

## SENATE AMENDMENTS TO SENATE BILL 4

By JOINT COMMITTEE ON SEMICONDUCTORS

March 20

1 On page 1 of the printed bill, delete lines 4 through 28 and delete pages 2 through 8 and insert:

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

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

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

5 **“(c) ‘Federal semiconductor financial assistance’ means assistance available under the**  
6 **program established pursuant to 15 U.S.C. 4652(a)(1) for financial assistance to the semicon-**  
7 **ductor industry.**

8 **“(d) ‘Program grants and loans’ means grants awarded and loans made under the pro-**  
9 **gram developed by the Oregon Business Development Department pursuant to this section.**

10 **“(2)(a) The Oregon Business Development Department shall develop a program to award**  
11 **grants and make loans from moneys in the Oregon CHIPS Fund established under section 6**  
12 **of this 2023 Act to businesses applying for federal semiconductor financial assistance.**

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

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

18 **“(c) It is the intent of the Legislative Assembly that program grants and loans be treated**  
19 **by the U.S. Secretary of Commerce as covered incentives for purposes of the federal semi-**  
20 **conductor financial assistance program.**

21 **“(3)(a) Program grant and loan proceeds may be used solely for:**

22 **“(A) If a business’s application for federal semiconductor financial assistance is approved,**  
23 **activities undertaken in connection with the federal semiconductor financial assistance pro-**  
24 **gram; and**

25 **“(B) Regardless of whether a business’s application for federal semiconductor financial**  
26 **assistance is approved:**

27 **“(i) The development of a site for a semiconductor or other advanced manufacturing fa-**  
28 **cility, including, but not limited to, the acquisition and aggregation of land;**

29 **“(ii) Research and development with respect to semiconductors or advanced manufac-**  
30 **turing; or**

31 **“(iii) Partnering with institutions of higher education, including, but not limited to, his-**  
32 **torically Black colleges and universities, career technical training institutions, regional**  
33 **collaborative groups, local workforce development boards as defined in ORS 660.300, pro-**  
34 **grams funded through the federal Workforce Innovation and Opportunity Act (P.L. 113-128)**  
35 **and apprenticeship programs registered with the State Apprenticeship and Training Council**

1 for the purpose of workforce development and the creation of training, registered appren-  
2 ticeship and internship opportunities, with respect to semiconductors or advanced manufac-  
3 turing.

4 “(b) Contractors and subcontractors on construction projects funded by program grant  
5 or loan proceeds must pay for such projects a rate of wage that meets or exceeds the greater  
6 of:

7 “(A) The prevailing rate of wage for workers in each trade or occupation in each locality  
8 as determined by the Commissioner of the Bureau of Labor and Industries under ORS  
9 279C.815; or

10 “(B) The prevailing rate of wage as determined by the United States Secretary of Labor  
11 under the Davis-Bacon Act (40 U.S.C. 3141 et seq.).

12 “(4)(a) A business that is a covered entity may apply to the department under section 2  
13 of this 2023 Act for a program grant or loan.

14 “(b)(A) Except as provided in subparagraph (B) of this paragraph, program grants and  
15 loans may not be awarded or made to any applicant in an amount greater than \$50 million.

16 “(B) The Governor may approve a program grant or loan under section 3 of this 2023 Act  
17 in an amount greater than \$50 million only with legislative approval.

18 “(c)(A) Program loans:

19 “(i) May be made for a term not to exceed 10 years, as negotiated by the business and,  
20 in consultation with the Governor, the department; and

21 “(ii) Except as provided in section 5 (3) of this 2023 Act, shall be made at a zero rate of  
22 interest.

23 “(B) All amounts received by the department in repayment of a program loan shall be  
24 transferred to the Oregon CHIPS Fund established under section 6 of this 2023 Act.

25 “(d) Proceeds from a program grant or loan may be distributed in a single payment or  
26 in multiple, conditional payments, as specified in the program grant or loan agreement.

27 “(e)(A) Except as provided in paragraph (f) of this subsection, for every \$1 million in  
28 program grant or loan proceeds received, the recipient business must, over the period of the  
29 grant or loan agreement, generate at least:

30 “(i) If the term of the agreement is not more than five years, \$1.25 million in state and  
31 local revenue; or

32 “(ii) If the term of the agreement is more than five years, \$1.5 million in state and local  
33 revenue.

34 “(B) The department and the recipient business may specify in the program grant or loan  
35 agreement what the term ‘revenue’ includes.

36 “(f) In lieu of the requirement under paragraph (e) of this subsection, a recipient busi-  
37 ness may instead commit to the creation of new jobs in Oregon:

38 “(A) At least 65 percent of which are permanent, full-time positions; and

39 “(B) That pay on average at least the average median income for the region of this state  
40 in which the services will be performed.

41 “(g)(A) In addition to program grants and loans, an application assistance grant, in an  
42 amount not to exceed \$50,000, may be awarded to a business whose application is approved  
43 under section 3 of this 2023 Act, for the costs of preparing and submitting the business’s  
44 application for federal semiconductor financial assistance.

45 “(B) Application assistance grants may be made from moneys in the fund or from any

1 other source of funding available for such purpose to the department or the Governor.

2 **“SECTION 1a. (1) The Governor shall convene an advisory panel with the following**  
3 **membership:**

4 **“(a) The Governor or the Governor’s designees;**

5 **“(b) One or more representatives of the Oregon Business Development Department, ap-**  
6 **pointed by the Governor; and**

7 **“(c) No fewer than five individuals with expertise or experience in the semiconductor and**  
8 **advanced manufacturing industry, appointed by the Governor.**

9 **“(2) The advisory panel shall assist the Governor and the department in:**

10 **“(a) Establishing a statewide strategy to promote and expand Oregon’s semiconductor**  
11 **and advanced manufacturing industry and the supply chains associated with the industry;**

12 **“(b) Establishing application requirements for the grant and loan program developed by**  
13 **the department under section 1 of this 2023 Act so that program grants and loans will ad-**  
14 **vance the statewide strategy established under paragraph (a) of this subsection; and**

15 **“(c) Determining the criteria for reviewing and scoring applications and weighting the**  
16 **preferences for approving applications and setting program grant and loan amounts under**  
17 **section 3 (2) of this 2023 Act.**

18 **“(3) The advisory panel shall meet at least once before the department begins to develop**  
19 **the grant and loan program under section 1 (2) of this 2023 Act and once before the depart-**  
20 **ment begins to prescribe the application process for the grant and loan program under sec-**  
21 **tion 2 (1) of this 2023 Act.**

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

25 **“(b) At a minimum, the application form must require the applicant business to:**

26 **“(A) Establish its eligibility to be treated by the U.S. Secretary of Commerce as a cov-**  
27 **ered entity;**

28 **“(B) Include its statement of interest or draft application for federal semiconductor fi-**  
29 **nancial assistance;**

30 **“(C) Explain how the applicant business plans to comply with all applicable federal em-**  
31 **ployment, labor and environmental standards;**

32 **“(D) Explain how the proposed activities of the applicant business will promote the ex-**  
33 **pansion and long-term economic viability of the semiconductor industry in Oregon, including**  
34 **research and development, manufacturing and other critical links in the semiconductor**  
35 **supply chain;**

36 **“(E) State the amount of program grant or loan proceeds sought under this section along**  
37 **with a detailed description of the proposed expenditure of the proceeds;**

38 **“(F) If the application includes a request for an application assistance grant, state the**  
39 **amount of the application assistance grant sought and demonstrate the applicant business’s**  
40 **need for the application assistance grant;**

41 **“(G) Explain how the applicant business will meet the requirements under section 1 (4)(e)**  
42 **or (f) of this 2023 Act, setting forth at a minimum such information as:**

43 **“(i) For state and local revenue, the kinds, amounts and timing of the revenue to be**  
44 **generated; or**

45 **“(ii) For job creation, such information as the number, job descriptions, weekly hours,**

1 pay scale and locations of the proposed jobs;

2 “(H) Include any other information that the department or the Governor considers nec-  
3 essary or important for review of the application; and

4 “(I) Sign the application through an authorized director, officer, employee or agent under  
5 penalties for false swearing.

6 “(2)(a) Upon request, the department may consult with an applicant business about the  
7 business’s application, before or after submission.

8 “(b) An applicant business may amend and resubmit its application at any time within  
9 the application period.

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

13 “SECTION 3. (1)(a) The Oregon Business Development Department and the Governor  
14 shall review all timely and complete applications for program grants and loans, with such  
15 distribution of duties and powers as the department and the Governor may arrange.

16 “(b) Within 90 days following receipt of an application, the department and the Governor  
17 shall:

18 “(A) Approve the application;

19 “(B) Approve the application for a program grant or loan, or application assistance grant,  
20 in an amount other than the amount requested; or

21 “(C) Reject the entire application or only the request for an application assistance grant.

22 “(c) In accordance with section 1 (4)(b) of this 2023 Act, the Governor shall seek legisla-  
23 tive approval for any program grant or loan amount greater than \$50 million.

24 “(d) The decisions made with respect to an application are not subject to appeal.

25 “(2) In approving applications and setting program grant and loan amounts, the depart-  
26 ment and the Governor shall give preference to:

27 “(a) Projects that will promote the expansion and long-term economic viability of the  
28 semiconductor industry in Oregon, including research and development, manufacturing and  
29 other critical links in the semiconductor supply chain;

30 “(b) Projects that will promote and extend Oregon’s leadership in the field of technology;

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

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

33 “(e) Projects that reflect an applicant business’s established relationship, or commitment  
34 to build a relationship, with organizations focused on developing a diverse workforce pipeline;

35 “(f) Applicant businesses that have at least 10 full-time employees in Oregon;

36 “(g) Applicant businesses that have formed partnerships for the purpose of workforce  
37 development or the creation of training, registered apprenticeship or internship opportu-  
38 nities;

39 “(h)(A) Applicant businesses that commit to generating a greater amount of state and  
40 local revenue in accordance with section 1 (4)(e) of this 2023 Act; or

41 “(B) Applicant businesses that commit to creating a higher percentage of new permanent  
42 full-time jobs in accordance with section 1 (4)(f) of this 2023 Act;

43 “(i) Applications that propose projects described in 15 U.S.C. 4652(a)(2)(B)(i) that will in-  
44 corporate significant participation by businesses owned by members of underrepresented  
45 communities and economically disadvantaged individuals; and

1       “(j) Applications that, taken together, represent regional diversity in Oregon.

2       “(3)(a) As soon as practicable after making decisions under subsection (1) of this section,

3 the department shall:

4       “(A) Notify the applicant business of the decision and the reasons for the decision; and

5       “(B) For an approved application, offer to the applicant business a program grant or loan

6 agreement and, if applicable, an application assistance grant.

7       “(b) Upon entering into a program grant or loan agreement with the applicant business,

8 the department shall distribute to the business from the Oregon CHIPS Fund established

9 under section 6 of this 2023 Act the amount set forth in the agreement.

10       “(4)(a) If a business that has entered into an agreement pursuant to this section changes

11 ownership during the term of the agreement, the department and the Governor may allow

12 the continued use of the program grant or loan proceeds provided the business enters into

13 a new agreement with the department that commits the business to continuing the project

14 as proposed in the application approved under this section.

15       “(b) In the new agreement, the department may agree to minor changes in the terms of

16 the original agreement that the department and the Governor considers reasonable in the

17 circumstances and faithful to the purpose for which the business’s application was approved.

18       “**SECTION 4.** (1) At least once every six months following the date on which a business

19 enters into a program grant or loan agreement with the Oregon Business Development De-

20 partment under section 3 of this 2023 Act, for as long as the agreement is in effect, the

21 business shall report to the department the following:

22       “(a) The status of the business’s application for federal semiconductor financial assist-

23 ance;

24       “(b) Progress on the project to construct, expand or modernize the facility for which the

25 grant was awarded or the loan made, including, but not limited to, the acquisition or aggre-

26 gation of land and the status of the permits required for the project;

27       “(c)(A) State and local revenue generated in accordance with section 1 (4)(e) of this 2023

28 Act, setting forth at a minimum the kinds, amounts and timing of the revenue generated,

29 as well as of any proposed revenue yet to be generated; or

30       “(B) The number of jobs created in accordance with section 1 (4)(f) of this 2023 Act and

31 the job descriptions, weekly hours, pay scale and locations of the jobs, as well as of jobs yet

32 to be created;

33       “(d) Any research and development work conducted with respect to semiconductors or

34 advanced manufacturing;

35       “(e) Any partnerships the business has engaged in with institutions of higher education

36 or regional workforce programs for the purpose of workforce development and the creation

37 of training, registered apprenticeship and internship opportunities;

38       “(f) The status of any other consideration for which the business’s application was given

39 preference under section 3 (2) of this 2023 Act;

40       “(g) The economic impact of the project on businesses in this state, including, but not

41 limited to, the impact on supply chains;

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

43 and

44       “(i) Any other information required by the department or the Governor.

45       “(2) Not later than March 15 and September 15 of each year in which any program grant

1 or loan agreement remains in effect, the department shall submit to the Oregon Business  
2 Development Commission established under ORS 285A.040 a report summarizing the semi-  
3 annual information received from businesses pursuant to subsection (1) of this section.

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

9 “**SECTION 5.** (1)(a) A business that received a program grant or loan, including an ap-  
10 plication assistance grant, shall become liable for immediate repayment of the full amount  
11 of the grant or the outstanding principal amount of the loan, if:

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

14 “(B) The project changes substantially from the project for which the business’s appli-  
15 cation was approved such that the project would not have been eligible for the program grant  
16 or loan;

17 “(C) On or before the earlier of a date, if any, specified in the program grant or loan  
18 agreement or January 1, 2033:

19 “(i) The business has not generated state and local revenue in accordance with section  
20 1 (4)(e) of this 2023 Act; or

21 “(i) The business has not created new permanent full-time jobs in accordance with sec-  
22 tion 1 (4)(f) of this 2023 Act;

23 “(D) The business has not complied with all environmental standards applicable to the  
24 project under law or has not cured its noncompliance within a reasonable time, as deter-  
25 mined by the Oregon Business Development Department or the Governor; or

26 “(E) The business has not complied with all labor standards applicable to the project  
27 under law or the program grant or loan agreement or has not cured its noncompliance  
28 within a reasonable time, as determined by the department or the Governor.

29 “(b) If a project is suspended for a reason beyond the control of the business, as deter-  
30 mined by the department or the Governor, the amount to be repaid shall be in proportion  
31 to the percentage of the project that has not been completed at the time of suspension.

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

35 “(3) If the Oregon Business Development Department or the Governor discovers that a  
36 business willfully made a false statement or misrepresentation, or willfully failed to report  
37 a material fact, to obtain a program grant or loan, or an application assistance grant, under  
38 sections 1 to 6 of this 2023 Act, the Oregon Business Development Department may add to  
39 the amount the business is obligated to repay a penalty not to exceed 20 percent of the  
40 principal amount of the program grant or loan so obtained, plus any applicable interest and  
41 fees associated with the Department of Revenue’s costs of collection.

42 “(4) Subject to ORS 293.250, all amounts repaid to the Oregon Business Development  
43 Department or the Department of Revenue under this section, including award amounts,  
44 penalties, interest, fees and any other charges, shall be transferred to the Oregon CHIPS  
45 Fund established under section 6 of this 2023 Act.

1       **“SECTION 6. (1) The Oregon CHIPS Fund is established in the State Treasury, separate**  
2 **and distinct from the General Fund. Interest earned by the Oregon CHIPS Fund shall be**  
3 **credited to the fund.**

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

5       **“(a) Amounts appropriated or otherwise transferred or credited to the fund by the Leg-**  
6 **islative Assembly;**

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

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

10       **“(3) Moneys in the Oregon CHIPS Fund are continuously appropriated to the Oregon**  
11 **Business Development Department for the following purposes:**

12       **“(a) Paying the actual costs incurred by the department in developing and administering**  
13 **sections 1 to 6 of this 2023 Act; and**

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

15       **“(4) Moneys in the Oregon CHIPS Fund on June 30, 2023, shall be retained in the fund,**  
16 **and used for the purposes set forth in subsection (3) of this section, until June 30, 2025.**

17       **“(5) Any moneys remaining in the Oregon CHIPS Fund on June 30, 2025, shall be trans-**  
18 **ferred to the Oregon Rainy Day Fund established under ORS 293.144.**

19       **“SECTION 7. Sections 1 to 6 of this 2023 Act are repealed on January 2, 2033.**

20       **“SECTION 8. In addition to and not in lieu of any other appropriation, there is appro-**  
21 **priated to Oregon Business Development Department, for the biennium ending June 30, 2023,**  
22 **out of the General Fund, the following amounts, for the following purposes:**

23       **“(1) \$190,000,000 for deposit in the Oregon CHIPS Fund established under section 6 of this**  
24 **2023 Act, to be used for the purpose of carrying out the provisions of sections 1 to 6 and 10**  
25 **of this 2023 Act; and**

26       **“(2) \$10,000,000 for deposit in the Industrial Lands Loan Fund established under section**  
27 **23 of this 2023 Act, to be used for any purpose for which moneys in the Industrial Lands Loan**  
28 **Fund may be used.**

29       **“SECTION 8a. In addition to and not in lieu of any other appropriation, there is appro-**  
30 **priated to the Oregon Business Development Department, for the biennium beginning July**  
31 **1, 2023, out of the General Fund, the amount of \$10,000,000, for deposit in the University In-**  
32 **novation Research Fund established under ORS 285A.230, to be used for any purpose related**  
33 **to economic development for which moneys in the University Innovation Research Fund may**  
34 **be used.**

35       **“SECTION 8b. Notwithstanding any other law limiting expenditures, the amount of**  
36 **\$190,000,000 is established for the biennium ending June 30, 2023, as the maximum limit for**  
37 **payment of expenses by the Oregon Business Development Department from the Oregon**  
38 **CHIPS Fund established under section 6 of this 2023 Act for the purpose of carrying out the**  
39 **provisions of sections 1 to 6 and 10 of this 2023 Act.**

40       **“SECTION 8c. Notwithstanding any other law limiting expenditures, the amount of**  
41 **\$10,000,000 is established for the biennium ending June 30, 2023, as the maximum limit for**  
42 **payment of expenses by the Oregon Business Development Department from the Industrial**  
43 **Lands Loan Fund established under section 23 of this 2023 Act for any purpose for which**  
44 **moneys in the Industrial Lands Loan Fund may be used.**

45       **“SECTION 8d. Notwithstanding any other law limiting expenditures, the amount of**

1 \$10,000,000 is established for the biennium beginning July 1, 2023, as the maximum limit for  
2 payment of expenses by the Oregon Business Development Department from the University  
3 Innovation Research Fund established under ORS 285A.230 for any purpose related to eco-  
4 nomic development for which moneys in the University Innovation Research Fund may be  
5 used.

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

8 **“SECTION 10.** (1) On or before December 31, 2024, the Governor by executive order and  
9 subject to section 11 of this 2023 Act, may bring within an existing urban growth boundary  
10 designated lands for the purposes of providing lands available for industrial uses to become  
11 part of the state’s covered incentive as defined in section 1 of this 2023 Act that relate to the  
12 semiconductor industry, advanced manufacturing or the supply chain for semiconductors or  
13 advanced manufacturing.

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

16 **“(a)** Contiguous to the city’s existing urban growth boundary; and

17 **“(b)** Entirely within three miles of the city’s existing urban growth boundary.

18 **“(3)** Before issuing an executive order under this section, the Governor shall:

19 **“(a)** Conduct one public meeting, in coordination with the city nearest to the site and  
20 each county in which the site is located, to be held in that city for the purpose of discussing  
21 bringing within the urban growth boundary the lands or potential lands;

22 **“(b)** Accept public comments for a period of no fewer than 20 days following the public  
23 meeting in paragraph (a) of this subsection; and

24 **“(c)** Make a determination that existing lands within an urban growth boundary in this  
25 state would not meet the needs of the specific project.

26 **“(4)** A determination made by the Governor under subsection (3)(c) of this section is final  
27 and not subject to appeal.

28 **“(5)** The Governor may designate up to a maximum of eight sites, as follows:

29 **“(a)** Two sites that exceed 500 acres; and

30 **“(b)** Six sites that do not exceed 500 acres.

31 **“(6)** Notwithstanding any other provision of ORS 197.286 to 197.314 relating to amending  
32 an urban growth boundary or ORS 195.144 (2)(b), 197.626 or 268.390 or any statewide land use  
33 planning goal, lands designated in an executive order under this section are considered within  
34 the acknowledged urban growth boundary, as described in this chapter, as of the date of the  
35 executive order.

36 **“(7)(a)** Jurisdiction is conferred upon the Supreme Court to determine the legal effect  
37 of subsections (1) to (6) of this section or the legal effect of any order issued by the Governor  
38 under subsections (1) to (6) of this section.

39 **“(b)** A person who is or will be adversely affected by subsections (1) to (6) of this section  
40 or by an order issued by the Governor under subsections (1) to (6) of this section may in-  
41 stitute a proceeding for review of the order only by filing a petition with the Supreme Court  
42 within 60 days following:

43 **“(A)** The effective date of this 2023 Act; or

44 **“(B)** The date of issuance of an executive order that is being challenged by the petition.

45 **“(c)** A copy of the petition must be served on the Attorney General and Governor.



1       “(d) If the Supreme Court determines that the petition contains factual issues, the Su-  
2       preme Court may appoint a special master to hear evidence and to prepare recommended  
3       findings of fact.

4       “(e) Proceedings for review under this section shall be given priority over all other mat-  
5       ters before the Supreme Court.

6       “(8) No later than six months following the entry of an executive order under this sec-  
7       tion, each local government with jurisdiction over the lands may, notwithstanding any  
8       statewide planning goals or ORS 215.431, 227.188 or 268.390 or this chapter, amend its com-  
9       prehensive plan or enact or amend any land use regulation to allow the use of the land for  
10      industrial uses under subsection (1) of this section provided that:

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

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

15      “SECTION 11. Land brought within an acknowledged urban growth boundary under sec-  
16      tion 10 of this 2023 Act is removed from the urban growth boundary upon an order of the  
17      Governor upon determining that development of the land will not be receiving federal semi-  
18      conductor financial assistance, as defined in section 1 of this 2023 Act.

19      “SECTION 12. Sections 10 and 11 of this 2023 Act are repealed on January 2, 2029.

20      “SECTION 13. Sections 14 to 23 of this 2023 Act are added to and made a part of ORS  
21      chapter 285B.

22      “SECTION 14. Definitions. As used in sections 14 to 23 of this 2023 Act:

23      “(1) ‘Administrative costs’ includes, but is not limited to, the direct and indirect costs  
24      incurred by the Oregon Business Development Department for:

25      “(a) Investigating and processing applications submitted under section 19 of this 2023 Act;

26      “(b) Negotiating agreements for the purposes of sections 14 to 23 of this 2023 Act;

27      “(c) Monitoring the use of moneys provided to project sponsors under sections 14 to 23  
28      of this 2023 Act;

29      “(d) Closing a project; and

30      “(e) Providing financial assistance to a project sponsor.

31      “(2) ‘Brownfield’ has the meaning given that term in ORS 285A.185.

32      “(3)(a) ‘Development project’ means a project for the acquisition, improvement, con-  
33      struction, demolition or redevelopment of publicly or privately owned utilities, buildings,  
34      land, transportation facilities or other facilities that assist the economic and community  
35      development of a municipality.

36      “(b) ‘Development project’ includes planning project activities that are necessary or  
37      useful to a development project as determined by the department.

38      “(4) ‘Eligible project’ means a development project or a planning project.

39      “(5) ‘Environmental action’ has the meaning given that term in ORS 285A.188.

40      “(6) ‘Industrial land’ means land planned and zoned for industrial use that:

41      “(a) Is suitable for new semiconductor industry uses, or the expansion of existing semi-  
42      conductor industry uses, that can provide significant additional employment in Oregon;

43      “(b) Has land characteristics that provide significant competitive advantages that are  
44      difficult or impossible to replicate; and

45      “(c) Has access to transportation and freight infrastructure, including, but not limited

1 to, rail, port, airport, multimodal freight or transshipment facilities and other major trans-  
2 portation facilities or routes.

3 “(7) ‘Planning project’ means:

4 “(a) A project related to a potential development project for preliminary and final land  
5 use planning and engineering;

6 “(b) A survey, land investigation or environmental action;

7 “(c) A financial, technical or other feasibility report, study or plan; or

8 “(d) Any activity that the department determines to be necessary or useful in planning  
9 for a potential development project.

10 “(8) ‘Private owner’ means a private business entity or property owner that has entered  
11 into an agreement with a local jurisdiction for the development of public infrastructure to  
12 serve a private site.

13 “(9) ‘Project sponsor’ means:

14 “(a) A public entity or private owner of industrial land that is investing in the prepara-  
15 tion of the land for a development project by a third party; or

16 “(b) A public entity that has entered into a development or other agreement with the  
17 private owner of industrial land to prepare the land for a development project.

18 “(10) ‘Public entity’ means:

19 “(a) A city or county in Oregon;

20 “(b) A port formed under ORS 777.005 to 777.725;

21 “(c) The Port of Portland created by ORS 778.010;

22 “(d) The tribal council of a federally recognized Indian tribe in this state; or

23 “(e) An airport district established under ORS chapter 838.

24 “(11) ‘Semiconductor industry use’ means the use of property to:

25 “(a) Construct, expand, or modernize a facility for the fabrication, assembly, testing,  
26 advanced packaging or production of semiconductors, materials used to manufacture semi-  
27 conductors or semiconductor manufacturing equipment; or

28 “(b) Conduct research and development with respect to semiconductors, materials used  
29 to manufacture semiconductors or semiconductor manufacturing equipment.

30 **SECTION 15. Financial assistance for development projects.** (1)(a) The Oregon Business  
31 Development Department may provide financial assistance to a project sponsor, for allowable  
32 costs expended for an industrial land development project, from moneys in the Industrial  
33 Lands Loan Fund established under section 23 of this 2023 Act, in accordance with this sec-  
34 tion.

35 “(b) The financial assistance to a project sponsor may be in the form of a repayable or  
36 forgivable loan or the purchase of bonds issued by the project sponsor.

37 “(c) The department shall determine the amount of the financial assistance on a case-  
38 by-case basis.

39 “(2) Financial assistance may be provided only with respect to a development project that  
40 is:

41 “(a) Directly owned and operated by the project sponsor; or

42 “(b) The subject of a management contract or an operating agreement to which the  
43 project sponsor is a party.

44 “(3)(a) If a development project consists solely of the purchase or acquisition of land, fi-  
45 nancial assistance may be provided only if the land is:

1       “(A) Identified in the applicable land use or capital plan as necessary for a potential in-  
2 dustrial land development project; or

3       “(B) Zoned solely for industrial use.

4       “(b) Notwithstanding paragraph (a) of this subsection, financial assistance may not be  
5 denied under this subsection solely because the costs of the development project include the  
6 costs of acquiring off-site property for purposes that are directly related to the development  
7 project, including, but not limited to, wetland mitigation.

8       “(4) Financial assistance provided to a project sponsor under this section may not be used  
9 for:

10       “(a) The payment of:

11       “(A) A penalty or fine; or

12       “(B) Environmental remediation activities conducted at an industrial land site that is  
13 listed or proposed to be listed as a national priority pursuant to the Comprehensive Envi-  
14 ronmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), for which the  
15 project sponsor, or any party to the loan agreement entered into pursuant to section 20 of  
16 this 2023 Act to which the project sponsor is a party, is liable under 42 U.S.C. 9607;

17       “(b) Retirement of debt;

18       “(c) Projects that primarily focus on relocating business or economic activity from one  
19 part of the state to another, except in cases where the business or economic activity would  
20 otherwise be located outside Oregon; or

21       “(d) Ongoing operations or maintenance expenses of any person.

22       “(5) Contractors and subcontractors on development projects funded under sections 14  
23 to 23 of this 2023 Act must pay for such projects a rate of wage that meets or exceeds the  
24 greater of:

25       “(a) The prevailing rate of wage for workers in each trade or occupation in each locality  
26 as determined by the Commissioner of the Bureau of Labor and Industries under ORS  
27 279C.815; or

28       “(b) The prevailing rate of wage as determined by the United States Secretary of Labor  
29 under the Davis-Bacon Act (40 U.S.C. 3141 et seq.).

30       “(6) The department shall adopt rules to administer and implement the provisions of this  
31 section.

32       “SECTION 16. Forgivable loans for planning projects. (1)(a) The Oregon Business Devel-  
33 opment Department may make a forgivable loan to a project sponsor, for allowable costs  
34 related to a planning project, from moneys in the Industrial Lands Loan Fund established  
35 under section 23 of this 2023 Act, in accordance with this section.

36       “(b) The department shall determine the amount of a forgivable loan on a case-by-case  
37 basis.

38       “(2) A planning project eligible for a forgivable loan under this section may:

39       “(a) Be a stand-alone project that is not intended to lead to a development project.

40       “(b) Be a project that is intended to lead to a development project.

41       “(c) Include planning or investigation for an environmental action on a brownfield.

42       “SECTION 17. Other forms of financial assistance. The Oregon Business Development  
43 Department may directly or indirectly expend or loan moneys in the Industrial Lands Loan  
44 Fund established under section 23 of this 2023 Act or extend credit to:

45       “(1) Provide to project sponsors of an industrial land eligible project any allowable form

1 of financial assistance that the department considers appropriate, including the refinancing  
2 of temporary project financing.

3 “(2) Purchase goods or services related to an eligible project on behalf of the project  
4 sponsor.

5 “(3)(a) Finance guaranty agreements that are issued to guarantee any portion of the ob-  
6 ligation of a project sponsor to finance an industrial land development project and that are  
7 not sold to the State of Oregon.

8 “(b) Guaranty agreements under this subsection shall be payable solely from moneys in  
9 the fund and shall not constitute a debt or obligation of the State of Oregon.

10 “(c) The department may, on behalf of the state, establish a special account in the fund  
11 and commit to deposit into the special account specified portions of current and future  
12 moneys credited to the fund.

13 “(d) The commitments shall be made by rule of the department and shall constitute  
14 covenants of the state for the benefit of the owners of obligations guaranteed by the state  
15 pursuant to this section.

16 “SECTION 18. Allowable costs. For purposes of sections 14 to 23 of this 2023 Act:

17 “(1) The allowable costs of a development project include:

18 “(a) Property acquisition and assembly costs associated with creating large development  
19 parcels, including any easement or right of way directly related to and necessary for a de-  
20 velopment project.

21 “(b) Transportation improvements such as access roads, rail spurs and sidings, marine  
22 facility access, airport facilities necessary to provide industrial land access, intersections,  
23 turning lanes, signals, sidewalks, curbs, transit stops and storm drains.

24 “(c) Infrastructure for providing broadband, electric power, natural gas, water and sewer  
25 service.

26 “(d) Natural resource mitigation.

27 “(e) Land grading activities.

28 “(f) Environmental remediation and mitigation activities to address brownfield issues, in  
29 accordance with state and federally approved remediation plans.

30 “(g) Interest-carrying costs incurred by a project sponsor for amounts borrowed to de-  
31 velop industrial land and financing costs, including capitalized interest.

32 “(h) Direct project management costs.

33 “(i) Costs of consultant services and expenses.

34 “(j) Construction costs and expenses.

35 “(k) Costs of acquiring off-site property for purposes directly related to a development  
36 project, including, but not limited to, wetland mitigation.

37 “(L) Other costs that the Oregon Business Development Department determines to be  
38 necessary or useful for the project.

39 “(2) The allowable costs of a planning project include:

40 “(a) Necessary planning, engineering, legal and other professional services associated  
41 with:

42 “(A) The preparation of applications for local, state and federal permits and related ad-  
43 ministrative costs.

44 “(B) Carrying out the project and related administrative costs.

45 “(b) Other costs that the department determines to be necessary or useful for the

1 project.

2 **“SECTION 19. Application process for financial assistance. (1)(a) A project sponsor**  
3 **seeking financial assistance from the Industrial Lands Loan Fund must submit an application**  
4 **in the manner and form required by the Oregon Business Development Department.**

5 **“(b) At a minimum, each application must include:**

6 **“(A) The name and nature of the project sponsor;**

7 **“(B) A description of the nature of the project;**

8 **“(C) The provisions of sections 14 to 23 of this 2023 Act under which the project is eligible**  
9 **for financial assistance;**

10 **“(D) The proposed activities to be funded;**

11 **“(E) A description and estimate of the allowable costs to be incurred for the project; and**

12 **“(F) All other information and documentation that the department requires.**

13 **“(2)(a) The department shall review all timely and complete applications and approve or**  
14 **reject each application in accordance with rules adopted by the department.**

15 **“(b) The department shall notify each applicant of its decision. The rejection of an ap-**  
16 **plication may not be appealed.**

17 **“SECTION 20. Agreement for financial assistance. (1) Upon approval of an application**  
18 **submitted under section 19 of this 2023 Act, the Oregon Business Development Department,**  
19 **notwithstanding any other provision of law or any restriction on indebtedness contained in**  
20 **a charter, and the project sponsor of the eligible project to which the application relates may**  
21 **enter into an agreement for financial assistance based on the application. The department**  
22 **shall determine the maximum amount of financial assistance based on a reasonable and**  
23 **prudent expectation of the ability of the project sponsor to repay the financial assistance.**

24 **“(2) An agreement entered into pursuant to this section must include:**

25 **“(a) A provision that the obligation of the state under the agreement is contingent on**  
26 **the availability of moneys in the Industrial Lands Loan Fund for the financial assistance**  
27 **agreed upon.**

28 **“(b) A provision that grants the department a lien on, or a security interest in, collateral**  
29 **to secure repayment of a loan made to, or bonds issued by, the project sponsor, in a form**  
30 **and amount determined by the department and specified in the agreement.**

31 **“(c) Provisions that the department considers necessary to ensure expenditure of the**  
32 **funds for the purposes set forth in the approved application.**

33 **“(d) Any other provision the department considers necessary or appropriate.**

34 **“(3) For an eligible project owned by a public entity, a loan agreement entered into pur-**  
35 **suant to this section must be authorized by an ordinance, resolution or order adopted by the**  
36 **governing body of the project sponsor.**

37 **“(4) In making a determination to enter into a loan agreement with the project sponsor**  
38 **for an industrial land development project, the department shall consider the reasonableness**  
39 **of the project sponsor’s estimated costs to prepare the land for industrial use, including, but**  
40 **not limited to, allowable costs for land preparation.**

41 **“(5) Financial assistance approved by the department for an eligible project shall be paid,**  
42 **in accordance with the terms of the agreement entered into pursuant to this section, from**  
43 **the Industrial Lands Loan Fund established under section 23 of this 2023 Act.**

44 **“(6) In assisting project sponsors with eligible projects, and to meet the goals of sections**  
45 **14 to 23 of this 2023 Act, the department and other state agencies shall cooperate to the**

1 greatest extent possible with each other and federal agencies.

2 **“SECTION 21. Repayment.** (1) A project sponsor may repay financial assistance provided  
3 for an eligible project under sections 14 to 23 of this 2023 Act from any source, including, but  
4 not limited to:

5 “(a) Revenues generated by the eligible project, including special assessment revenues.

6 “(b) Amounts withheld under section 22 of this 2023 Act.

7 “(c) The general fund of the project sponsor.

8 “(2) A plan for repayment to the Industrial Lands Loan Fund of financial assistance  
9 provided for an industrial land development project:

10 “(a) Shall provide for repayment by the project sponsor of the financial assistance with  
11 interest to begin no later than seven years after the date of project completion or at such  
12 other time as the Oregon Business Development Department may provide.

13 “(b) Shall provide for such evidence of debt assurance of, and security for, repayment by  
14 the project sponsor as is considered necessary by the department.

15 “(c) Shall set forth a schedule of payments and the period of the loan, not to exceed the  
16 useful life of the contracted project or 30 years from the date of the project completion,  
17 whichever is less, and the manner of determining when loan payments are delinquent.

18 “(d) May provide for a reasonable extension of the time for making any repayment as set  
19 forth under paragraph (c) of this subsection in emergency or hardship circumstances, if ap-  
20 proved by the department.

21 “(e) Shall include repayment of interest that accrues during any period of delay in re-  
22 payment authorized under paragraph (a) of this subsection. The repayment of accrued in-  
23 terest may be in varying amounts.

24 “(f) Shall allow for other forms of payment than principal and interest payments on  
25 loans, in accordance with rules adopted by the department.

26 **“SECTION 22. Breach; default.** (1) If a project sponsor fails to comply with sections 14  
27 to 23 of this 2023 Act or an agreement entered into under section 20 of this 2023 Act, the  
28 Oregon Business Development Department may seek appropriate legal remedies to secure  
29 any repayment of obligations due from the project sponsor to the Industrial Lands Loan  
30 Fund.

31 “(2)(a) If a project sponsor defaults on payments of obligations to the fund under sections  
32 14 to 23 of this 2023 Act, the State of Oregon may withhold any amounts otherwise due to  
33 the project sponsor to offset against the obligations. The department may waive this right  
34 to withhold.

35 “(b) Moneys withheld under paragraph (a) of this subsection shall be deposited in the  
36 fund and shall be used to repay any account in the fund from which moneys were expended  
37 to pay obligations upon which the project sponsor defaulted.

38 **“SECTION 23. Industrial Lands Loan Fund.** (1)(a) The Industrial Lands Loan Fund is es-  
39 tablished in the State Treasury, separate and distinct from the General Fund. Interest  
40 earned by the Industrial Lands Loan Fund shall be credited to the fund.

41 “(b) Moneys in the fund are continuously appropriated to the Oregon Business Develop-  
42 ment Department for the purposes set forth in sections 14 to 23 of this 2023 Act. In addition,  
43 the department may finance administrative costs incurred by the department under sections  
44 14 to 23 of this 2023 Act.

45 “(c) The department may establish other accounts within the fund for the payment of

1 project costs, reserves, debt service payments, credit enhancement, administrative costs and  
2 operation expenses or any other purpose necessary to carry out sections 14 to 23 of this 2023  
3 Act.

4 “(2) Moneys in the fund may be invested as provided by ORS 293.701 to 293.857, and the  
5 earnings from the investments shall be credited to the account in the fund designated by the  
6 department.

7 “(3) The fund shall consist of moneys credited to the fund, including:

8 “(a) Moneys appropriated to the fund by the Legislative Assembly;

9 “(b) Moneys transferred to the fund by the department;

10 “(c) Earnings on moneys in the fund;

11 “(d) Repayment of financial assistance, including interest, under sections 21 and 22 of  
12 this 2023 Act;

13 “(e) Moneys received from the federal, state or local governments; and

14 “(f) Moneys, or the proceeds of assets, from any other public or private source, including,  
15 but not limited to, grants and gifts.

16 “(4)(a) The department may commit moneys in the fund, or reserve future income of the  
17 fund, for expenditure in future years in accordance with this section.

18 “(b) The department may commit moneys or reserve future income under this subsection  
19 only after:

20 “(A) Allowing for contingencies; and

21 “(B) Determining that there will be sufficient unobligated net moneys in the fund to  
22 make the future payments, consistent with the requirements of this section.

23 “SECTION 24. The section captions used in this 2023 Act are provided only for the con-  
24 venience of the reader and do not become part of the statutory law of this state or express  
25 any legislative intent in the enactment of this 2023 Act.

26 “SECTION 25. This 2023 Act being necessary for the immediate preservation of the public  
27 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect  
28 on its passage.”

29

---