

HB 2456-3
(LC 2150)
6/7/21 (CMT/ps)

Requested by HOUSE COMMITTEE ON REVENUE (at the request of Representative Nancy Nathanson)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2456**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and insert “178.375, 181A.195, 307.515, 307.519, 307.540, 307.651, 307.677,
3 307.681, 307.827, 315.514, 315.593, 315.595, 315.643, 317.710 and 320.470 and
4 sections 6, 7, 9 and 10, chapter 826, Oregon Laws 2005; repealing ORS 315.601
5 and 315.606; and prescribing an effective date.”.

6 Delete lines 3 through 6.

7 Delete lines 8 through 17 and delete pages 2 through 19 and insert:

8 **“SECTION 1.** ORS 178.375 is amended to read:

9 “178.375. As used in this section and ORS 178.380 and 178.385:

10 “(1) ‘ABLE account’ means an account established by an eligible individ-
11 ual, owned by the eligible individual and maintained under the qualified
12 ABLE program established by the Oregon 529 Savings Board under ORS
13 178.380.

14 “(2) ‘ABLE Act’ means the Stephen Beck, Jr., Achieving a Better Life
15 Experience Act of 2014 (Division B of P.L. 113-295).

16 “(3) ‘Designated beneficiary’ has the same meaning as contained in sec-
17 tion 529A of the Internal Revenue Code.

18 “(4) ‘Eligible individual’ has the same meaning as contained in section
19 529A of the Internal Revenue Code.

20 “(5) ‘Internal Revenue Code’ means the federal Internal Revenue Code as
21 amended and in effect on [*December 31, 2017*] **April 1, 2021.**

1 “(6) ‘Qualified disability expense’ has the same meaning as contained in
2 section 529A of the Internal Revenue Code.

3 **“SECTION 2.** ORS 307.515 is amended to read:

4 “307.515. As used in ORS 307.515 to 307.523:

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

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

12 **“(3) According to the election of a governing body pursuant to ORS**
13 **307.519 (1), ‘low income’ means:**

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

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

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

27 **“(c) For housing units on property that is awarded tax credits**
28 **through the federal Low-Income Housing Tax Credit program and is**
29 **a qualified low-income housing project meeting the requirements of**
30 **26 U.S.C. 42(g)(1)(C), income at or below 80 percent of the area median**

1 **income as determined by the Oregon Housing Stability Council based**
2 **on information from the United States Department of Housing and**
3 **Urban Development, provided the average area median income of all**
4 **housing units on the property is at or below 60 percent of the area**
5 **median income as determined by the Oregon Housing Stability Council**
6 **based on information from the United States Department of Housing**
7 **and Urban Development.**

8 **“SECTION 3.** ORS 307.519 is amended to read:

9 “307.519. (1) Except as provided in subsection (2) of this section, the ex-
10 emptions granted under ORS 307.515 to 307.523 apply only to the tax levy of
11 a governing body that adopts the provisions of ORS 307.515 to 307.523. **At**
12 **the time of adoption, the governing body shall elect a definition of ‘low**
13 **income’ under ORS 307.515.**

14 “(2) The exemptions granted under ORS 307.515 to 307.523 apply to the tax
15 levy of all taxing districts in which property certified for exemption is lo-
16 cated if, upon request of a governing body that has adopted the provisions
17 of ORS 307.515 to 307.523, the rates of taxation of such taxing districts whose
18 governing boards agree to the policy of exemption under ORS 307.515 to
19 307.523, when combined with the rate of taxation of the governing body that
20 adopts the provisions of ORS 307.515 to 307.523, equal 51 percent or more of
21 the total combined rate of taxation on the property granted exemption.

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

25 **“SECTION 4. The amendments to ORS 307.515 by section 2 of this**
26 **2021 Act apply to housing for which an application is filed under ORS**
27 **307.515 to 307.523 on or after the effective date of this 2021 Act.**

28 **“SECTION 5.** ORS 307.540 is amended to read:

29 “307.540. As used in ORS 307.540 to 307.548:

30 “(1) ‘Governing body’ means the city or county legislative body having

1 jurisdiction over the property for which an exemption may be applied for
2 under ORS 307.540 to 307.548.

3 “(2) According to the election of a governing body pursuant to ORS
4 307.543 (1), ‘low income’ means:

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

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

13 “(B) For every subsequent consecutive year that the persons occupy the
14 property, income at or below 80 percent of the area median income as de-
15 termined by the Oregon Housing Stability Council based on information from
16 the United States Department of Housing and Urban Development[.]; or

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

28 **“SECTION 6. The amendments to ORS 307.540 by section 5 of this**
29 **2021 Act apply to housing for which an application is filed under ORS**
30 **307.545 on or after the effective date of this 2021 Act.**

1 **“SECTION 7.** ORS 307.827 is amended to read:

2 “307.827. (1) Environmentally sensitive logging equipment is exempt from
3 ad valorem property taxation.

4 “(2) As used in this section:

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

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

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

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

15 “(C) Consisting of excavators used **or held for use** in logging road con-
16 struction, maintenance, reconstruction or improvements, including the clos-
17 ing or obliterating of existing forest roads.

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

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

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

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

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

26 **“SECTION 8. The amendments to ORS 307.827 by section 7 of this**
27 **2021 Act apply to property tax years beginning on or after July 1, 2019.**

28 **“SECTION 9.** ORS 307.651 is amended to read:

29 “307.651. As used in ORS 307.651 to 307.687, unless the context requires
30 otherwise:

1 “(1) ‘Governing body’ means the city legislative body having jurisdiction
2 over the property for which an exemption may be applied for under ORS
3 307.651 to 307.687.

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

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

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

15 “(b) If newly constructed, is completed within two years after application
16 for exemption is approved under ORS 307.674 [*or before January 1, 2025,*
17 *whichever is earlier*].

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

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

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

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

27 **“SECTION 10.** ORS 307.677 is amended to read:

28 “307.677. Notwithstanding ORS 307.651 to 307.687:

29 “(1) If the city finds that construction of single-unit housing was not
30 completed [*by a date that is 12 months after the date on which applications*

1 *may no longer be approved under ORS 307.674, and]* **in accordance with**
2 **ORS 307.651 (3)(b), the city may extend the deadline for completion of**
3 **construction for a period not to exceed an additional 24 consecutive**
4 **months if the city** further finds that:

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

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

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

16 “**SECTION 11.** ORS 307.681 is amended to read:

17 “307.681. (1) Except as provided in ORS 307.684, if, after an application
18 has been approved under ORS 307.674, the city finds [*that construction of*
19 *single-unit housing was not completed within two years after the date the ap-*
20 *plication was approved or on or before January 1, 2025, whichever is earlier,*
21 *or]* that any provision of ORS 307.651 to 307.687 is not being complied with,
22 or any provision required by the city pursuant to ORS 307.651 to 307.687 is
23 not being complied with, the city shall give notice to the owner, mailed to
24 the owner’s last-known address, of the proposed termination of the ex-
25 emption. The notice shall state the reasons for the proposed termination and
26 shall require the owner to appear at a specified time, not less than 20 days
27 after mailing the notice, to show cause, if any, why the exemption should
28 not be terminated.

29 “(2) If the owner fails to show cause why the exemption should not be
30 terminated, the city shall adopt an ordinance or resolution stating its

1 findings and terminating the exemption. A copy of the ordinance or resolu-
2 tion shall be filed with the county assessor and a copy sent to the owner
3 at the owner's last-known address within 10 days after its adoption.

4 **SECTION 12. The amendments to ORS 307.651, 307.677 and 307.681**
5 **by sections 9 to 11 of this 2021 Act apply to property for which an ap-**
6 **plication has been approved under ORS 307.674 before, on or after the**
7 **effective date of this 2021 Act.**

8 **SECTION 13.** ORS 315.514 is amended to read:

9 "315.514. (1) A credit against the taxes that are otherwise due under ORS
10 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
11 318, is allowed to a taxpayer for certified film production development con-
12 tributions made by the taxpayer [*during the tax year*] to the Oregon Pro-
13 duction Investment Fund established under ORS 284.367.

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

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

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

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

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

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

8 “(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office
9 shall, except as provided in ORS 315.516, issue to the taxpayer written cer-
10 tification of the amount certified for tax credit under this section to the
11 extent the amount certified for tax credit, when added to all amounts previ-
12 ously certified for tax credit under this section, does not exceed \$14 million
13 for the fiscal year in which certification is made.

14 “**(b) The Oregon Film and Video Office may issue a certification for**
15 **a credit under this section, and a credit may be allowed, for the tax**
16 **year in which a contribution is made, or for the tax year immediately**
17 **preceding the tax year in which a contribution is made and for auc-**
18 **tions conducted no later than April 15 following December 31 of any**
19 **tax year for which the credit is allowed, if no return has yet been filed**
20 **for the preceding tax year.**

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

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

29 “(6)(a) Except as provided in paragraph (b) of this subsection, a tax credit
30 claimed under this section may not exceed the tax liability of the taxpayer

1 and may not be carried over to another tax year.

2 “(b) Any tax credit otherwise allowable under this section that is not used
3 by the taxpayer in a particular tax year may be carried forward and offset
4 against the taxpayer’s tax liability for the next succeeding tax year. Any
5 credit remaining unused in the next succeeding tax year may be carried
6 forward and used in the second succeeding tax year, and likewise, any credit
7 not used in that second succeeding tax year may be carried forward and used
8 in the third succeeding tax year but may not be carried forward for any tax
9 year thereafter.

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

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

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

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

21 “315.643. (1) A credit against the taxes that are otherwise due under ORS
22 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
23 318, is allowed to a taxpayer for certified Opportunity Grant contributions
24 made by the taxpayer [*during the tax year*] to the Opportunity Grant Fund
25 established under ORS 348.266. **A credit is allowed for the tax year in
26 which a contribution is made, or for the tax year immediately pre-
27 ceding the tax year in which a contribution is made and for auctions
28 conducted no later than April 15 following December 31 of any tax year
29 for which the credit is allowed, if no return has yet been filed for the
30 preceding tax year.**

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

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

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

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

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

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

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

8 “(b) 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 the 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 but may not be carried forward for any tax
15 year thereafter.

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

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

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

26 **“SECTION 15. The amendments to ORS 315.514 and 315.643 by**
27 **sections 13 and 14 of this 2021 Act apply to tax years beginning on or**
28 **after January 1, 2021, and before January 1, 2024.**

29 **“SECTION 16. ORS 317.710 is amended to read:**

30 **“317.710. (1) A corporation shall make a return with respect to the tax**

1 imposed by this chapter as provided in this section.

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

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

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

17 “(5)(a) Except as otherwise provided in this section, if two or more cor-
18 porations subject to taxation under this chapter are members of the same
19 affiliated group making a consolidated federal return and are members of the
20 same unitary group, they shall file a consolidated state return.

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

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

1 consolidated state return.

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

6 “(6) If so directed by the department, by rule or instructions on the state
7 tax return form, every corporation required to make a return under this
8 chapter shall also file with the return a true copy of the corporation’s federal
9 income tax return for the same taxable year. For purposes of this subsection,
10 the corporation’s federal income tax return includes a consolidated federal
11 return for an affiliated group of which the corporation is a member. The
12 department may, by rule or instructions, permit a corporation to submit
13 specified excerpts from its federal return in lieu of submitting a copy of the
14 entire federal return. The federal return or any part thereof required to be
15 filed with the state return is incorporated in and shall be a part of the state
16 return.

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

19 “(A) Shall determine its Oregon taxable income under ORS 317.650 to
20 317.665;

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

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

24 “(b) An interinsurance and reciprocal exchange and its attorney in fact
25 with respect to its attorney in fact net income as a corporate attorney in fact
26 acting as attorney in compliance with ORS 731.458, 731.462, 731.466 and
27 731.470 for the reciprocal or interinsurance exchange may file a consolidated
28 return under the circumstances in the manner and subject to the rules
29 adopted by the department.

30 “(8) The Department of Revenue may prescribe by rule the method by

1 which a consolidated state return shall be filed under this section.

2 **“SECTION 17.** ORS 320.470 is amended to read:

3 “320.470. (1) Notwithstanding the confidentiality provisions of ORS
4 320.475, the Department of Revenue may disclose information received under
5 ORS 320.400 to 320.490 and 803.203 to the Department of Transportation for
6 the purposes of carrying out the provisions of ORS **320.405**, 320.410 and
7 803.203.

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

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

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

21 **“SECTION 18.** ORS 181A.195 is amended to read:

22 “181A.195. (1) As used in this section:

23 “(a) ‘Authorized agency’ means state government as defined in ORS
24 174.111 [and], the Oregon State Bar **or a municipal tax collection agency**
25 **in a city with a population of 250,000 or more.** ‘Authorized agency’ does
26 not include:

27 “(A) The Oregon State Lottery Commission or the Oregon State Lottery;
28 or

29 “(B) A criminal justice agency, as defined in ORS 181A.010, that is au-
30 thorized by federal law to receive fingerprint-based criminal records checks

1 from the Federal Bureau of Investigation.

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

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

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

11 “(c) If a nationwide criminal records check of a subject individual is
12 necessary, the authorized agency may request that the Department of State
13 Police conduct the check, including fingerprint identification, through the
14 Federal Bureau of Investigation.

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

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

26 “(5) If the Federal Bureau of Investigation returns the fingerprint cards
27 to the Department of State Police, the Department of State Police shall de-
28 stroy the fingerprint cards and may not retain facsimiles or other material
29 from which a fingerprint can be reproduced, except that the Department of
30 State Police may retain the fingerprint cards or create facsimiles for the

1 purpose of providing information under ORS 181A.205.

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

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

13 “(8) An authorized agency and the Department of State Police shall per-
14 mit a subject individual for whom a fingerprint-based criminal records check
15 was conducted to inspect the individual’s own state and national criminal
16 offender records and, if requested by the subject individual, provide the in-
17 dividual with a copy of the individual’s own state and national criminal
18 offender records.

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

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

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

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

30 “(d) If the authorized agency uses criminal records checks for agency

1 employment purposes:

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

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

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

9 “(10)(a) Except as otherwise provided in ORS 181A.400, 181A.875, 342.143,
10 342.223, 443.735, 475B.785 to 475B.949 and 703.090 and paragraph (d) of this
11 subsection, an authorized agency, using the rules adopted by the Oregon
12 Department of Administrative Services under ORS 181A.215, shall determine
13 whether a subject individual is fit to hold a position, provide services, be
14 employed or be granted a license, certification, registration or permit. If a
15 subject individual is determined to be unfit, then the individual may not hold
16 the position, provide services, be employed or be granted a license, certi-
17 fication, registration or permit.

18 “(b)(A) Subject to subparagraph (B) of this paragraph, an authorized
19 agency making a fitness determination of an individual under this subsection
20 may request results of a previously made fitness determination from an au-
21 thorized agency that has already made a fitness determination for the indi-
22 vidual. An authorized agency that receives a request under this paragraph
23 shall provide the requested information.

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

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

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

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

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

3 “(A) The nature of the crime;

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

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

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

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

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

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

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

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

19 “(vi) The recommendation of an employer.

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

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

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

30 “(11)(a) In conducting a fitness determination regarding a subject indi-

1 vidual other than an individual described in paragraph (b) of this subsection,
2 the Department of Human Services or the Oregon Health Authority may not
3 consider:

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

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

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

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

13 “(E) A deferred sentence, conditional discharge or participation in a di-
14 version program for any crime unless the crime is listed in ORS 443.004 (3)
15 and (5); and

16 “(F) A pending indictment for a crime unless the crime is listed in ORS
17 443.004 (3) or (5).

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

23 “(A) Described in ORS 418.016;

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

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

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

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

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

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

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

12 “(13) If a subject individual refuses to consent to the criminal records
13 check or refuses to be fingerprinted, the authorized agency shall deny the
14 employment of the individual, or revoke or deny any applicable position,
15 authority to provide services, license, certification, registration or permit.

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

21 **“SECTION 19. Section 20 of this 2021 Act is added to and made a**
22 **part of ORS 181A.160 to 181A.250.**

23 **“SECTION 20. (1) For the purpose of requesting a state or nation-**
24 **wide criminal records check under ORS 181A.195, a municipal tax col-**
25 **lection agency in a city with a population of 250,000 or more may**
26 **require the fingerprints of a person who:**

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

28 **“(B) Provides services or seeks to provide services to the city as a**
29 **contractor or volunteer; and**

30 **“(b) Is, or will be, working or providing services in a position in**

1 **which the person will have access to federal tax information.**

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

8 **“SECTION 21.** Section 6, chapter 826, Oregon Laws 2005, as amended by
9 section 16, chapter 89, Oregon Laws 2014, and section 9, chapter 217, Oregon
10 Laws 2015, is amended to read:

11 **“Sec. 6.** Amounts received as a result of the sale of a manufactured
12 dwelling park **are exempt from the tax imposed by this chapter:**

13 **“(1) If the sale is made** to a corporate entity formed by the tenants of
14 the park, or by a nonprofit corporation or housing authority, as described
15 in [*section 2, chapter 89, Oregon Laws 2014, are exempt from the tax imposed*
16 *by this chapter*] **ORS 90.844.**

17 **“(2) If the manufactured dwelling park has been destroyed by a**
18 **natural disaster, as defined in section 2, chapter _____, Oregon Laws**
19 **2021 (Enrolled House Bill 3219), and the sale is made to a nonprofit**
20 **corporation or housing authority that will redevelop the site as a**
21 **manufactured dwelling park.**

22 **“SECTION 22.** Section 7, chapter 826, Oregon Laws 2005, as amended by
23 section 21, chapter 906, Oregon Laws 2007, section 36, chapter 750, Oregon
24 Laws 2013, section 14, chapter 217, Oregon Laws 2015, and section 20, chapter
25 579, Oregon Laws 2019, is amended to read:

26 **“Sec. 7.** (1) Section 6, chapter 826, Oregon Laws 2005, applies to tax years
27 beginning on or after January 1, 2006, and before January 1, 2026.

28 **“(2) The amendments to section 6, chapter 826, Oregon Laws 2005, by**
29 **section 9, chapter 217, Oregon Laws 2015, apply to tax years beginning on**
30 **or after January 1, 2015, and before January 1, 2026.**

1 **“(3) The amendments to section 6, chapter 826, Oregon Laws 2005,**
2 **by section 21 of this 2021 Act apply to tax years beginning on or after**
3 **January 1, 2021, and before January 1, 2026.**

4 **“SECTION 23.** Section 9, chapter 826, Oregon Laws 2005, as amended by
5 section 17, chapter 89, Oregon Laws 2014, and section 10, chapter 217, Oregon
6 Laws 2015, is amended to read:

7 **“Sec. 9.** Amounts received as a result of the sale of a manufactured
8 dwelling park **are exempt from the tax imposed by this chapter:**

9 **“(1) If the sale is made** to a corporate entity formed by the tenants of
10 the park, or by a nonprofit corporation or housing authority, as described
11 in [*section 2, chapter 89, Oregon Laws 2014, are exempt from the tax imposed*
12 *by this chapter ORS chapter*] **ORS 90.844.**

13 **“(2) If the manufactured dwelling park has been destroyed by a**
14 **natural disaster, as defined in section 2, chapter _____, Oregon Laws**
15 **2021 (Enrolled House Bill 3219), and the sale is made to a nonprofit**
16 **corporation or housing authority that will redevelop the site as a**
17 **manufactured dwelling park.**

18 **“SECTION 24.** Section 10, chapter 826, Oregon Laws 2005, as amended
19 by section 22, chapter 906, Oregon Laws 2007, section 37, chapter 750, Oregon
20 Laws 2013, section 15, chapter 217, Oregon Laws 2015, and section 22, chapter
21 579, Oregon Laws 2019, is amended to read:

22 **“Sec. 10.** (1) Section 9, chapter 826, Oregon Laws 2005, applies to tax
23 years beginning on or after January 1, 2006, and before January 1, 2026.

24 “(2) The amendments to section 9, chapter 826, Oregon Laws 2005, by
25 section 10, chapter 217, Oregon Laws 2015, apply to tax years beginning on
26 or after January 1, 2015, and before January 1, 2026.

27 **“(3) The amendments to section 9, chapter 826, Oregon Laws 2005,**
28 **by section 23 of this 2021 Act apply to tax years beginning on or after**
29 **January 1, 2021, and before January 1, 2026.**

30 **“SECTION 25.** ORS 315.593 is amended to read:

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

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

7 “(a) In the case of a tier I short line railroad, \$1,000 multiplied by the
8 number of miles of short line railroad track the taxpayer owns or leases in
9 this state on the day the short line railroad rehabilitation project is com-
10 pleted;

11 “(b) In the case of a tier II short line railroad, \$3,500 multiplied by the
12 number of miles of short line railroad track the taxpayer owns or leases in
13 this state on the day the short line railroad rehabilitation project is com-
14 pleted; or

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

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

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

20 “(b) The taxpayer must:

21 “(A) Own or lease the infrastructure;

22 “(B) Be a short line railroad; and

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

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

27 “(5) Any tax credit otherwise allowable under this section that is not used
28 by the taxpayer in a particular tax year may be carried forward and offset
29 against the taxpayer’s tax liability for the next succeeding tax year. Any
30 credit remaining unused in that 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 likewise, any credit not used in that
4 third succeeding tax year may be carried forward and used in the fourth
5 succeeding tax year, and likewise, any credit not used in that fourth suc-
6 ceeding tax year may be carried forward and used in the fifth succeeding tax
7 year but may not be carried forward for any tax year thereafter.

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

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

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

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

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

29 “[~~(10)~~ **(8)** The credit shall be claimed on a form prescribed by the De-
30 partment of Revenue that contains the information required by the depart-

1 ment.

2 “[~~(11)~~] (9) In the case of a credit allowed under this section:

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

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

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

12 **“(10) A person that has earned a tax credit under this section may**
13 **transfer the credit to a taxpayer subject to tax under ORS chapter 316,**
14 **317 or 318. The transfer must comply with ORS 315.056.**

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

18 **“SECTION 26.** ORS 315.595 is amended to read:

19 “315.595. (1) Prior to construction of a short line railroad rehabilitation
20 project, a taxpayer may apply to the Department of Transportation for pre-
21 liminary certification of the project in the manner prescribed by rules
22 adopted under this section, which must include:

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

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

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

29 “(d) The process by which an applicant will be notified of an incomplete
30 application and the time allowed for the applicant to provide the missing

1 information; and

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

5 “(2) If the total amount of potential tax credits allowed under ORS 315.593
6 for all taxpayers that have applied for preliminary certification exceeds the
7 limit in ORS [315.593] **315.603**, the department shall allocate the tax credits
8 allowed under ORS 315.593 as follows:

9 “(a) By giving first priority to all tier II short line railroads that own or
10 lease less than 75 miles of short line railroad track in this state; and

11 “(b) By giving second priority to all tier II short line railroads not de-
12 scribed in paragraph (a) of this subsection.

13 “(3) If the department must allocate tax credits to a group of taxpayers
14 in an amount that is less than the amount the taxpayers would otherwise
15 receive under ORS 315.593, the department shall divide the available tax
16 credits among the group proportionally, based on the amount each taxpayer
17 would have otherwise received under ORS 315.593.

18 **“SECTION 27. The amendments to ORS 315.593 and 315.595 by
19 sections 25 and 26 of this 2021 Act apply to tax years beginning on or
20 after January 1, 2020, and before January 1, 2026.**

21 **“SECTION 28. ORS 315.601 and 315.606 are repealed.**

22 **“SECTION 29. This 2021 Act takes effect on the 91st day after the
23 date on which the 2021 regular session of the Eighty-first Legislative
24 Assembly adjourns sine die.”.**

25