

# DRAFT

## SUMMARY

Directs Oregon Business Development Department to develop and administer loan program to provide financial assistance to eligible employers to mitigate costs associated with compliance with agricultural overtime compensation requirements under section 2, chapter 115, Oregon Laws 2022 (Enrolled House Bill 4002).

Sunsets program on January 2, 2027.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to financial assistance for agricultural overtime compensation payments; and declaring an emergency.

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

### **SECTION 1.** (1) **As used in this section:**

(a) “Department” means the Oregon Business Development Department, except when the Department of Revenue is referred to by its full title.

(b) “Eligible employer” means an employer doing business in 2017 North American Industry Classification System code 111, crop production, or code 112, animal production and aquaculture.

(c) “Tax credit” means the tax credit for agricultural overtime pay allowed under section 8, chapter 115, Oregon Laws 2022.

(2) The Oregon Business Development Department shall develop and administer a loan program for the purpose of providing financial assistance to eligible employers to mitigate the costs associated with compliance with the agricultural overtime compensation requirements under section 2, chapter 115, Oregon Laws 2022.

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

1       **(3)(a) An eligible employer may apply for a loan under the program**  
2 **administered under this section if the eligible employer:**

3       **(A) Is eligible to apply for the tax credit; and**

4       **(B) Anticipates earning not more than \$1,500,000 in gross revenue**  
5 **in the current year.**

6       **(b) An eligible employer may apply for a loan with respect to**  
7 **workers recruited, solicited, supplied or employed on behalf of the el-**  
8 **igible employer by a labor contractor licensed under ORS 658.410. A**  
9 **labor contractor may not apply for a loan.**

10       **(4)(a) A loan to any eligible employer may not be made under this**  
11 **section in an amount exceeding the lesser of:**

12       **(A) The amount of overtime pay the employer anticipates incurring**  
13 **in the current year; or**

14       **(B) \$15,000.**

15       **(b) The department may withhold from each loan an origination fee**  
16 **in an amount not greater than 1.5 percent of the principal loan**  
17 **amount.**

18       **(5)(a) The department shall prescribe an application process for**  
19 **loans made under this section, including forms and deadlines.**

20       **(b) The application must include affirmations that the eligible em-**  
21 **ployer anticipates:**

22       **(A) Earning not more than \$1,500,000 in gross revenue in the cur-**  
23 **rent year;**

24       **(B) Having overtime costs in the current year;**

25       **(C) Being an eligible employer for purposes of the tax credit; and**

26       **(D) Applying for the tax credit.**

27       **(c) The application shall be signed under penalties for false swear-**  
28 **ing.**

29       **(6)(a) The department shall prescribe an application period to open**  
30 **not later than 30 days following the effective date of this 2023 Act and**  
31 **to remain open for not less than 30 days.**

1 (b) The department may consult with an applicant about the appli-  
2 cation and the applicant, after such consultation, may amend the ap-  
3 plication at any time within the application period.

4 (c) Not later than 30 days following the close of the application pe-  
5 riod, the department shall:

6 (A) Review all timely and complete applications in accordance with  
7 the process prescribed by the department;

8 (B) Approve or reject each application; and

9 (C) Make a loan offer to each approved applicant.

10 (d) The department shall promptly notify all applicants of the ap-  
11 proval or rejection of their applications and the principal loan amount  
12 of any loan offer. The principal loan amount offered and the rejection  
13 of an application may not be appealed.

14 (7)(a) If the total of all approved principal loan amounts for an ap-  
15 plication period exceeds the amount of moneys available in the Agri-  
16 cultural Overtime Loan Fund established under section 2 of this 2023  
17 Act, the amounts shall be reduced proportionally until the total of all  
18 principal loan amounts does not exceed the amount of moneys avail-  
19 able.

20 (b) If the total of all approved principal loan amounts for an appli-  
21 cation period does not exceed the amount of moneys available in the  
22 fund, the department shall prescribe another application period, of not  
23 less than 30 days, to be administered in accordance with subsection (6)  
24 of this section.

25 (c) The loan application and review process shall continue until the  
26 earliest of:

27 (A) The date on which all moneys in the Agricultural Overtime  
28 Loan Fund have been obligated under loan agreements;

29 (B) The date on which the balance in the Agricultural Overtime  
30 Loan Fund is less than \$1,500; or

31 (C) June 30, 2025.

1 (d) If the balance in the Agricultural Overtime Loan Fund is less  
2 than \$1,500, all moneys in the fund shall be transferred to the General  
3 Fund.

4 (8)(a) The department shall seek to enter into a loan agreement  
5 with each approved applicant based on the offer made pursuant to  
6 subsection (6) of this section.

7 (b) Loans shall be made interest-free for a term not to exceed two  
8 years.

9 (c) The loan agreement must require the debtor to:

10 (A) Use the loan proceeds to mitigate the costs associated with  
11 compliance with the agricultural overtime compensation requirements  
12 under section 2, chapter 115, Oregon Laws 2022;

13 (B) Notify the department promptly if the debtor:

14 (i) Decides not to apply for the tax credit; or

15 (ii) Is notified by the Department of Revenue that the debtor is in-  
16 eligible for the tax credit; and

17 (C) Repay the full principal amount of the loan:

18 (i) Within 30 days following the date on which the debtor notifies  
19 the department that the debtor will not apply for the tax credit;

20 (ii) Within 30 days following the date on which the debtor notifies  
21 the department that the Department of Revenue has determined that  
22 the debtor is ineligible for the tax credit; or

23 (iii) Upon a breach of the loan agreement by the debtor that is not  
24 cured within a reasonable period prescribed by the department ac-  
25 cording to the circumstances.

26 (9)(a) The department may bring a civil action to secure repayment  
27 of any amount of loan proceeds not paid within 30 days following the  
28 date on which any obligation to repay under the loan agreement or  
29 this section arises.

30 (b) If the department discovers that a person willfully made a false  
31 statement or misrepresentation, or willfully failed to report a material

fact, to obtain a loan under this section, the department may add to the amount the person is obligated to repay a penalty not to exceed 20 percent of the principal amount of the loan so obtained.

(10) All amounts repaid to the department under this section, including principal amount of loans and penalties, shall be transferred to the General Fund.

(11) Notwithstanding any provision of ORS 314.835 or 314.840, the Department of Revenue and the department may share information that is related to an eligible employer's application for the tax credit, the sharing of which is necessary for the effective administration of this section.

**SECTION 2.** (1) The Agricultural Overtime Loan Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Agricultural Overtime Loan Fund shall be credited to the fund.

(2) Moneys in the fund consist of:

(a) Amounts appropriated or otherwise transferred or credited to the fund by the Legislative Assembly;

(b) Earnings received on moneys in the fund; and

(c) Other amounts from any source transferred or otherwise credited to the fund.

(3) Moneys in the Agricultural Overtime Loan Fund are continuously appropriated to the Oregon Business Development Department for the following purposes:

(a) Paying the actual costs incurred by the department in developing and administering section 1 of this 2023 Act; and

(b) Carrying out the provisions of section 1 of this 2023 Act in accordance with section 447 (1), chapter 110, Oregon Laws 2022.

(4) Any moneys remaining in the fund on June 30, 2025, shall be transferred to the General Fund.

**SECTION 3.** Sections 1 and 2 of this 2023 Act are repealed on Jan-

uary 2, 2027.

**SECTION 4.** (1) There is appropriated to the Oregon Business Development Department, for the biennium beginning July 1, 2023, out of the General Fund, the lesser of the following amounts:

(a) \$10,150,000; or

(b) \$10,150,000 less any moneys allocated to the department by the Emergency Board from moneys appropriated to the Emergency Board under section 447 (1), chapter 110, Oregon Laws 2022.

(2)(a) Moneys appropriated to the department under this section shall be deposited in the Agricultural Overtime Loan Fund established under section 2 of this 2023 Act.

(b) Of the moneys so appropriated:

(A) The Oregon Business Development Department may withhold \$150,000 for the actual costs it incurs in developing and administering section 1 of this 2023 Act; and

(B) The balance may be used solely for the purposes set forth in section 1 of this 2023 Act.

**SECTION 5.** This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.