5 is certified under sections 4 to 12 of this 2023 Act.

6 (2) Except as provided in subsection (3) of this section, the amount
7 of the credit allowed shall be the least of:

8 (a) Ten percent of the amount the taxpayer has made in total
9 qualifying investment in the qualified facility;

10 (b) \$20,000 for each net new full-time employment position filled by
11 the taxpayer that has job duties associated with a qualified facility;
12 or

13 (c) \$30 million, if the qualifying investment made in the first 12
14 months after preliminary certification under section 7 of this 2023 Act
15 exceeds \$250,000.

16 (3) If the qualifying investment is a qualified environmental in-
17 vestment, the amount of the credit allowed shall be the lesser of:

18 (a) Twenty percent of the amount the taxpayer has made in total
19 qualifying investment in the qualified facility;

20 (b) \$25,000 for each net new full-time employment position filled by
21 the taxpayer that has job duties associated with a qualified facility;
22 or

23 (c) \$50 million, if the qualifying investment made in the first 12
24 months after preliminary certification under section 7 of this 2023 Act
25 exceeds \$250,000.

26 (4) Only capital investments in a qualified facility that are made
27 not more than 36 months prior to the submission by the taxpayer of
28 an application for preliminary certification are included in the com-
29 putation of the credit.

30 (5) The credit shall be claimed over five consecutive tax years, with
31 the amount allowed in each of the five tax years not exceeding the

1 lesser of 20 percent of the total or the tax liability of the taxpayer.

2 (6) In order for a tax credit to be allowable under this section:

3 (a) The qualified facility must be located in Oregon.

4 (b) At least 51 percent of the net new full-time employment posi-
5 tions with job duties associated with the qualified facility must pay a
6 wage that equals or exceeds 125 percent, or 100 percent in the case of
7 a qualified facility in a rural area, of the median annual wage for
8 production occupations in this state.

9 (c) All net new full-time employment positions must include health
10 insurance coverage for the employees for which the taxpayer pays at
11 least 65 percent of the premium or membership cost.

12 (d) The qualified facility must have received final certification from
13 the Director of the Oregon Business Development Department under
14 sections 4 to 12 of this 2023 Act.

15 (7) The Department of Revenue may require that the Oregon Busi-
16 ness Development Department provide information about the final
17 certification issued under section 8 of this 2023 Act, if required by the
18 Department of Revenue as provided in ORS 315.058.

19 (8) Each taxpayer shall maintain a record of the written certifica-
20 tion of the amount of the tax credit under this section for a period of
21 at least five years after the tax year in which the credit is claimed and
22 provide the written certification to the Department of Revenue upon
23 request.

24 (9) The credit shall be claimed on a form prescribed by the Depart-
25 ment of Revenue that contains the information required by the de-
26 partment.

27 (10) Any tax credit otherwise allowable under this section that is
28 not used by the taxpayer in a particular tax year may be carried for-
29 ward and offset against the taxpayer's tax liability for the next suc-
30 ceeding tax year. Any credit remaining unused in the next succeeding
31 tax year may be carried forward and used in the second succeeding tax

1 year, and likewise any credit not used in that second succeeding tax
2 year may be carried forward and used in the third succeeding tax year,
3 and any credit not used in that third succeeding tax year may be car-
4 ried forward and used in the fourth succeeding tax year, but may not
5 be carried forward for any tax year thereafter.

6 (11) In the case of a credit allowed under this section:

7 (a) A nonresident shall be allowed the credit under this section in
8 the proportion provided in ORS 316.117.

9 (b) If a change in the status of the taxpayer from resident to non-
10 resident or from nonresident to resident occurs, the credit allowed by
11 this section shall be determined in a manner consistent with ORS
12 316.117.

13 (c) If a change in the tax year of the taxpayer occurs as described
14 in ORS 314.085, or if the department terminates the taxpayer's tax year
15 under ORS 314.440, the credit allowed under this section shall be pro-
16 rated or computed in a manner consistent with ORS 314.085.

17 (12) A person that has earned a tax credit under this section may
18 transfer the credit to a taxpayer subject to tax under ORS chapter 316,
19 317 or 318. The transfer must comply with ORS 315.056.

20 (13) The Director of the Oregon Business Development Department
21 may order the suspension or revocation of a final certification issued
22 under section 8 of this 2023 Act, as provided in ORS 315.061.

23 (14) The credit allowed under this section is not in lieu of any de-
24 preciation or amortization deduction for the qualified facility to which
25 the taxpayer otherwise may be entitled for purposes of ORS chapter
26 316, 317 or 318 for such year.

27 (15) The taxpayer's adjusted basis for determining gain or loss may
28 not be decreased by any tax credits allowed under this section.

29 (16) The definitions in section 4 of this 2023 Act apply to this sec-
30 tion.

31 **SECTION 3.** Sections 4 to 12 of this 2023 Act are added to and made

1 a part of ORS chapter 285C.

2 **SECTION 4. As used in sections 2 and 4 to 12 of this 2023 Act:**

3 (1) **“Capital investment” means an expenditure to acquire, lease or**
4 **improve land, buildings, machinery, equipment or fixtures or other**
5 **property that is used in operating a business.**

6 (2) **“Environmental benefit” means:**

7 (a) **The prevention, control or reduction of air pollution or water**
8 **pollution;**

9 (b) **The prevention, control or reduction of the generation or stor-**
10 **age of solid waste, as defined in ORS 459.005, or hazardous waste, as**
11 **defined in ORS 466.005; or**

12 (c) **The recycling or environmentally safe disposal of used oil.**

13 (3) **“Facility” means a single parcel, contiguous parcels or parcels**
14 **that are separated only by a public thoroughfare or right-of-way, of**
15 **owned or leased land in this state, the structures and personal prop-**
16 **erty contained on the land or any part of the structures occupied by**
17 **the owner.**

18 (4) **“Headquarters” means a principal central administrative office**
19 **where primary headquarters related functions and services are per-**
20 **formed, including financial, personnel, administrative, legal, planning**
21 **and similar business functions.**

22 (5)(a) **“Manufacturing” means fabricating, producing or manufac-**
23 **turing raw or prepared materials into usable products, imparting new**
24 **forms, qualities, properties and combinations.**

25 (b) **“Manufacturing” does not include generating electricity.**

26 (6) **“Qualified environmental investment” means the amount of an**
27 **investment in goods and services reasonably necessary to produce an**
28 **environmental benefit.**

29 (7) **“Qualified facility” means a facility in this state that devotes**
30 **at least 80 percent of the property and payroll at the facility to one**
31 **or more of the following:**

1 (a) Qualified manufacturing.

2 (b) Qualified headquarters.

3 (c) Qualified research.

4 (d) An environmental benefit.

5 (8) "Qualified headquarters" means a global, national or regional
6 headquarters for a taxpayer that derives at least 65 percent of its
7 revenue from sales made outside of this state.

8 (9) "Qualified manufacturing" means manufacturing tangible pro-
9 ducts in this state if at least 65 percent of the product is at least one
10 of the following:

11 (a) Directly sold out of state.

12 (b) Directly sold to one or more qualified facilities.

13 (10) "Qualified research" has the meaning given that term in sec-
14 tion 41(d) of the Internal Revenue Code, except that the research must
15 be conducted by a taxpayer involved in manufacturing that derives at
16 least 65 percent of its revenue from out-of-state sales.

17 (11)(a) "Qualifying investment" means investment in land,
18 buildings, machinery, equipment and fixtures for expansion of an ex-
19 isting qualified facility or establishment of a new qualified facility in
20 this state. If the qualified facility is a build-to-suit facility leased to
21 the taxpayer, "qualifying investment" includes the costs prescribed in
22 this paragraph that are spent by the third-party developer with respect
23 to the qualified facility.

24 (b) "Qualifying investment" does not include relocating an existing
25 qualified facility in this state to another location in this state without
26 additional capital investment of at least \$250,000.

27 (12) "Rural area" has the meaning given that term in ORS 285C.350.

28 **SECTION 5.** For a qualified facility, the total amount of potential
29 tax credit that receives a preliminary certification from the Director
30 of the Oregon Business Development Department may not exceed \$30
31 million.

1 **SECTION 6.** (1) Prior to the placement in service of a qualified fa-
2 cility, any person may apply to the Oregon Business Development
3 Department for preliminary certification under section 7 of this 2023
4 Act if:

5 (a) The qualified facility complies with the standards adopted by the
6 Director of the Oregon Business Development Department; and

7 (b) The applicant will be the owner, contract purchaser or lessee
8 of the qualified facility at the time of placement in service of the
9 qualified facility.

10 (2) An application for preliminary certification shall be made in
11 writing on a form prepared by the department and shall contain:

12 (a) The applicant's name, address, telephone number and federal
13 taxpayer identification number or numbers.

14 (b) The name, address, telephone number and e-mail address of a
15 contact person for the applicant.

16 (c) The address of the site where the qualified facility will be lo-
17 cated.

18 (d) A detailed description of the qualified facility and fixed capital
19 assets.

20 (e) An estimate of the capital investment and number of employ-
21 ment positions with job duties associated with the qualified facility,
22 including:

23 (A) A schedule of qualifying investments.

24 (B) A list of full-time employment positions, the estimated number
25 of employees to be hired for the positions each year during the first
26 five years of operation and the annual wages for each position, calcu-
27 lated without employee-related benefits.

28 (f) Other information as required by the department to determine
29 eligibility for the income tax credits and the amount of income tax
30 credits, as prescribed by this section.

31 (g) An affirmation, signed by an authorized executive representing

1 **the applicant, that the applicant:**

2 **(A) Agrees to furnish records of expenditures for qualifying invest-**
3 **ments to the department on request.**

4 **(B) Will continue in business at the qualified facility for five full**
5 **calendar years after final certification for the credit, other than for**
6 **reasons beyond the control of the applicant.**

7 **(C) Agrees to furnish to the department information regarding the**
8 **amount of income tax credits claimed each year.**

9 **(D) Authorizes the Department of Revenue to provide tax informa-**
10 **tion to the Oregon Business Development Department for the purpose**
11 **of determining any inconsistency in information furnished by the ap-**
12 **plicant.**

13 **(E) Agrees to allow site visits and audits to verify the applicant's**
14 **continuing qualification and the accuracy of information submitted to**
15 **the department.**

16 **(G) Consents to the adjustment or recapture of any amount of in-**
17 **come tax credit due to noncompliance with this section.**

18 **(h) Letters of good standing from the Department of Revenue stat-**
19 **ing that the applicant is not delinquent in paying taxes.**

20 **(i) The anticipated total qualifying investment.**

21 **(j) Information on the number and type of employment positions**
22 **that will be created by the qualified facility, the number of employ-**
23 **ment positions sustained throughout the construction and operation**
24 **of the qualified facility and the benefits of the qualified facility with**
25 **regard to overall economic activity in this state.**

26 **(k) Information demonstrating that the qualified facility will com-**
27 **ply with applicable state and local laws and regulations and obtain**
28 **required licenses and permits.**

29 **(L) Any other information the director considers necessary to de-**
30 **termine whether the qualified facility is in accordance with the pro-**
31 **visions of sections 4 to 12 of this 2023 Act, and any applicable rules or**

1 standards adopted by the director.

2 (3) An application for preliminary certification shall be accompa-
3 nied by a fee established under section 9 of this 2023 Act. The director
4 may refund all or a portion of the fee if the application for certifica-
5 tion is rejected.

6 SECTION 7. (1) The Director of the Oregon Business Development
7 Department may require an applicant for certification of a qualified
8 facility to submit plans, specifications and contract terms, and after
9 examination of the plans, specifications and terms may request cor-
10 rections and revisions.

11 (2) If the director determines that the qualified facility is techni-
12 cally feasible and should operate in accordance with the representa-
13 tions made by the applicant, and is in accordance with the provisions
14 of sections 4 to 12 of this 2023 Act and any applicable rules or stan-
15 dards adopted by the director, the director may issue a preliminary
16 certificate approving the placement in service of the qualified facility.
17 The certificate shall indicate the potential amount of tax credit al-
18 lowable and shall list any conditions for claiming the credit.

19 (3) In accordance with ORS chapter 183, the director may issue an
20 order altering, conditioning, suspending or denying preliminary certi-
21 fication if the director determines that:

22 (a) The qualified facility does not comply with the provisions of
23 sections 4 to 12 of this 2023 Act and applicable rules and standards;

24 (b) The applicant has previously received preliminary or final cer-
25 tification for the qualified facility;

26 (c) The applicant was directly involved in an act for which any state
27 agency has levied civil penalties or revoked, canceled or suspended any
28 certification; or

29 (d) The applicant or the principal, director, officer, owner, majority
30 shareholder or member of the applicant, or the manager of the appli-
31 cant if the applicant is a limited liability company, is in arrears for

1 **payments owed to any government agency while in any capacity with**
2 **direct or indirect control over a business.**

3 **SECTION 8. (1) The Director of the Oregon Business Development**
4 **Department may issue a final certification for a qualified facility un-**
5 **der this section only if:**

6 **(a) The qualified facility was installed or constructed under a pre-**
7 **liminary certificate of approval issued under section 7 of this 2023 Act;**

8 **(b) The applicant demonstrates the ability to provide the informa-**
9 **tion required by section 6 (2) of this 2023 Act and does not violate any**
10 **condition that may be imposed as described in subsection (4) of this**
11 **section; and**

12 **(c) The qualified facility was installed or constructed in accordance**
13 **with the applicable provisions of sections 4 to 12 of this 2023 Act and**
14 **any applicable rules or standards adopted by the director.**

15 **(2) Any person may apply to the Oregon Business Development**
16 **Department for final certification of a qualified facility:**

17 **(a) If the person received preliminary certification for the qualified**
18 **facility under section 7 of this 2023 Act; and**

19 **(b) After placement in service of the qualified facility.**

20 **(3) An application for final certification shall be made in writing**
21 **on a form prepared by the department and shall contain:**

22 **(a) A statement that the conditions of the preliminary certification**
23 **have been complied with;**

24 **(b) The actual amount of the qualifying investment, including**
25 **copies of receipts for purchase and installation of the qualified facility;**

26 **(c) The amount of the credit under section 2 of this 2023 Act that**
27 **is to be claimed;**

28 **(d) The number and type of employment positions created by the**
29 **operation and maintenance of the qualified facility over the five-year**
30 **period beginning with the year of preliminary certification under sec-**
31 **tion 7 of this 2023 Act and information on the benefits of the qualified**

1 **facility with regard to overall economic activity in this state;**

2 **(e) Information sufficient to demonstrate that the qualified facility**
3 **will remain in operation for at least five years, unless the director by**
4 **rule specifies another period of operation;**

5 **(f) Documentation of compliance with applicable state and local**
6 **laws and regulations and licensing and permitting requirements as**
7 **defined by the director; and**

8 **(g) Any other information determined by the director to be neces-**
9 **sary prior to issuance of a final certificate, including inspection of the**
10 **qualified facility by the department.**

11 **(4) After the filing of the application under this section, the director**
12 **may issue the certificate together with any conditions that the direc-**
13 **tor determines are appropriate to promote the purposes of sections 2**
14 **and 4 to 12 of this 2023 Act. If the applicant is an entity subject to**
15 **regulation by the Public Utility Commission, the director may consult**
16 **with the commission prior to issuance of the certificate. The action**
17 **of the director shall include certification of the actual cost of the**
18 **qualified facility. However, the director may not certify an amount for**
19 **tax credit purposes that is more than the amount approved in the**
20 **preliminary certificate issued for the qualified facility.**

21 **(5) If the director rejects an application for final certification, or**
22 **certifies a lesser amount of credit than was claimed in the application,**
23 **the director shall send to the applicant written notice of the action,**
24 **together with a statement of the findings and reasons for the action,**
25 **by certified mail, before the 60th day after the filing of the application.**
26 **Failure of the director to act constitutes rejection of the application.**

27 **(6) Upon approval of an application for final certification of a**
28 **qualified facility, the director shall certify the qualified facility. The**
29 **final certification shall indicate the amount of qualifying investment**
30 **attributable to the qualified facility and the total qualified facility**
31 **cost.**

1 (7) The director may establish by rule timelines and intermediate
2 deadlines for submission of application materials.

3 **SECTION 9.** By rule and after hearing, the Director of the Oregon
4 Business Development Department may adopt a schedule of reasonable
5 fees that the Oregon Business Development Department may require
6 of applicants for preliminary or final certification of a qualified facility
7 under sections 4 to 12 of this 2023 Act. Before the adoption or revision
8 of the fees, the department shall estimate the total cost of the pro-
9 gram to the department. The fees shall be used to recover the antic-
10 ipated cost of administering and enforcing the provisions of sections
11 4 to 12 of this 2023 Act, including filing, investigating, granting and
12 rejecting applications for certification and ensuring compliance with
13 sections 4 to 12 of this 2023 Act, and shall be designed not to exceed
14 the total cost estimated by the department. Any excess fees shall be
15 held by the department and shall be used by the department to reduce
16 any future fee increases. The fee may vary according to the size and
17 complexity of the qualified facility. The fee is not considered part of
18 the cost of the qualified facility to be certified.

19 **SECTION 10.** (1) A certificate issued under section 8 of this 2023 Act
20 is required for purposes of obtaining tax credits in accordance with
21 section 2 of this 2023 Act. Such certification shall be granted for a
22 period not to exceed five years. The five-year period shall begin with
23 the tax year of the applicant during which the completed application
24 for final certification of the qualified facility under section 8 of this
25 2023 Act is received by the Oregon Business Development Department.

26 (2) If the original owner of the certificate uses any portion of the
27 credit, the certificate becomes nontransferable.

28 (3) For a transferee holding a credit that has been transferred, the
29 five-year period shall begin with the tax year in which the transferee
30 pays for the credit.

31 **SECTION 11.** (1) The total amount of potential tax credits for all

1 qualified facilities in this state may not, at the time of preliminary
2 certification under section 7 of this 2023 Act, exceed \$ _____ million
3 for any tax year.

4 (2) In the event that the Director of the Oregon Business Develop-
5 ment Department receives applications for preliminary certification
6 with a total amount of potential tax credits in excess of the limitation
7 in subsection (1) of this section, the director shall allocate the issuance
8 of preliminary certifications according to standards and criteria es-
9 tablished by rule by the director.

10 SECTION 12. The Oregon Business Development Department shall
11 by rule establish policies and procedures for the administration and
12 enforcement of the provisions of sections 2 and 4 to 12 of this 2023 Act,
13 including standards for what constitutes a single qualified facility.

14 SECTION 13. Sections 2 and 4 to 12 of this 2023 Act apply to new
15 capital investments made in a qualified facility on or after July 1, 2023,
16 and to tax years beginning on or after January 1, 2024, and before
17 January 1, 2030.

18

19

FAMILY WAGE TAX CREDIT

20

21 SECTION 14. Section 15 of this 2023 Act is added to and made a part
22 of ORS chapter 315.

23 SECTION 15. (1) A credit against taxes that are otherwise due under
24 ORS chapter 316 or, if the taxpayer is a corporation, under ORS
25 chapter 317 or 318 is allowed to a taxpayer that is an employer and that
26 adds net full-time employment positions, including remote employ-
27 ment positions, during the tax year. The credit may be claimed for any
28 newly filled employment position that remains filled in subsequent tax
29 years, for as many as four consecutive tax years.

30 (2) For the taxpayer to claim the credit allowed under this section,
31 any added employment positions that are to be considered for eligibil-

1 **ity must be filled by employees that:**

2 **(a)(A) Receive a wage throughout the tax year that is at least 150**
3 **percent of the minimum wage under ORS 653.025 for the location in**
4 **which the employment position is filled or, if the worker is working**
5 **remotely, the location in which the taxpayer is doing business; or**

6 **(B) Meet the wage requirements of ORS 285C.160, if applicable, for**
7 **the location in which the taxpayer is doing business;**

8 **(b) Are subject to the tax imposed under ORS chapter 316; and**

9 **(c) Remain employed by the taxpayer for at least 12 consecutive**
10 **months.**

11 **(3) The amount of the credit allowed under this section shall equal**
12 **10 percent of the wages paid by the taxpayer to new employees during**
13 **the tax year but, for the tax year, may not exceed \$5,000 per employ-**
14 **ment position or \$5 million total for the taxpayer.**

15 **(4) Prior to claiming the credit allowed under this section, a tax-**
16 **payer is required to receive written certification of eligibility from the**
17 **Oregon Business Development Department.**

18 **(5) The credit allowed under this section may not exceed the tax**
19 **liability of the taxpayer for the tax year.**

20 **(6) If a change in the taxable year of the taxpayer occurs as de-**
21 **scribed in ORS 314.085, or if the Department of Revenue terminates the**
22 **taxpayer's taxable year under ORS 314.440, the credit allowed by this**
23 **section shall be prorated or computed in a manner consistent with**
24 **ORS 314.085.**

25 **(7) A person that has earned a tax credit under this section may**
26 **transfer the credit to a taxpayer subject to tax under ORS chapter 316,**
27 **317 or 318. The transfer must comply with ORS 315.056.**

28 **(8) The Director of the Oregon Business Development Department**
29 **may order the suspension or revocation of a certification issued under**
30 **this section, as provided in ORS 315.061.**

31 **(9) The Oregon Business Development Department shall adopt rules**

1 for the purposes of this section, including policies and procedures for
2 certifying taxpayers as eligible for the credit allowed under this sec-
3 tion as provided in subsection (4) of this section.

4 **SECTION 16.** Section 15 of this 2023 Act applies to tax years begin-
5 ning on or after January 1, 2024, and before January 1, 2030.

6

7

INCORPORATION OF TAX CREDIT PROVISIONS

8

9 **SECTION 17.** ORS 314.772, as amended by section 11, chapter 34, Oregon
10 Laws 2022, and section 15, chapter 115, Oregon Laws 2022, is amended to
11 read:

12 314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits al-
13 lowed or allowable to a C corporation for purposes of ORS chapter 317 or
14 318 shall not be allowed to an S corporation. The business tax credits al-
15 lowed or allowable for purposes of ORS chapter 316 shall be allowed or are
16 allowable to the shareholders of the S corporation.

17 (2) In determining the tax imposed under ORS chapter 316, as provided
18 under ORS 314.763, on income of the shareholder of an S corporation, there
19 shall be taken into account the shareholder's pro rata share of business tax
20 credit (or item thereof) that would be allowed to the corporation (but for
21 subsection (1) of this section) or recapture or recovery thereof. The credit (or
22 item thereof), recapture or recovery shall be passed through to shareholders
23 in pro rata shares as determined in the manner prescribed under section
24 1377(a) of the Internal Revenue Code.

25 (3) The character of any item included in a shareholder's pro rata share
26 under subsection (2) of this section shall be determined as if such item were
27 realized directly from the source from which realized by the corporation, or
28 incurred in the same manner as incurred by the corporation.

29 (4) If the shareholder is a nonresident and there is a requirement appli-
30 cable for the business tax credit that in the case of a nonresident the credit
31 be allowed in the proportion provided in ORS 316.117, then that provision

1 shall apply to the nonresident shareholder.

2 (5) As used in this section, “business tax credit” means the following
3 credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish
4 screening, by-pass devices, fishways), ORS 315.141 (biomass production for
5 biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
6 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent
7 care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (con-
8 tributions for child care), ORS 315.237 (employee and dependent scholar-
9 ships), ORS 315.271 (individual development accounts), ORS 315.304
10 (pollution control facility), ORS 315.326 (renewable energy development con-
11 tributions), ORS 315.331 (energy conservation projects), ORS 315.336 (trans-
12 portation projects), ORS 315.341 (renewable energy resource equipment
13 manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation fa-
14 cilities), ORS 315.506 (tribal taxes on reservation enterprise zones and res-
15 ervation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514
16 (film production development contributions), ORS 315.523 (employee training
17 programs), ORS 315.533 (low income community jobs initiative), ORS 315.593
18 (short line railroads), ORS 315.640 (university venture development funds),
19 ORS 315.643 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for
20 Cultural Development Account contributions), ORS 317.097 (loans for af-
21 fordable housing), ORS 317.124 (long term enterprise zone facilities), ORS
22 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-
23 search expenses) and ORS 317.154 (alternative qualified research expenses)
24 and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle con-
25 tributions), section 2, chapter 34, Oregon Laws 2022 (small forest option), and
26 section 8, chapter 115, Oregon Laws 2022 (agricultural overtime pay), **and**
27 **section 2 of this 2023 Act (qualified facilities) and section 15 of this 2023**
28 **Act (new employment positions).**

29 **SECTION 18.** ORS 318.031, as amended by section 12, chapter 34, Oregon
30 Laws 2022, and section 16, chapter 115, Oregon Laws 2022, is amended to
31 read:

1 318.031. It being the intention of the Legislative Assembly that this
 2 chapter and ORS chapter 317 shall be administered as uniformly as possible
 3 (allowance being made for the difference in imposition of the taxes), ORS
 4 305.140 and 305.150, ORS chapter 314 and the following sections are incor-
 5 porated into and made a part of this chapter: ORS 315.104, 315.141, 315.156,
 6 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506,
 7 315.507, 315.523, 315.533, 315.593 and 315.643 and section 2, chapter 34, Oregon
 8 Laws 2022, and section 8, chapter 115, Oregon Laws 2022, **and sections 2**
 9 **and 15 of this 2023 Act** (all only to the extent applicable to a corporation)
 10 and ORS chapter 317.

11
 12 **RESEARCH ACTIVITIES TAX CREDITS**

13
 14 **SECTION 19. Section 20 of this 2023 Act is added to and made a part**
 15 **of ORS chapter 317.**

16 **SECTION 20. (1) If 75 percent of the amount allowable as a credit**
 17 **under ORS 317.152 or 317.154, when added to the sum of the amount**
 18 **of estimated tax paid under ORS 314.515 and any other tax prepayment**
 19 **amounts, exceeds the taxes imposed by ORS chapters 314 and 317 for**
 20 **the tax year (reduced by any nonrefundable credits allowable for pur-**
 21 **poses of ORS chapter 317 for the tax year), the amount of the excess**
 22 **determined under this subsection shall be refunded to the taxpayer as**
 23 **provided in ORS 314.415.**

24 **(2) This section applies only to taxpayers with fewer than 150 em-**
 25 **ployees, wherever located, at the close of the tax year.**

26 **SECTION 21. ORS 317.152 is amended to read:**

27 317.152. (1) A credit against taxes otherwise due under this chapter shall
 28 be allowed to eligible taxpayers for increases in qualified research expenses
 29 and basic research payments. The credit shall be determined in accordance
 30 with section 41 of the Internal Revenue Code, except as follows:

31 **(a) If the excess amount as described in section 41(a)(1) of the**

1 **Internal Revenue Code is \$2.5 million or less**, the applicable percentage
2 specified in section 41(a) of the Internal Revenue Code shall be *[five]* **24**
3 percent.

4 **(b) If the excess amount as described in section 41(a)(1) of the**
5 **Internal Revenue Code is more than \$2.5 million, the applicable per-**
6 **centage specified in section 41(a) of the Internal Revenue Code shall**
7 **be 15 percent.**

8 *[(b)]* **(c)** “Qualified research” and “basic research” shall consist only of
9 research conducted in Oregon.

10 *[(c)]* **(d)** The following do not apply to the credit allowable under this
11 section:

12 (A) Section 41(c)(4) of the Internal Revenue Code (relating to the alter-
13 native incremental credit).

14 (B) Section 41(h) of the Internal Revenue Code (relating to termination
15 of the federal credit).

16 (2) For purposes of this section, “eligible taxpayer” means a corporation,
17 other than a corporation excluded under Internal Revenue Code section
18 41(e)(7)(E).

19 (3) The Income Tax Regulations as prescribed by the Secretary of the
20 Treasury under authority of section 41 of the Internal Revenue Code apply
21 for purposes of this section, except as modified by this section or as provided
22 in rules adopted by the Department of Revenue.

23 (4) The maximum credit under this section may not exceed *[\$1 million]*
24 **\$9 million.**

25 (5) A deduction may not be taken for the portion of expenses or payments,
26 otherwise allowable as a deduction, that is equal to the amount of the credit
27 claimed under this section.

28 (6) Any tax credit that is otherwise allowable under this section and that
29 is not used by the taxpayer in that year may be carried forward and offset
30 against the taxpayer’s tax liability for the next succeeding tax year. Any
31 credit remaining unused in such next succeeding tax year may be carried

1 forward and used in the second succeeding tax year, and likewise any credit
2 not used in that second succeeding tax year may be carried forward and used
3 in the third succeeding tax year, and any credit not used in that third suc-
4 ceeding tax year may be carried forward and used in the fourth succeeding
5 tax year, and any credit not used in that fourth succeeding tax year may be
6 carried forward and used in the fifth succeeding tax year, but may not be
7 carried forward for any tax year thereafter.

8 **SECTION 22.** ORS 317.154 is amended to read:

9 317.154. (1) A credit against taxes otherwise due under this chapter shall
10 be allowed for qualified research expenses that exceed 10 percent of Oregon
11 sales.

12 (2) For purposes of this section:

13 (a) "Oregon sales" shall be computed using the laws and administrative
14 rules for calculating the numerator of the Oregon sales factor under ORS
15 314.665.

16 (b) "Qualified research" has the meaning given the term under section
17 41(d) of the Internal Revenue Code and shall consist only of research con-
18 ducted in Oregon.

19 (3) The credit under this section is equal to five percent of the amount
20 by which the qualified research expenses exceed 10 percent of Oregon sales.

21 (4) The credit under this section [*shall*] **may** not exceed \$10,000 times the
22 number of percentage points by which the qualifying research expenses ex-
23 ceed 10 percent of Oregon sales.

24 (5) The maximum credit under this section may not exceed [*\$1 million*]
25 **\$9 million.**

26 (6) A deduction may not be taken for the portion of expenses or payments,
27 otherwise allowable as a deduction, that is equal to the amount of the credit
28 claimed under this section.

29 (7) Any tax credit that is otherwise allowable under this section and that
30 is not used by the taxpayer in that year may be carried forward and offset
31 against the taxpayer's tax liability for the next succeeding tax year. Any

1 credit remaining unused in such next succeeding tax year may be carried
2 forward and used in the second succeeding tax year, and likewise any credit
3 not used in that second succeeding tax year may be carried forward and used
4 in the third succeeding tax year, and any credit not used in that third suc-
5 ceeding tax year may be carried forward and used in the fourth succeeding
6 tax year, and any credit not used in that fourth succeeding tax year may be
7 carried forward and used in the fifth succeeding tax year, but may not be
8 carried forward for any tax year thereafter.

9 **SECTION 23.** ORS 317.850, as amended by section 14, chapter 115, Oregon
10 Laws 2022, is amended to read:

11 317.850. (1) The net revenue from the tax imposed by this chapter, after
12 deduction of refunds, shall be paid over to the State Treasurer and held in
13 the General Fund as miscellaneous receipts available generally to meet any
14 expense or obligation of the State of Oregon lawfully incurred.

15 (2) A working balance of unreceipted revenue from the tax imposed by
16 this chapter may be retained for the payment of refunds, but such working
17 balance [*shall*] **may** not at the close of any fiscal year exceed the sum of
18 \$500,000.

19 (3) Moneys are continuously appropriated to the Department of Revenue
20 to make:

21 (a) The refunds authorized under subsection (2) of this section; [*and*]

22 (b) The refund payments in excess of tax liability authorized under section
23 8, chapter 115, Oregon Laws 2022[.]; **and**

24 (c) **The refund payments in excess of tax liability authorized under**
25 **section 20 of this 2023 Act.**

26 **SECTION 24. Section 25 of this 2023 Act is added to and made a part**
27 **of ORS 317A.100 to 317A.158.**

28 **SECTION 25. Notwithstanding ORS 317A.100, any amounts of credit**
29 **against taxes imposed under ORS chapter 317 that are allowed a tax-**
30 **payer under ORS 317.152 or 317.154 for qualified research expenses are**
31 **excluded from the definition of “commercial activity” and are exempt**

1 **from the tax imposed under ORS 317A.116.**

2 **SECTION 26.** Section 6, chapter 911, Oregon Laws 1989, as amended by
3 section 14, chapter 746, Oregon Laws 1995, section 1, chapter 548, Oregon
4 Laws 2001, section 15, chapter 739, Oregon Laws 2003, section 86, chapter 94,
5 Oregon Laws 2005, and section 7, chapter 730, Oregon Laws 2011, is amended
6 to read:

7 **Sec. 6.** ORS 317.152 [*to*], **317.153 and 317.154** apply to amounts paid or
8 incurred in tax years beginning on or after January 1, 1989, and before Jan-
9 uary 1, 2018, **or in tax years beginning on or after January 1, 2024, and**
10 **before January 1, 2030.**

11 **SECTION 27.** (1) **Section 20 of this 2023 Act and the amendments to**
12 **ORS 317.152, 317.154 and 317.850 by sections 21 to 23 of this 2023 Act**
13 **apply to tax years beginning on or after January 1, 2024, and before**
14 **January 1, 2030.**

15 (2) **Section 25 of this 2023 Act applies to tax years beginning on or**
16 **after January 1, 2024, and before January 1, 2030.**

17

18 **SUNSET EXTENSIONS FOR ECONOMIC INCENTIVES PROGRAMS**

19

20 **SECTION 28.** ORS 285C.255 is amended to read:

21 285C.255. (1) Notwithstanding any other provision of ORS 285C.050 to
22 285C.250:

23 (a) An area may not be designated as an enterprise zone after June 30,
24 [2025] **2035**;

25 (b) A business firm may not obtain authorization under ORS 285C.140 af-
26 ter June 30, [2025] **2035**; and

27 (c) An enterprise zone, except for a reservation enterprise zone or a res-
28 ervation partnership zone, that is in existence on June 29, [2025] **2035**, is
29 terminated on June 30, [2025] **2035**.

30 (2) Notwithstanding subsection (1) of this section:

31 (a) A reservation enterprise zone may be designated, and a reservation

1 partnership zone may be cosponsored, under ORS 285C.306 after June 30,
2 [2025] **2035**; and

3 (b) A business firm may obtain authorization under ORS 285C.140 after
4 June 30, [2025] **2035**:

5 (A) If located in a reservation enterprise zone or a reservation partner-
6 ship zone; or

7 (B) As allowed under ORS 285C.245 (1)(b).

8 **SECTION 29.** ORS 285C.406 is amended to read:

9 285C.406. In order for a taxpayer to claim the property tax exemption
10 under ORS 285C.409 or a corporate excise or income tax credit under ORS
11 317.124:

12 (1) The written agreement between the business firm and the rural en-
13 terprise zone sponsor that is required under ORS 285C.403 (3)(c) must be
14 entered into prior to the termination of the enterprise zone under ORS
15 285C.245; and

16 (2)(a) For the purpose of the property tax exemption, the business firm
17 must obtain certification under ORS 285C.403 on or before June 30, [2025]
18 **2035**; or

19 (b) For the purpose of the corporate excise or income tax credit, the
20 business firm must obtain certification under ORS 285C.403 on or before June
21 30, 2018.

22 **SECTION 30.** Section 6, chapter 905, Oregon Laws 2007, as amended by
23 section 5, chapter 757, Oregon Laws 2015, and section 11, chapter 82, Oregon
24 Laws 2022, is amended to read:

25 **Sec. 6.** (1) ORS 285C.615 and 285C.635 apply to:

26 (a) Tax years beginning on or after January 1, 2009.

27 (b) Income taxes attributable to eligible projects that first become exempt
28 from property taxation under ORS 307.123 on or after January 1, 2008.

29 (2) Distributions under ORS 285C.635 (3) may not be made after July 15,
30 [2025] **2035**.

31 **SECTION 31.** ORS 285B.627 is amended to read:

1 285B.627. (1) In consultation with the Department of Revenue, the Oregon
2 Business Development Department shall establish and administer the Oregon
3 Industrial Site Readiness Program. The purpose of the program is to:

4 (a) Enter into tax reimbursement arrangements with qualified project
5 sponsors pursuant to subsection (5) of this section; or

6 (b) Provide loans, including forgivable loans, to qualified project sponsors
7 pursuant to subsection (5) of this section.

8 (2)(a) Subject to standards and procedures that the Oregon Business De-
9 velopment Department shall establish by rule, the department shall designate
10 regionally significant industrial sites for inclusion in the program.

11 (b) A regionally significant industrial site designated under this section
12 must be an industrial site that is planned and zoned for industrial use.

13 (3) A project sponsor may apply to participate in the program by submit-
14 ting an application and development plan in writing in a form prescribed by
15 the department by rule.

16 (4) The department shall establish by rule criteria and standards for the
17 qualification of project sponsors to participate in the program.

18 (5) Upon qualification of a project sponsor under this section, and before
19 July 1, [2023] **2033**, the department may:

20 (a) Enter into a tax reimbursement arrangement with the project sponsor
21 pursuant to which the project sponsor shall receive an amount equal to 50
22 percent of the estimated incremental income tax revenues generated by an
23 eligible employer per tax year, beginning with the first tax year following
24 the tax year in which a project sponsor is qualified under this section, until
25 the total investment of the qualified project sponsor in the eligible site
26 preparation costs, including interest, established under subsection (7) of this
27 section has been recovered, at which time the tax reimbursement arrange-
28 ment shall end; or

29 (b) Enter into a loan agreement with the project sponsor under terms and
30 conditions specified and required by the department. In making a determi-
31 nation to enter into a loan agreement with the project sponsor, the depart-

1 ment shall consider the reasonableness of the project sponsor's estimated
2 costs to prepare the site for industrial use, including but not limited to eli-
3 gible site preparation costs established by the department pursuant to sub-
4 section (7) of this section. The agreement may specify that a portion of the
5 loan may be forgiven if the project sponsor enters into a contract with an
6 eligible employer to conduct a business in the traded sector industry on a
7 regionally significant industrial site within seven years after the project
8 sponsor was qualified under this section.

9 (6)(a) The total amount of the loan that may be forgiven under subsection
10 (5) of this section is the lesser of:

11 (A) Fifty percent of the total cost of eligible site preparation costs; or

12 (B) Fifty percent of the amount of the estimated incremental income tax
13 revenues for the eligible employer for the term of the loan.

14 (b) Loan forgiveness may not be allowed under subsection (5) of this sec-
15 tion if any portion of the loan that would not be forgiven would be repaid
16 by the project sponsor with state funds received from any source.

17 (7) The department shall establish, by rule, eligible site preparation costs
18 including, but not limited to, some or all of the following:

19 (a) Acquisition and assembly costs associated with creating large devel-
20 opment parcels.

21 (b) Transportation improvements such as access roads, intersections,
22 turning lanes, signals, sidewalks, curbs, transit stops and storm drains.

23 (c) Water and sewer infrastructure.

24 (d) Natural resource mitigation.

25 (e) Site grading activities.

26 (f) Environmental remediation and mitigation activities to address
27 brownfields issues in accordance with state and federally approved remedi-
28 ation plans.

29 (g) Planning, engineering and administrative costs associated with apply-
30 ing for necessary local, state and federal permits.

31 (h) Interest-carrying costs incurred by a project sponsor for amounts

1 borrowed to develop a regionally significant industrial site, not to exceed 20
2 percent of the total amount forgiven, if any, under subsection (5) of this
3 section.

4 (8) The total amount of tax reimbursement arrangements and loan
5 amounts authorized under this section may not exceed \$10 million per year.

6 (9) Funds received pursuant to a tax reimbursement arrangement or a
7 loan agreement under subsection (5) of this section may not be used for the
8 payment of:

9 (a) A penalty or fine; or

10 (b) Environmental remediation activities conducted at a regionally sig-
11 nificant industrial site that is listed or proposed to be listed as a national
12 priority pursuant to the Comprehensive Environmental Response, Compensa-
13 tion, and Liability Act of 1980 (42 U.S.C. 9605) for which the project
14 sponsor, eligible employer or any party to the tax reimbursement arrange-
15 ment or loan agreement is liable under 42 U.S.C. 9607 at that regionally
16 significant industrial site.

17 (10) The department shall adopt rules to administer and implement the
18 provisions of this section.

19

20 **APPROPRIATION FOR SMALL BUSINESS EXPANSION LOANS**

21

22 **SECTION 32. There is appropriated to the Oregon Business Devel-**
23 **opment Department, for the biennium beginning July 1, 2023, out of**
24 **the General Fund, the amount of \$_____ to be deposited in the Small**
25 **Business Expansion Loan Fund established under ORS 285B.133 for the**
26 **purpose of carrying out the provisions of ORS 285B.130.**

27

28

CAPTIONS

29

30 **SECTION 33. The unit captions used in this 2023 Act are provided**
31 **only for the convenience of the reader and do not become part of the**

1 **statutory law of this state or express any legislative intent in the**
2 **enactment of this 2023 Act.**

3

4

EFFECTIVE DATE

5

6 **SECTION 34. This 2023 Act takes effect on the 91st day after the**
7 **date on which the 2023 regular session of the Eighty-second Legislative**
8 **Assembly adjourns sine die.**

9
