

SB 1531-5
(LC 262)
2/5/20 (CMT/ps)

Requested by SENATE COMMITTEE ON FINANCE AND REVENUE

**PROPOSED AMENDMENTS TO
SENATE BILL 1531**

1 On page 1 of the printed bill, line 2, after “amending” delete the rest of
2 the line and delete line 3 and insert “ORS 307.515, 307.540, 307.651, 307.677,
3 307.681, 307.827, 314.415, 315.271, 315.514, 315.591, 315.593, 315.595, 315.643 and
4 317.710; and prescribing an effective date.”.

5 Delete lines 5 through 24 and delete pages 2 through 12 and insert:

6 **“SECTION 1.** ORS 307.515 is amended to read:

7 “307.515. As used in ORS 307.515 to 307.523:

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

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

15 “(3) ‘Low income’ means:

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

19 **“(b)(A) For the initial year that persons occupy property for which**
20 **an application for exemption is filed under ORS 307.521, income at or**
21 **below 60 percent of the area median income as determined by the**

1 Oregon Housing Stability Council based on information from the
2 United States Department of Housing and Urban Development; and

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

8 “(c) For housing units on property that is awarded tax credits
9 through the federal Low-Income Housing Tax Credit Program and is
10 a qualified low-income housing project meeting the requirements of
11 26 U.S.C. 42(g)(1)(C), income at or below 80 percent of the area median
12 income as determined by the Oregon Housing Stability Council based
13 on information from the United States Department of Housing and
14 Urban Development, provided the average household income of all
15 housing units on the property is at or below 60 percent of the area
16 median income as determined by the Oregon Housing Stability Council
17 based on information from the United States Department of Housing
18 and Urban Development.

19 “SECTION 2. The amendments to ORS 307.515 by section 1 of this
20 2020 Act apply to housing for which an application is filed under ORS
21 307.515 to 307.523 on or after the effective date of this 2020 Act.

22 “SECTION 3. ORS 307.540 is amended to read:

23 “307.540. As used in ORS 307.540 to 307.548:

24 “(1) ‘Governing body’ means the city or county legislative body having
25 jurisdiction over the property for which an exemption may be applied for
26 under ORS 307.540 to 307.548.

27 “(2) According to the election of a governing body pursuant to ORS
28 307.543 (1), ‘low income’ means:

29 “(a) Income at or below 60 percent of the area median income as deter-
30 mined by the Oregon Housing Stability Council based on information from

1 the United States Department of Housing and Urban Development; [or]

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

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

11 **“(c) For housing units on property that is awarded tax credits**
12 **through the federal Low-Income Housing Tax Credit Program and is**
13 **a qualified low-income housing project meeting the requirements of**
14 **26 U.S.C. 42(g)(1)(C), income at or below 80 percent of the area median**
15 **income as determined by the Oregon Housing Stability Council based**
16 **on information from the United States Department of Housing and**
17 **Urban Development, provided the average household income of all**
18 **housing units on the property is at or below 60 percent of the area**
19 **median income as determined by the Oregon Housing Stability Council**
20 **based on information from the United States Department of Housing**
21 **and Urban Development.**

22 **“SECTION 4. The amendments to ORS 307.540 by section 3 of this**
23 **2020 Act apply to housing for which an application is filed under ORS**
24 **307.545 on or after the effective date of this 2020 Act.**

25 **“SECTION 5. ORS 307.827 is amended to read:**

26 **“307.827. (1) Environmentally sensitive logging equipment is exempt from**
27 **ad valorem property taxation.**

28 **“(2) As used in this section:**

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

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

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

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

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

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

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

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

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

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

20 **“SECTION 6. The amendments to ORS 307.827 by section 5 of this**
21 **2020 Act apply to property tax years beginning on or after July 1, 2019.**

22 **“SECTION 7.** ORS 307.651 is amended to read:

23 “307.651. As used in ORS 307.651 to 307.687, unless the context requires
24 otherwise:

25 “(1) ‘Governing body’ means the city legislative body having jurisdiction
26 over the property for which an exemption may be applied for under ORS
27 307.651 to 307.687.

28 “(2) ‘Qualified dwelling unit’ means a dwelling unit that, at the time an
29 application is filed pursuant to ORS 307.667, has a market value for the land
30 and improvements of no more than 120 percent, or a lesser percentage as

1 adopted by the governing body by resolution, of the median sales price of
2 dwelling units located within the city.

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

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

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

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

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

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

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

21 **“SECTION 8.** ORS 307.677 is amended to read:

22 “307.677. Notwithstanding ORS 307.651 to 307.687:

23 “(1) If the city finds that construction of single-unit housing was not
24 completed [*by a date that is 12 months after the date on which applications*
25 *may no longer be approved under ORS 307.674, and*] **in accordance with**
26 **ORS 307.651 (3)(b), the city may extend the deadline for completion of**
27 **construction for a period not to exceed an additional 24 consecutive**
28 **months if the city** further finds that:

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

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

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

10 “**SECTION 9.** ORS 307.681 is amended to read:

11 “307.681. (1) Except as provided in ORS 307.684, if, after an application
12 has been approved under ORS 307.674, the city finds [*that construction of*
13 *single-unit housing was not completed within two years after the date the ap-*
14 *plication was approved or on or before January 1, 2025, whichever is earlier,*
15 *or*] that any provision of ORS 307.651 to 307.687 is not being complied with,
16 or any provision required by the city pursuant to ORS 307.651 to 307.687 is
17 not being complied with, the city shall give notice to the owner, mailed to
18 the owner’s last-known address, of the proposed termination of the ex-
19 emption. The notice shall state the reasons for the proposed termination and
20 shall require the owner to appear at a specified time, not less than 20 days
21 after mailing the notice, to show cause, if any, why the exemption should
22 not be terminated.

23 “(2) If the owner fails to show cause why the exemption should not be
24 terminated, the city shall adopt an ordinance or resolution stating its
25 findings and terminating the exemption. A copy of the ordinance or resolu-
26 tion shall be filed with the county assessor and a copy sent to the owner
27 at the owner’s last-known address within 10 days after its adoption.

28 “**SECTION 10.** **The amendments to ORS 307.651, 307.677 and 307.681**
29 **by sections 7 to 9 of this 2020 Act apply to property for which an ap-**
30 **plication has been approved under ORS 307.674 before, on or after the**

1 **effective date of this 2020 Act.**

2 **“SECTION 11.** ORS 314.415 is amended to read:

3 “314.415. (1) If the Department of Revenue determines pursuant to ORS
4 305.270 that the amount of the tax due is less than the amount theretofore
5 paid, the excess shall be refunded by the department with interest at the rate
6 established under ORS 305.220 for a period beginning 45 days after the due
7 date of the return or [on] the date the tax was paid, or, in the case of a re-
8 turn filed under ORS 118.100, the date that the return is filed, whichever is
9 later, and ending at the time the refund is made.

10 “(2)(a) The department may not allow or make a refund after three years
11 from the time the return was filed, or two years from the time the tax (or
12 a portion of the tax) was paid, whichever period expires later, unless before
13 the expiration of this period a claim for refund is filed by the taxpayer in
14 compliance with ORS 305.270. In any case, if the original return is not filed
15 within three years of the due date, excluding extensions, of the return, the
16 department may allow or make a refund only of amounts paid within two
17 years from the date of the filing of the claim for refund. If a refund is dis-
18 allowed for the tax year during which excess tax was paid for any reason set
19 forth in this subsection, the department may not allow the excess as a credit
20 against any tax occurring on a return filed for a subsequent year.

21 “(b) The department may not make a refund if the tax owed, after offsets,
22 is less than \$1.

23 “(c) If a taxpayer would qualify under section 6511(h) of the Internal
24 Revenue Code for a suspension of the running of the periods specified for
25 filing a claim for refund of federal income tax, the period specified in para-
26 graph (a) of this subsection shall also be suspended.

27 “(d) The department may not pay an employee interest on a refund of a
28 tax withheld by an employer if the interest would be for any period prior to
29 the time the employee files a personal income tax return for the tax year
30 involved or for any period prior to the day that is 45 days after the date

1 when the employee's annual return for that year was filed or was due,
2 whichever is later.

3 “(e) The department may not pay interest on a refund of estimated tax
4 paid under ORS 314.505 to 314.525 or 316.557 to 316.589 if the interest would
5 be for any period prior to the time the taxpayer files a tax return for the tax
6 year involved or for any period prior to the day that is 45 days after the date
7 when the tax return for that year was filed or was due, whichever is later.

8 “(f) The amount of the refund, exclusive of interest on the refund, may
9 not exceed the portion of the tax paid during the period preceding the filing
10 of the claim or, if no claim is filed, then during the period preceding the
11 allowance of the refund during which a claim might have been filed. Where
12 there has been an overpayment of any tax imposed, the amount of the over-
13 payment and interest on the overpayment shall be credited against any tax,
14 penalty or interest then due from the taxpayer, and only the balance shall
15 be refunded.

16 “(g) Except as provided in ORS 305.265 (12), if, pursuant to a notice of
17 deficiency or assessment, the taxpayer pays the amount specified in the no-
18 tice, or any part thereof, and if, upon appeal, the Oregon Tax Court or the
19 Oregon Supreme Court orders that all or any part of the deficiency amount
20 specified in the notice and paid by the taxpayer be refunded, the amount so
21 ordered to be refunded shall bear interest at the rate established for refunds
22 in ORS 305.220. Interest shall be computed from the date of payment to the
23 department. Nothing in this subsection shall require that interest be paid
24 upon any amount for any period for which interest upon the same amount
25 for the same period is required to be paid under ORS 305.419.

26 “(3)(a) Notwithstanding any provision to the contrary in ORS 305.265 or
27 305.270 or subsection (1) or (2) of this section, if, prior to the expiration of
28 the period prescribed in subsection (2) of this section, the department and
29 the taxpayer consent in writing to the refund of tax after the expiration of
30 the period prescribed:

1 “(A) The department shall make the refund prior to the expiration of the
2 period agreed upon; and

3 “(B) The department may not make or allow a refund after the expiration
4 of the period agreed upon unless a claim for refund is filed by the taxpayer
5 before the expiration of the period agreed upon in compliance with the
6 manner prescribed by the department. The period so agreed upon may be
7 extended by subsequent agreements in writing made before the expiration of
8 the period previously agreed upon.

9 “(b) The department may consent to extend the period during which a
10 refund may be made only if the taxpayer has consented to the assessment
11 of additional tax, if additional taxes are determined upon audit, after the
12 expiration of the applicable period prescribed in ORS 314.410 (1) to (3).

13 “(4)(a) If the claim for credit or refund relates to an overpayment on ac-
14 count of the deductibility by the taxpayer, or by a partnership, of the
15 worthlessness of a share of stock in a corporation, of the right to subscribe
16 for or to receive a share of stock in a corporation, or of a debt, in lieu of
17 the three-year period of limitation prescribed in subsection (2) of this section,
18 the period shall be seven years from the date prescribed by law for the filing
19 of the return for the year with respect to which the claim is made.

20 “(b) If the claim described in paragraph (a) of this subsection is made
21 after the expiration of the three-year period prescribed in subsection (2) of
22 this section, the department may not allow interest with respect to any
23 credit or refund determined to be due upon the claim for the period begin-
24 ning at the close of the three-year period prescribed in subsection (2) of this
25 section and ending at the expiration of six months after the date on which
26 the claim is filed.

27 “(5)(a) If the claim for credit or refund relates to an overpayment attrib-
28 utable to a net operating loss carryback or a net capital loss carryback, in
29 lieu of the three-year period of limitation prescribed in subsection (2) of this
30 section, the period shall be the period that ends three years after the time

1 prescribed by law for filing the return (including extensions) for the taxable
2 year of the net operating loss or net capital loss that results in such
3 carryback. In the case of such a claim, the amount of the credit or refund
4 may exceed the portion of the tax paid within the period provided in sub-
5 section (1), (2) or (3) of this section, whichever is applicable, to the extent
6 of the amount of the overpayment attributable to the carryback. If the al-
7 lowance of a credit or refund of an overpayment of tax attributable to a net
8 operating loss carryback or a net capital loss carryback is otherwise pre-
9 vented by the operation of any law or rule of law other than ORS 305.150,
10 relating to closing agreements, the credit or refund may be allowed or made
11 if the claim for credit or refund is filed within the period provided in this
12 subsection. To the extent that the carryback was not an issue in any pro-
13 ceeding in which the determination of a court, including the Oregon Tax
14 Court, has become final, the claimed credit or refund applicable to that
15 carryback may be allowed or made under this subsection.

16 “(b) For purposes of subsection (1) or (2) of this section, if any overpay-
17 ment of tax results from a carryback of a net operating loss or net capital
18 loss, the overpayment shall be deemed not to have been made prior to the
19 later of:

20 “(A) The due date of the return for the taxable year in which such net
21 operating loss or net capital loss arises;

22 “(B) The date the return for the year in which the net operating loss or
23 net capital loss arises is filed; or

24 “(C) The date of filing of the return for the year to which the net oper-
25 ating loss or net capital loss is carried back.

26 “(6) Notwithstanding any provision to the contrary in ORS 305.265 or
27 305.270 or this section, if the taxpayer has agreed with the United States
28 Commissioner of Internal Revenue for an extension, or a renewal of an ex-
29 tension, of the period for proposing and assessing deficiencies in federal in-
30 come tax for any year, the period within which a claim for credit or refund

1 may be filed or credit or refund allowed or made if no claim is filed shall
2 be the period provided within subsections (1) to (5) of this section or six
3 months after the date of the expiration of the agreed period for assessing
4 deficiency in federal income tax, whichever period expires later.

5 “(7) If a joint return is filed, the department may make separate refunds
6 at the request of either spouse. The separate refunds shall bear the same
7 proportion to the total refund as the adjusted gross income of each spouse
8 bears to the adjusted gross income of both spouses, or as otherwise deter-
9 mined by the department.

10 “(8) If a taxpayer entitled to a refund under subsection (1) of this section
11 dies, the department may issue a draft for payment of such refund under the
12 terms and conditions set out in ORS 293.490 to 293.500 exercising the same
13 powers and subject to the same restrictions pursuant to which the State
14 Treasurer is authorized to pay the amounts of warrants, checks or orders
15 under those statutes.

16 **“SECTION 12.** ORS 315.271 is amended to read:

17 “315.271. (1) A credit against taxes otherwise due under ORS chapter 316,
18 317 or 318 shall be allowed for donations to a fiduciary organization for
19 distribution to individual development accounts established under ORS
20 458.685. The credit shall equal a percentage of the taxpayer’s donation
21 amount, as determined by the fiduciary organization, but not to exceed 90
22 percent of any donation amount. To qualify for a credit under this section,
23 donations to a fiduciary organization must be made prior to January 1, 2022.

24 **“(2) A credit under this section may be allowed for a preceding tax**
25 **year if the contribution is made before the taxpayer files a return or**
26 **before the 15th day of the fourth month following the closing of the**
27 **taxpayer’s tax year, whichever is earlier.**

28 “[2)] (3) If a credit allowed under this section is claimed, the amount
29 upon which the credit is based that is allowed or allowable as a deduction
30 from federal taxable income under section 170 of the Internal Revenue Code

1 shall be added to federal taxable income in determining Oregon taxable in-
2 come. As used in this subsection, the amount upon which a credit is based
3 is the allowed credit divided by the applicable percentage, as determined by
4 the fiduciary organization.

5 “[3] (4) The allowable tax credit that may be used in any one tax year
6 shall not exceed the tax liability of the taxpayer.

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

15 “[5] (6) The total credits allowed to all taxpayers in any tax year under
16 this section and ORS 458.690 may not exceed \$7.5 million. The total credit
17 allowed to a taxpayer in any tax year under this section and ORS 458.690
18 may not exceed \$500,000.

19 **“SECTION 13.** ORS 315.514 is amended to read:

20 “315.514. (1) A credit against the taxes that are otherwise due under ORS
21 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
22 318, is allowed to a taxpayer for certified film production development con-
23 tributions made by the taxpayer during the tax year to the Oregon Pro-
24 duction Investment Fund established under ORS 284.367.

25 “(2)(a) The Department of Revenue shall, in cooperation with the Oregon
26 Film and Video Office, conduct an auction of tax credits under this section.
27 The auction may be conducted no later than April 15 following December 31
28 of any tax year for which the credit is allowed. The department may conduct
29 the auction in the manner that it determines is best suited to maximize the
30 return to the state on the sale of tax credit certifications and shall announce

1 a reserve bid prior to conducting the auction. The reserve amount shall be
2 at least 90 percent of the total amount of the tax credit. Moneys necessary
3 to reimburse the department for the actual costs incurred by the department
4 in administering an auction, not to exceed 0.25 percent of auction proceeds,
5 are continuously appropriated to the department. The department shall de-
6 posit net receipts from the auction required under this section in the Oregon
7 Production Investment Fund.

8 “(b) The Oregon Film and Video Office shall adopt rules in order to
9 achieve the following goals:

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

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

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

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

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

25 **“(b) The Oregon Film and Video Office may issue a certification for**
26 **a credit under this section, and a credit may be allowed, for tax years**
27 **ending in the calendar year in which a contribution is made, or for tax**
28 **years ending in the calendar year immediately preceding the calendar**
29 **year in which a contribution is made, if no return has yet been filed**
30 **for the preceding tax year.**

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

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

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

12 “(b) Any tax credit otherwise allowable under this section that is not used
13 by the taxpayer in a particular tax year may be carried forward and offset
14 against the taxpayer’s tax liability for the next succeeding tax year. Any
15 credit remaining unused in the next succeeding tax year may be carried
16 forward and used in the second succeeding tax year, and likewise, any credit
17 not used in that second succeeding tax year may be carried forward and used
18 in the third succeeding tax year but may not be carried forward for any tax
19 year thereafter.

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

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

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

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

1 “315.643. (1) A credit against the taxes that are otherwise due under ORS
2 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
3 318, is allowed to a taxpayer for certified Opportunity Grant contributions
4 made by the taxpayer [*during the tax year*] to the Opportunity Grant Fund
5 established under ORS 348.266. **A credit is allowed for tax years ending
6 in the calendar year in which a contribution is made, or for tax years
7 ending in the calendar year immediately preceding the calendar year
8 in which a contribution is made, if no return has yet been filed for the
9 preceding tax year.**

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

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

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

30 “(4)(a) Upon receipt of a contribution, the commission shall, except as

1 provided in ORS 315.646, issue to the taxpayer written certification of the
2 amount certified for tax credit under this section to the extent the amount
3 certified for tax credit, when added to all amounts previously certified for
4 tax credit under this section, does not exceed \$14 million for the fiscal year
5 in which certification is made.

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

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

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

17 “(b) Any tax credit otherwise allowable under this section that is not used
18 by the taxpayer in a particular tax year may be carried forward and offset
19 against the taxpayer’s tax liability for the next succeeding tax year. Any
20 credit remaining unused in the next succeeding tax year may be carried
21 forward and used in the second succeeding tax year, and likewise, any credit
22 not used in that second succeeding tax year may be carried forward and used
23 in the third succeeding tax year but may not be carried forward for any tax
24 year thereafter.

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

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

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

5 **“SECTION 15.** ORS 315.591 is amended to read:

6 “315.591. As used in ORS 315.591 to 315.606:

7 “(1) ‘Infrastructure’ includes tracks, switches, sidings, roadbeds, railroad
8 bridges and industrial leads owned **or leased** by a short line railroad.

9 “(2) ‘Short line railroad’ means a class II or class III railroad as defined
10 in 49 C.F.R. 1201.

11 “(3) ‘Short line railroad rehabilitation project’ means a project that in-
12 volves the maintenance, reconstruction or replacement of infrastructure.

13 “(4) ‘Short line railroad rehabilitation project costs’ means costs that are
14 directly related to the work necessary to maintain, reconstruct or replace
15 infrastructure. ‘Short line railroad rehabilitation project costs’ does not in-
16 clude costs that are funded by or used to qualify for any state or federal
17 grants, or costs that are used to claim a federal tax credit.

18 “(5) ‘Tier I short line railroad’ means a short line railroad owned or
19 leased by a person for whom the total length of short line railroad track
20 owned or leased in Oregon is equal to or greater than 200 miles. The total
21 amount of short line railroad track in Oregon calculated under this sub-
22 section includes any short line railroad track owned or leased by the person,
23 or if the person is a corporation, by the person’s parent corporation or sub-
24 sidiaries, regardless of whether the track is owned or leased by one or more
25 railroads.

26 “(6) ‘Tier II short line railroad’ means a short line railroad that is not a
27 tier I short line railroad or is a short line railroad owned or leased by the
28 state, a city, a county, a port or any other public or municipal corporation.

29 **“SECTION 16. (1) The amendments to ORS 314.415 by section 11 of**
30 **this 2020 Act apply to tax refunds owing as of January 1, 2018.**

1 “(2) The amendments to ORS 315.271 by section 12 of this 2020 Act
2 apply to tax years beginning on or after January 1, 2020, and before
3 January 1, 2022.

4 “(3) The amendments to ORS 315.514 and 315.643 by sections 13 and
5 14 of this 2020 Act apply to tax years beginning on or after January 1,
6 2020, and before January 1, 2024.

7 “(4) The amendments to ORS 315.591 by section 15 of this 2020 Act
8 apply to tax years beginning on or after January 1, 2020, and before
9 January 1, 2026.

10 “SECTION 17. ORS 315.593 is amended to read:

11 “315.593. (1) A credit against taxes imposed by ORS chapter 316 (or, if the
12 taxpayer is a corporation, under ORS chapter 317 or 318) is allowed to a
13 taxpayer, based upon short line railroad rehabilitation project costs actually
14 paid or incurred by the taxpayer during the tax year for which the credit is
15 claimed.

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

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

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

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

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

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

30 “(b) The taxpayer must:

1 “(A) Own or lease the infrastructure;

2 “(B) Be a short line railroad; and

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

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

7 “(5) Any tax credit otherwise allowable under this section that is not used
8 by the taxpayer in a particular tax year may be carried forward and offset
9 against the taxpayer’s tax liability for the next succeeding tax year. Any
10 credit remaining unused in that next succeeding tax year may be carried
11 forward and used in the second succeeding tax year, and likewise, any credit
12 not used in that second succeeding tax year may be carried forward and used
13 in the third succeeding tax year, and likewise, any credit not used in that
14 third succeeding tax year may be carried forward and used in the fourth
15 succeeding tax year, and likewise, any credit not used in that fourth suc-
16 ceeding tax year may be carried forward and used in the fifth succeeding tax
17 year but may not be carried forward for any tax year thereafter.

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

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

24 “(8)(a) The Department of Revenue may by rule require that the Depart-
25 ment of Transportation provide information about a certification issued un-
26 der ORS [315.595] **315.597**, including the name and taxpayer identification
27 number of the taxpayer or other person receiving certification, the date the
28 certification was issued in its final form, the approved amount of credit and
29 the first tax year for which the credit may be claimed.

30 “(b) A taxpayer that is a pass-through entity that has received certifica-

1 tion under ORS [315.595] **315.597** shall provide to the Department of Revenue,
2 within two months after the close of the tax year in which the certification
3 was issued, the name, taxpayer identification number and any other infor-
4 mation required by the department of each owner receiving a distributive
5 share of the credit, in a manner prescribed by the department.

6 “(9) The Department of Revenue shall prescribe by rule the manner and
7 the timing of submission of the information described in subsection (8) of
8 this section to the department.

9 “(10) The credit shall be claimed on a form prescribed by the Department
10 of Revenue that contains the information required by the department.

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

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

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

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

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

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

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

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

29 “(c) Criteria for determining the amount of the tax credit allowed under
30 ORS 315.593, including standards for what constitutes completion of a short

1 line railroad rehabilitation project;

2 “(d) The process by which an applicant will be notified of an incomplete
3 application and the time allowed for the applicant to provide the missing
4 information; and

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

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

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

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

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

21 **“SECTION 19.** ORS 317.710 is amended to read:

22 “317.710. (1) A corporation shall make a return with respect to the tax
23 imposed by this chapter as provided in this section.

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

30 “(3) If the corporation makes a separate return for federal income tax

1 purposes, it shall file a separate return under this chapter. The corporation
2 shall determine its Oregon taxable income and tax liability separately from
3 any other corporation.

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

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

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

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

24 “(d) A corporation that would not be a member of an affiliated group fil-
25 ing a consolidated state return based solely on the application of section
26 [1504(b)(6)] **1504(b)(4)** of the Internal Revenue Code must be included in the
27 consolidated state return filed by the affiliated group.

28 “(6) If so directed by the department, by rule or instructions on the state
29 tax return form, every corporation required to make a return under this
30 chapter shall also file with the return a true copy of the corporation’s federal

1 income tax return for the same taxable year. For purposes of this subsection,
2 the corporation's federal income tax return includes a consolidated federal
3 return for an affiliated group of which the corporation is a member. The
4 department may, by rule or instructions, permit a corporation to submit
5 specified excerpts from its federal return in lieu of submitting a copy of the
6 entire federal return. The federal return or any part thereof required to be
7 filed with the state return is incorporated in and shall be a part of the state
8 return.

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

11 “(A) Shall determine its Oregon taxable income under ORS 317.650 to
12 317.665;

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

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

16 “(b) An interinsurance and reciprocal exchange and its attorney in fact
17 with respect to its attorney in fact net income as a corporate attorney in fact
18 acting as attorney in compliance with ORS 731.458, 731.462, 731.466 and
19 731.470 for the reciprocal or interinsurance exchange may file a consolidated
20 return under the circumstances in the manner and subject to the rules
21 adopted by the department.

22 “(8) The Department of Revenue may prescribe by rule the method by
23 which a consolidated state return shall be filed under this section.

24 **“SECTION 20. This 2020 Act takes effect on the 91st day after the**
25 **date on which the 2020 regular session of the Eightieth Legislative**
26 **Assembly adjourns sine die.”**

27
