

D R A F T

SUMMARY

Directs Oregon Business Development Department to develop grant and loan program to support businesses applying for financial assistance under Creating Helpful Incentives to Produce Semiconductors for America Act of 2022 (P.L. 117-167). Provides that program be administered jointly by department and Governor.

Allows Governor to designate certain lands to be brought within urban growth boundaries for specified industrial uses. Allows local governments to rezone lands for such uses by ordinance.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to economic development; and declaring an emergency.

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

SECTION 1. (1) As used in sections 1 to 6 of this 2023 Act:

(a) “Covered entity” has the meaning given that term by 15 U.S.C. 4651(2).

(b) “Covered incentive” has the meaning given that term by 15 U.S.C. 4651(3).

(c) “Federal semiconductor financial assistance” means assistance available under the program established pursuant to 15 U.S.C. 4652(a)(1) for financial assistance to the semiconductor industry.

(d) “Program grants and loans” means grants awarded and loans made under the program developed by the department pursuant to this section.

(2)(a) The Oregon Business Development Department shall develop a program to award grants and make loans from moneys in the

1 **Semiconductor and Advanced Manufacturing Opportunity Fund es-**
2 **tablished under section 6 of this 2023 Act to businesses applying for**
3 **federal semiconductor financial assistance.**

4 **(b)(A) The program shall be administered by the department and**
5 **the Governor as set forth in this section.**

6 **(B) Notwithstanding the duties and powers conferred respectively**
7 **on the department and the Governor under sections 1 to 6 of this 2023**
8 **Act, the department and the Governor may consult each other with**
9 **respect to any duty or power so conferred.**

10 **(c) It is the intention of the Legislative Assembly that program**
11 **grants and loans be treated by the U.S. Secretary of Commerce as**
12 **covered incentives for purposes of the federal semiconductor financial**
13 **assistance program.**

14 **(3) Program grant and loan proceeds may be used solely for activ-**
15 **ities undertaken in connection with the federal semiconductor finan-**
16 **cial assistance program and:**

17 **(a) The development of a site for a semiconductor or other ad-**
18 **vanced manufacturing facility, including, but not limited to, the ac-**
19 **quisition and aggregation of land;**

20 **(b) Research and development with respect to semiconductors and**
21 **advanced manufacturing; or**

22 **(c) Partnering with institutions of higher education, including, but**
23 **not limited to, historically Black colleges and universities, for the**
24 **purpose of workforce development and the creation of training, certi-**
25 **fied apprenticeship and internship opportunities, with respect to**
26 **semiconductors and advanced manufacturing.**

27 **(4)(a) A business that is a covered entity may apply to the depart-**
28 **ment under section 2 of this 2023 Act for a program grant or loan.**

29 **(b)(A) Except as provided in subparagraph (B) of this paragraph,**
30 **program grants and loans may not be awarded or made to any appli-**
31 **cant in an amount greater than \$25 million.**

1 **(B) The Governor may make a final decision to approve a program**
2 **grant or loan under section 3 of this 2023 Act in an amount greater**
3 **than \$25 million only with legislative approval.**

4 **(c)(A) Program loans may be made for a term not to exceed five**
5 **years as negotiated by the department with the business in the loan**
6 **agreement and, except as provided in section 5 (3) of this 2023 Act, at**
7 **a zero rate of interest.**

8 **(B) All amounts received by the department in repayment of a**
9 **program loan shall be transferred to:**

10 **(i) If received on or before June 30, 2025, the Semiconductor and**
11 **Advanced Manufacturing Opportunity Fund established under section**
12 **6 of this 2023 Act.**

13 **(ii) If received on or after July 1, 2025, the Oregon Rainy Day Fund**
14 **established under ORS 293.144.**

15 **(d) Proceeds from a program grant or loan may be distributed in a**
16 **single payment or in multiple, conditional payments, as specified in**
17 **the program grant or loan agreement.**

18 **(e) For every \$1 million in program grant or loan proceeds received,**
19 **the recipient business must, over the period of the grant or loan**
20 **agreement, attain one of the following:**

21 **(A) The creation of at least _____ new permanent full-time jobs in**
22 **Oregon that pay on average at least the average median income for**
23 **the region of this state in which the services will be performed.**

24 **(B) The generation of at least \$1.5 million in state and local reve-**
25 **nue. The department and the recipient business may specify in the**
26 **program grant or loan agreement what the term “revenue” includes.**

27 **(f)(A) In addition to program grants and loans, an application as-**
28 **sistance grant, in an amount not to exceed \$15,000, may be awarded**
29 **to a business whose application is approved under section 3 of this 2023**
30 **Act, for the costs of preparing and submitting the business’s applica-**
31 **tion for federal semiconductor financial assistance.**

1 (B) Application assistance grants may be made from moneys in the
2 fund or from any other source of funding available for such purpose
3 to the department or the Governor.

4 **SECTION 2.** (1)(a) The Oregon Business Development Department
5 shall prescribe an application process, including forms and deadlines,
6 by which businesses may apply under this section for program grants
7 and loans.

8 (b) At a minimum, the application form must require the applicant
9 business to:

10 (A) Establish its eligibility to be treated by the U.S. Secretary of
11 Commerce as a covered entity;

12 (B) Include its draft application for federal semiconductor financial
13 assistance;

14 (C) Explain how the proposed activities of the business comply with
15 the requirements of the federal semiconductor financial assistance
16 program;

17 (D) State the amount of program grant or loan proceeds sought
18 under this section along with a detailed description of the proposed
19 expenditure of the proceeds;

20 (E) If the application includes a request for an application assist-
21 ance grant, state the amount of the application assistance grant
22 sought and demonstrate the business's need for the application as-
23 sistance grant;

24 (F) Explain how the applicant will meet the requirement under
25 section 1 (4)(e) of this 2023 Act, setting forth at a minimum:

26 (i) For job creation, such information as the number, job de-
27 scriptions, pay scale and locations of the proposed jobs; or

28 (ii) For state and local revenue, such information as the kinds,
29 amounts and timing of the revenue to be generated;

30 (G) Include any other information that the department or the
31 Governor considers necessary or important for review of the applica-

1 **tion; and**

2 **(H) Sign the application through an authorized director, officer,**
3 **employee or agent under penalties for false swearing.**

4 **(2)(a) Upon request, the department may consult with a business**
5 **about the business's application, before or after submission.**

6 **(b) A business may amend and resubmit its application at any time**
7 **within the application period.**

8 **(3) Trade secrets, as defined in ORS 646.461, that are submitted to**
9 **the department as part of an application under this section shall be**
10 **exempt from disclosure under ORS 192.311 to 192.478 until January 1,**
11 **2027.**

12 **SECTION 3. (1)(a) The Oregon Business Development Department**
13 **shall perform a preliminary review of all timely and complete appli-**
14 **cations.**

15 **(b) Within 30 days following receipt of an application, the depart-**
16 **ment shall:**

17 **(A) Approve the application;**

18 **(B) Approve the application for a program grant or loan, or appli-**
19 **cation assistance grant, in an amount other than the amount re-**
20 **quested; or**

21 **(C) Reject the entire application or only the request for an appli-**
22 **cation assistance grant.**

23 **(c) As soon as practicable after making a decision about an appli-**
24 **cation under this subsection, the department shall forward the appli-**
25 **cation and the department's preliminary decision to the Governor.**

26 **(2)(a) Within 30 days following receipt of an application forwarded**
27 **by the department, the Governor shall review the application.**

28 **(b) Upon review, the Governor shall make a final decision to:**

29 **(A) Affirm the department's approval or rejection;**

30 **(B) Affirm the department's approval for a program grant or loan,**
31 **or application assistance grant, in an amount other than the amount**

1 approved by the department; or

2 (C) Reverse the department's approval or rejection, which may in-
3 clude changing the amount of a program grant or loan or application
4 assistance grant, as applicable, or reversing only the decision whether
5 to award an application assistance grant.

6 (c) In accordance with section 1 (4)(b) of this 2023 Act, the Governor
7 shall seek legislative approval for any program grant or loan amount
8 greater than \$25 million.

9 (d) The final decisions of the Governor are not subject to appeal.

10 (3) In approving applications and setting program grant and loan
11 amounts, the department and the Governor shall give preference to:

12 (a) Projects that will promote the long-term economic viability of
13 the semiconductor industry in Oregon, including research and devel-
14 opment, manufacturing and other critical links in the semiconductor
15 supply chain;

16 (b) Projects that will promote and extend Oregon's leadership in the
17 field of technology;

18 (c) Projects that will attract manufacturing jobs to Oregon;

19 (d) Projects that will secure supply in Oregon for critical sectors
20 of the state economy;

21 (e) Applicant businesses that have at least 10 full-time employees
22 in Oregon;

23 (f) Applicant businesses that have formed partnerships for the
24 purpose of workforce development or the creation of training, certified
25 apprenticeship or internship opportunities;

26 (g) Applicant businesses that commit to creating a greater number
27 of new permanent full-time jobs to meet the requirement under sec-
28 tion 1 (4)(e) of this 2023 Act;

29 (h) Applicant businesses that commit to generating a greater
30 amount of state and local revenue to meet the requirement under
31 section 1 (4)(e) of this 2023 Act;

1 (i) Applications that propose projects described in 15 U.S.C.
2 4652(a)(2)(B)(i) that will incorporate significant participation by busi-
3 nesses owned by members of underrepresented communities and eco-
4 nomically disadvantaged individuals; and

5 (j) Applications that, taken together, represent regional diversity
6 in Oregon.

7 (4)(a) As soon as practicable after making a final decision under
8 subsection (2) of this section, the Governor shall return the application
9 to the department with notice of the final decision and the reasons for
10 the decision.

11 (b) Upon receipt of the Governor's notice, the department shall:

12 (A) Notify the applicant of the final decision and the reasons for the
13 decision; and

14 (B) For an approved application, offer to the applicant a program
15 grant or loan agreement and, if applicable, an application assistance
16 grant.

17 (c) Upon entering into a program grant or loan agreement with the
18 applicant business, the department shall distribute to the business
19 from the Semiconductor and Advanced Manufacturing Opportunity
20 Fund established under section 6 of this 2023 Act the amount set forth
21 in the agreement.

22 (5)(a) If a business that has entered into an agreement pursuant to
23 this section changes ownership during the term of the agreement, the
24 department, in consultation with the Governor, may allow the con-
25 tinued use of the program grant or loan proceeds provided the business
26 enters into a new agreement with the department that commits the
27 business to continuing the project as proposed in the application ap-
28 proved under this section.

29 (b) In the new agreement, the department may agree to minor
30 changes in the terms of the original agreement that the department,
31 in consultation with the Governor, considers reasonable in the cir-

1 **cumstances and faithful to the purpose for which the business's ap-**
2 **plication was approved.**

3 **SECTION 4. (1) At least once every six months following the date**
4 **on which a business enters into a program grant or loan agreement**
5 **with the Oregon Business Development Department under section 3**
6 **of this 2023 Act, for as long as the agreement is in effect, the business**
7 **shall report to the department the following:**

8 **(a) The status of the business's application for federal semiconduc-**
9 **tor financial assistance;**

10 **(b) Progress on the project to construct, expand or modernize the**
11 **facility for which the grant was awarded or the loan made, including,**
12 **but not limited to, the acquisition or aggregation of land and the sta-**
13 **tus of the permits required for the project;**

14 **(c) Information regarding:**

15 **(A) The new permanent full-time jobs created by the project in ac-**
16 **cordance with section 1 (4)(e)(A) of this 2023 Act, setting forth at a**
17 **minimum the number, job descriptions, pay scale and locations of the**
18 **jobs, as well as of any proposed jobs yet to be created; or**

19 **(B) The state and local revenue generated in accordance with sec-**
20 **tion 1 (4)(e)(B) of this 2023 Act, setting forth at a minimum the kinds,**
21 **amounts and timing of the revenue generated, as well as of any pro-**
22 **posed revenue yet to be generated;**

23 **(d) Any research and development work conducted with respect to**
24 **semiconductors or advanced manufacturing;**

25 **(e) Any partnerships the business has engaged in with institutions**
26 **of higher education or regional workforce programs for the purpose**
27 **of workforce development and the creation of training, certified ap-**
28 **prenticeship and internship opportunities;**

29 **(f) The status of any other consideration for which the business's**
30 **application was given preference under section 3 (3) of this 2023 Act;**

31 **(g) The economic impact of the project on businesses in this state,**

1 including, but not limited to, the impact on supply chains;

2 (h) The economic and environmental impact of the project on
3 communities in this state; and

4 (i) Any other information required by the department or the Gov-
5 ernor.

6 (2) Not later than September 15 of each year in which any program
7 grant or loan agreement remains in effect, the department shall sub-
8 mit, in the manner required under ORS 192.245, a report summarizing
9 the information received from businesses pursuant to subsection (1)
10 of this section, to the interim committees of the Legislative Assembly
11 related to economic development.

12 SECTION 5. (1)(a) A business that received a program grant or loan,
13 including an application assistance grant, shall become liable for im-
14 mediate repayment of the full amount of the grant or the outstanding
15 principal amount of the loan, if:

16 (A) The business has not begun, on or before January 1, 2027, the
17 process of applying for permits required for the project for which the
18 grant was awarded or the loan made;

19 (B) The project changes substantially from the project for which the
20 business's application was approved such that the project would not
21 have been eligible for the program grant or loan;

22 (C) The business has not created the new permanent full-time jobs,
23 or generated the state and local revenue, in fulfillment of the re-
24 quirement under section 1 (4)(e) of this 2023 Act, on or before the
25 earlier of a date, if any, specified in the program grant or loan agree-
26 ment or January 1, _____;

27 (D) The business has not complied with all environmental standards
28 applicable to the project under law or has not cured its noncompliance
29 within a reasonable time, as determined by the Oregon Business De-
30 velopment Department; or

31 (E) The business has not complied with all labor standards appli-

1 cable to the project under law or the program grant or loan agreement
2 or has not cured its noncompliance within a reasonable time, as de-
3 termined by the department.

4 (b) If a project is suspended for a reason beyond the control of the
5 business, the amount to be repaid shall be in proportion to the per-
6 centage of the project that has not been completed at the time of
7 suspension, as determined by the department.

8 (2) Any and all amounts required to be repaid under this section
9 shall be considered to be liquidated and delinquent, and the Oregon
10 Business Development Department shall assign such amounts to the
11 Department of Revenue for collection as provided in ORS 293.250.

12 (3) If the Oregon Business Development Department discovers that
13 a business willfully made a false statement or misrepresentation, or
14 willfully failed to report a material fact, to obtain a program grant or
15 loan, or an application assistance grant, under sections 1 to 6 of this
16 2023 Act, the Oregon Business Development Department may add to
17 the amount the business is obligated to repay a penalty not to exceed
18 20 percent of the principal amount of the program grant or loan so
19 obtained, plus any applicable interest and fees associated with the
20 Department of Revenue's costs of collection.

21 (4) Subject to ORS 293.250, all amounts repaid to the Oregon Busi-
22 ness Development Department or the Department of Revenue under
23 this section, including award amounts, penalties, interest, fees and
24 any other charges, shall be transferred to:

25 (a) If received on or before June 30, 2025, the Semiconductor and
26 Advanced Manufacturing Opportunity Fund established under section
27 6 of this 2023 Act.

28 (b) If received on or after July 1, 2025, the Oregon Rainy Day Fund
29 established under ORS 293.144.

30 **SECTION 6.** (1) The Semiconductor and Advanced Manufacturing
31 Opportunity Fund is established in the State Treasury, separate and

1 **distinct from the General Fund. Interest earned by the Semiconductor**
2 **and Advanced Manufacturing Opportunity Fund shall be credited to**
3 **the fund.**

4 **(2) Moneys in the fund shall consist of:**

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

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

8 **(c) Other moneys, or proceeds of property, from any public or pri-**
9 **vate source that are transferred, donated or otherwise credited to the**
10 **fund.**

11 **(3) Moneys in the Semiconductor and Advanced Manufacturing**
12 **Opportunity Fund are continuously appropriated to the Oregon Busi-**
13 **ness Development Department for the following purposes:**

14 **(a) Paying the actual costs incurred by the department in develop-**
15 **ing and administering sections 1 to 6 of this 2023 Act; and**

16 **(b) Carrying out the provisions of sections 1 to 6 of this 2023 Act.**

17 **(4) Moneys in the Semiconductor and Advanced Manufacturing**
18 **Opportunity Fund on June 30, 2023, shall be retained in the fund, and**
19 **used for the purposes set forth in subsection (3) of this section, until**
20 **June 30, 2025.**

21 **(5) Any moneys remaining in the Semiconductor and Advanced**
22 **Manufacturing Opportunity Fund on June 30, 2025, shall be transferred**
23 **to the Oregon Rainy Day Fund established under ORS 293.144.**

24 **SECTION 7. Sections 1 to 6 of this 2023 Act are repealed on January**
25 **2, 2032.**

26 **SECTION 8. Notwithstanding ORS 293.144, there is appropriated to**
27 **the Oregon Business Development Department, for the biennium end-**
28 **ing June 30, 2023, out of the Oregon Rainy Day Fund, the amount of**
29 **\$210,000,000 to be distributed as follows:**

30 **(1) \$200,000,000 for deposit in the Semiconductor and Advanced**
31 **Manufacturing Opportunity Fund established under section 6 of this**

1 **2023 Act, to be used for the purpose of carrying out the provisions of**
2 **sections 1 to 6 and 10 of this 2023 Act; and**

3 **(2) \$10,000,000 for deposit in the University Innovation Research**
4 **Fund established under ORS 285A.230, to be used for any purpose re-**
5 **lated to economic development for which moneys in the University**
6 **Innovation Research Fund may be used.**

7 **SECTION 9. Sections 10 and 11 of this 2023 Act are added to and**
8 **made a part of ORS 197.286 to 197.314.**

9 **SECTION 10. (1) On or before June 30, 2024, the Governor may, by**
10 **executive order, bring within an existing urban growth boundary des-**
11 **ignated lands for the purposes of providing lands available for indus-**
12 **trial uses that relate to the semiconductor industry, advanced**
13 **manufacturing or the supply chain for semiconductors or advanced**
14 **manufacturing.**

15 **(2) Lands designated by an executive order under this section must**
16 **be within a site that consists of one or more tracts of land that are:**

17 **(a) Contiguous to the city's existing urban growth boundary; and**

18 **(b) Entirely within three miles of the city's existing urban growth**
19 **boundary.**

20 **(3) In designating sites under this section, the Governor shall give**
21 **consideration to the Cities of Albany, Boardman, Corvallis, Gresham,**
22 **Happy Valley, Hillsboro, McMinnville, Medford, Newport, North**
23 **Plains, Redmond, Scappoose, Sherwood, The Dalles, Tualatin and**
24 **Wilsonville.**

25 **(4) Before issuing an executive order under this section, the Gov-**
26 **ernor shall:**

27 **(a) Conduct one public meeting, in coordination with the city**
28 **nearest to the site and each county in which the site is located, to be**
29 **held in that city for the purpose of discussing bringing within the ur-**
30 **ban growth boundary the lands or potential lands;**

31 **(b) Accept public comments for a period of no fewer than 20 days**

1 following the public meeting in paragraph (a) of this subsection; and

2 (c) Approve a plan by the owners of the land and each local gov-
3 ernment with jurisdiction over the land to rezone the land under sub-
4 section (7) of this section and to develop the land, within 18 months
5 after the date on which the executive order is issued, for industrial
6 uses under subsection (1) of this section.

7 (5) The Governor may designate up to a maximum of:

8 (a) Two sites, if the largest site is greater than 500 acres;

9 (b) Four sites, if the largest site is greater than 100 acres but does
10 not exceed 500 acres; or

11 (c) Six sites, if no site is greater than 100 acres.

12 (6) Notwithstanding any other provision of ORS 197.286 to 197.314
13 or ORS 197.626 or any statewide land use planning goal, lands desig-
14 nated in an executive order under this section are considered within
15 the acknowledged urban growth boundary, as described in ORS chap-
16 ter 197, as of the date of the executive order.

17 (7) No later than six months following the entry of an executive
18 order under this section, each local government with jurisdiction over
19 the lands may, notwithstanding any statewide planning goals or ORS
20 215.431 or 227.188 or chapter 197, amend its comprehensive plan or en-
21 act or amend any land use regulation to allow the use of the land for
22 industrial uses under subsection (1) of this section provided that:

23 (a) The enactment or amendment is passed by an ordinance of the
24 governing body of the county after a public hearing; and

25 (b) A copy of the ordinance is delivered to the Land Conservation
26 and Development Commission within 14 days after passage.

27 **SECTION 11.** Land brought within an acknowledged growth bound-
28 ary under section 10 of this 2023 Act shall be removed from the urban
29 growth boundary unless, on or before June 30, 2027:

30 (1) Development of the land has been substantially completed; or

31 (2) The land has been incorporated within an urban growth bound-

1 ary under ORS 197.286 to 197.314 or 197A.300 to 197A.325 and has been
2 reviewed under ORS 197.626.

3 **SECTION 12.** Sections 10 and 11 of this 2023 Act are repealed on
4 **January 2, 2028.**

5 **SECTION 13.** This 2023 Act being necessary for the immediate
6 **preservation of the public peace, health and safety, an emergency is**
7 **declared to exist, and this 2023 Act takes effect on its passage.**

8
