

SB 1531-6
(LC 262)
2/11/20
(ASD/CMT/MNJ/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 181A.195, 307.515, 307.519, 307.540,
3 307.651, 307.677, 307.681, 307.827, 314.415, 315.271, 315.514, 315.591, 315.593,
4 315.595, 315.643, 317.710, 319.535 and 320.470 and section 9, chapter 765,
5 Oregon Laws 2007, and section 24, chapter 723, Oregon Laws 2011; and pre-
6 scribing an effective date.”.

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

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

9 “307.515. As used in ORS 307.515 to 307.523:

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

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

17 **“(3) According to the election of a governing body pursuant to ORS**
18 **307.519 (1), ‘low income’ means:**

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

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

6 **“(B) For every subsequent consecutive year that the persons occupy**
7 **the property, income at or below 80 percent of the area median income**
8 **as determined by the Oregon Housing Stability Council based on in-**
9 **formation from the United States Department of Housing and Urban**
10 **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 area median 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 1a.** ORS 307.519 is amended to read:

23 **“307.519. (1) Except as provided in subsection (2) of this section, the ex-**
24 **emptions granted under ORS 307.515 to 307.523 apply only to the tax levy of**
25 **a governing body that adopts the provisions of ORS 307.515 to 307.523. At**
26 **the time of adoption, the governing body shall elect a definition of ‘low**
27 **income’ under ORS 307.515.**

28 **“(2) The exemptions granted under ORS 307.515 to 307.523 apply to the tax**
29 **levy of all taxing districts in which property certified for exemption is lo-**
30 **cated if, upon request of a governing body that has adopted the provisions**

1 of ORS 307.515 to 307.523, the rates of taxation of such taxing districts whose
2 governing boards agree to the policy of exemption under ORS 307.515 to
3 307.523, when combined with the rate of taxation of the governing body that
4 adopts the provisions of ORS 307.515 to 307.523, equal 51 percent or more of
5 the total combined rate of taxation on the property granted exemption.

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

9 **“SECTION 2. The amendments to ORS 307.515 by section 1 of this**
10 **2020 Act apply to housing for which an application is filed under ORS**
11 **307.515 to 307.523 on or after the effective date of this 2020 Act.**

12 **“SECTION 3.** ORS 307.540 is amended to read:

13 “307.540. As used in ORS 307.540 to 307.548:

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

17 “(2) According to the election of a governing body pursuant to ORS
18 307.543 (1), ‘low income’ means:

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

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

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

1 “(c) For housing units on property that is awarded tax credits
2 through the federal Low-Income Housing Tax Credit Program and is
3 a qualified low-income housing project meeting the requirements of
4 26 U.S.C. 42(g)(1)(C), income at or below 80 percent of the area median
5 income as determined by the Oregon Housing Stability Council based
6 on information from the United States Department of Housing and
7 Urban Development, provided the average area median income of all
8 housing units on the property is at or below 60 percent of the area
9 median income as determined by the Oregon Housing Stability Council
10 based on information from the United States Department of Housing
11 and Urban Development.

12 “SECTION 4. The amendments to ORS 307.540 by section 3 of this
13 2020 Act apply to housing for which an application is filed under ORS
14 307.545 on or after the effective date of this 2020 Act.

15 “SECTION 5. ORS 307.827 is amended to read:

16 “307.827. (1) Environmentally sensitive logging equipment is exempt from
17 ad valorem property taxation.

18 “(2) As used in this section:

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

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

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

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

29 “(C) Consisting of excavators used **or held for use** in logging road con-
30 struction, maintenance, reconstruction or improvements, including the clos-

1 ing or obliterating of existing forest roads.

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

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

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

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

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

10 **“SECTION 6. The amendments to ORS 307.827 by section 5 of this**
11 **2020 Act apply to property tax years beginning on or after July 1, 2019.**

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

13 “307.651. As used in ORS 307.651 to 307.687, unless the context requires
14 otherwise:

15 “(1) ‘Governing body’ means the city legislative body having jurisdiction
16 over the property for which an exemption may be applied for under ORS
17 307.651 to 307.687.

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

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

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

29 “(b) If newly constructed, is completed within two years after application
30 for exemption is approved under ORS 307.674 [*or before January 1, 2025,*

1 *whichever is earlier*].

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

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

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

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

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

12 “307.677. Notwithstanding ORS 307.651 to 307.687:

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

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

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

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

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

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

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

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

22 **“SECTION 10a.** Section 24, chapter 723, Oregon Laws 2011, as amended
23 by section 31, chapter 723, Oregon Laws 2011, is amended to read:

24 **“Sec. 24.** (1) The amendments to ORS 305.612, 311.356, 311.666, 311.668,
25 311.670, 311.672, 311.676, 311.679, 311.681, 311.684, 311.686, 311.688, 311.689,
26 311.691, 311.693, 311.695, 311.700, 311.701, 314.430 and 410.422 by sections 1 to
27 4, 6 to 18, 20, 21 and 29 [*of this 2011 Act*], **chapter 723, Oregon Laws 2011,**
28 apply to property tax years beginning on or after July 1, 2011.

29 “(2) The amendments to ORS 311.674 by section 5 [*of this 2011 Act*],
30 **chapter 723, Oregon Laws 2011,** apply to interest that accrues on taxes

1 advanced to counties for tax-deferred property for property tax years begin-
2 ning on or after July 1, 2011.

3 “(3) A claim for an initial year of deferral, or for continued deferral, un-
4 der ORS 311.666 to 311.701 may not be filed on or after April 16, [2021]
5 2022, and deferral may not be granted for a property tax year beginning after
6 July 1, [2021] 2022.

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

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

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

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

28 “(c) If a taxpayer would qualify under section 6511(h) of the Internal
29 Revenue Code for a suspension of the running of the periods specified for
30 filing a claim for refund of federal income tax, the period specified in para-

1 graph (a) of this subsection shall also be suspended.

2 “(d) The department may not pay an employee interest on a refund of a
3 tax withheld by an employer if the interest would be for any period prior to
4 the time the employee files a personal income tax return for the tax year
5 involved or for any period prior to the day that is 45 days after the date
6 when the employee’s annual return for that year was filed or was due,
7 whichever is later.

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

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

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

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

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

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

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

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

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

1 the claim is filed.

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

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

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

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

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

1 “(6) Notwithstanding any provision to the contrary in ORS 305.265 or
2 305.270 or this section, if the taxpayer has agreed with the United States
3 Commissioner of Internal Revenue for an extension, or a renewal of an ex-
4 tension, of the period for proposing and assessing deficiencies in federal in-
5 come tax for any year, the period within which a claim for credit or refund
6 may be filed or credit or refund allowed or made if no claim is filed shall
7 be the period provided within subsections (1) to (5) of this section or six
8 months after the date of the expiration of the agreed period for assessing
9 deficiency in federal income tax, whichever period expires later.

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

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

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

22 “315.271. (1) A credit against taxes otherwise due under ORS chapter 316,
23 317 or 318 shall be allowed for donations to a fiduciary organization for
24 distribution to individual development accounts established under ORS
25 458.685. The credit shall equal a percentage of the taxpayer’s donation
26 amount, as determined by the fiduciary organization, but not to exceed 90
27 percent of any donation amount. To qualify for a credit under this section,
28 donations to a fiduciary organization must be made prior to January [1,
29 2022] **31, 2020.**

30 “(2) If a credit allowed under this section is claimed, the amount upon

1 which the credit is based that is allowed or allowable as a deduction from
2 federal taxable income under section 170 of the Internal Revenue Code shall
3 be added to federal taxable income in determining Oregon taxable income.
4 As used in this subsection, the amount upon which a credit is based is the
5 allowed credit divided by the applicable percentage, as determined by the
6 fiduciary organization.

7 “(3) The allowable tax credit that may be used in any one tax year shall
8 not exceed the tax liability of the taxpayer.

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

17 “(5) The total credits allowed to all taxpayers in any tax year under this
18 section and ORS 458.690 may not exceed \$7.5 million. The total credit al-
19 lowed to a taxpayer in any tax year under this section and ORS 458.690 may
20 not exceed \$500,000.

21 **“SECTION 12a.** Section 9, chapter 765, Oregon Laws 2007, as amended
22 by section 7, chapter 701, Oregon Laws 2015, is amended to read:

23 **“Sec. 9. Except as provided in ORS 315.271 (4),** a credit may not be
24 claimed under ORS 315.271 and 458.690 for tax years beginning on or after
25 January 1, [2022] **2021.**

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

27 **“315.514. (1)** A credit against the taxes that are otherwise due under ORS
28 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
29 318, is allowed to a taxpayer for certified film production development con-
30 tributions made by the taxpayer during the tax year to the Oregon Pro-

1 duction Investment Fund established under ORS 284.367.

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

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

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

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

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

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

26 “(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office
27 shall, except as provided in ORS 315.516, issue to the taxpayer written cer-
28 tification of the amount certified for tax credit under this section to the
29 extent the amount certified for tax credit, when added to all amounts previ-
30 ously certified for tax credit under this section, does not exceed \$14 million

1 for the fiscal year in which certification is made.

2 **“(b) The Oregon Film and Video Office may issue a certification for**
3 **a credit under this section, and a credit may be allowed, for the tax**
4 **year in which a contribution is made, or for the tax year immediately**
5 **preceding the tax year in which a contribution is made, if no return**
6 **has yet been filed for the preceding tax year.**

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

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

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

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

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

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

1 under ORS 316.117.

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

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

7 “315.643. (1) A credit against the taxes that are otherwise due under ORS
8 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
9 318, is allowed to a taxpayer for certified Opportunity Grant contributions
10 made by the taxpayer [*during the tax year*] to the Opportunity Grant Fund
11 established under ORS 348.266. **A credit is allowed for the tax year in
12 which a contribution is made, or for the tax year immediately pre-
13 ceding the tax year in which a contribution is made, if no return has
14 yet been filed for the preceding tax year.**

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

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

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

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

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

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

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

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

30 “(c) A taxpayer is not eligible for a tax credit under this section if the

1 first tax year for which the credit would otherwise be allowed begins on or
2 after January 1, 2024.

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

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

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

11 “315.591. As used in ORS 315.591 to 315.606:

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

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

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

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

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

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

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

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

9 **“(3) The amendments to ORS 315.514 and 315.643 by sections 13 and
10 14 of this 2020 Act apply to tax years beginning on or after January 1,
11 2020, and before January 1, 2024.**

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

15 **“SECTION 17. ORS 315.593 is amended to read:**

16 “315.593. (1) A credit against taxes imposed by ORS chapter 316 (or, if the
17 taxpayer is a corporation, under ORS chapter 317 or 318) is allowed to a
18 taxpayer, based upon short line railroad rehabilitation project costs actually
19 paid or incurred by the taxpayer during the tax year for which the credit is
20 claimed.

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

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

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

30 “(c) Fifty percent of the short line railroad rehabilitation project costs

1 paid or incurred by the taxpayer during the tax year in which the credit is
2 claimed.

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

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

5 “(b) The taxpayer must:

6 “(A) Own or lease the infrastructure;

7 “(B) Be a short line railroad; and

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

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

12 “(5) 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 that 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, and likewise, any credit not used in that
19 third succeeding tax year may be carried forward and used in the fourth
20 succeeding tax year, and likewise, any credit not used in that fourth suc-
21 ceeding tax year may be carried forward and used in the fifth succeeding tax
22 year but may not be carried forward for any tax year thereafter.

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

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

29 “(8)(a) The Department of Revenue may by rule require that the Depart-
30 ment of Transportation provide information about a certification issued un-

1 der ORS [315.595] **315.597**, including the name and taxpayer identification
2 number of the taxpayer or other person receiving certification, the date the
3 certification was issued in its final form, the approved amount of credit and
4 the first tax year for which the credit may be claimed.

5 “(b) A taxpayer that is a pass-through entity that has received certifica-
6 tion under ORS [315.595] **315.597** shall provide to the Department of Revenue,
7 within two months after the close of the tax year in which the certification
8 was issued, the name, taxpayer identification number and any other infor-
9 mation required by the department of each owner receiving a distributive
10 share of the credit, in a manner prescribed by the department.

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

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

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

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

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

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

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

27 “315.595. (1) Prior to construction of a short line railroad rehabilitation
28 project, a taxpayer may apply to the Department of Transportation for pre-
29 liminary certification of the project in the manner prescribed by rules
30 adopted under this section, which must include:

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

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

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

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

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

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

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

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

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

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

27 “317.710. (1) A corporation shall make a return with respect to the tax
28 imposed by this chapter as provided in this section.

29 “(2) If the corporation is a member of an affiliated group of corporations
30 making a consolidated federal return, it shall file a return and determine its

1 Oregon taxable income as provided in ORS 317.715. The corporation's tax li-
2 ability shall be joint and several with any other corporation that is included
3 in a consolidated state return with the corporation under subsection (5) of
4 this section.

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

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

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

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

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

29 “(d) A corporation that would not be a member of an affiliated group fil-
30 ing a consolidated state return based solely on the application of section

1 [1504(b)(6)] **1504(b)(4)** of the Internal Revenue Code must be included in the
2 consolidated state return filed by the affiliated group.

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

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

16 “(A) Shall determine its Oregon taxable income under ORS 317.650 to
17 317.665;

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

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

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

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

29 **“SECTION 20.** ORS 319.535 is amended to read:

30 “319.535. (1) In lieu of paying the per-gallon tax on the use of fuel in a

1 motor vehicle imposed under ORS 319.530, a person may pay to the Depart-
2 ment of Transportation annually, for each motor vehicle that consumes na-
3 tural gas or propane, a special use fuel license fee computed under subsection
4 (2) of this section based on the following schedule:

5 “

6 COMBINED WEIGHT	7 BASE
8 (Pounds)	
9 0 - 10,000	\$60
10 10,001 - 26,000	\$300
11 26,001 and above	\$400

12 “

13 “(2) The special use fuel license fee equals the applicable base amount
14 from the schedule in subsection (1) of this section multiplied by the use fuel
15 tax rate imposed under ORS 319.530 in effect at the time of payment, divided
16 by 12 cents.

17 “(3)(a) A person wishing to pay the special use fuel license fee shall apply
18 to the department on a form prescribed by the department and shall include
19 such information as the department requires.

20 “(b) Upon receipt of a complete and valid application under this sub-
21 section, the department shall issue to the applicant without charge an
22 emblem for display on the motor vehicle to which the application relates.

23 “(c) An emblem issued under this section that is displayed in a conspicu-
24 ous place on the motor vehicle for which the emblem is issued shall be ac-
25 cepted by a seller of fuel as proof of exemption from the per-gallon tax
26 imposed under ORS 319.530.

27 “(4) **Not later than September 15 of each even-numbered year, the**
28 **department and the Oregon Transportation Commission shall:**

29 “(a) **Review the special use fuel license fees computed under this**
30 **section; and**

1 **“(b) Recommend to the interim committees of the Legislative As-**
2 **sembly related to transportation any adjustment to the fees that the**
3 **department and commission deem appropriate.**

4 **“SECTION 21.** ORS 320.470 is amended to read:

5 “320.470. (1) Notwithstanding the confidentiality provisions of ORS
6 320.475, the Department of Revenue may disclose information received under
7 ORS 320.400 to 320.490 and 803.203 to the Department of Transportation for
8 the purposes of carrying out the provisions of ORS **320.405**, 320.410 and
9 803.203.

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

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

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

23 **“SECTION 22.** ORS 181A.195 is amended to read:

24 “181A.195. (1) As used in this section:

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

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

30 or

1 “(B) A criminal justice agency, as defined in ORS 181A.010, that is au-
2 thorized by federal law to receive fingerprint-based criminal records checks
3 from the Federal Bureau of Investigation.

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

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

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

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

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

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

28 “(5) If the Federal Bureau of Investigation returns the fingerprint cards
29 to the Department of State Police, the Department of State Police shall de-
30 stroy the fingerprint cards and may not retain facsimiles or other material

1 from which a fingerprint can be reproduced, except that the Department of
2 State Police may retain the fingerprint cards or create facsimiles for the
3 purpose of providing information under ORS 181A.205.

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

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

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

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

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

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

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

2 “(d) If the authorized agency uses criminal records checks for agency
3 employment purposes:

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

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

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

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

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

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

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

30 “(ii) Who are in a category of individuals as specified by the Oregon De-

1 department of Administrative Services by rule under ORS 181A.215; and

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

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

5 “(A) The nature of the crime;

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

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

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

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

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

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

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

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

21 “(vi) The recommendation of an employer.

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

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

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

1 agency.

2 “(11)(a) In conducting a fitness determination regarding a subject indi-
3 vidual other than an individual described in paragraph (b) of this subsection,
4 the Department of Human Services or the Oregon Health Authority may not
5 consider:

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

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

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

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

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

18 “(F) A pending indictment for a crime unless the crime is listed in ORS
19 443.004 (3) or (5).

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

25 “(A) Described in ORS 418.016;

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

29 “(C) An exempt family child care provider, as defined in ORS 329A.430,
30 the provider’s household members who are 16 years of age or older or a fre-

1 quent visitor of a provider who is subject to a criminal records check;

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

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

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

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

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

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

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

23 **“SECTION 23. Section 24 of this 2020 Act is added to and made a
24 part of ORS 181A.160 to 181A.250.**

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

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

30 **“(B) Provides services or seeks to provide services to the city as a**

1 contractor or volunteer; or

2 “(b) Is, or will be, working or providing services in a position in
3 which the person will have access to federal tax information.

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

10 “SECTION 25. This 2020 Act takes effect on the 91st day after the
11 date on which the 2020 regular session of the Eightieth Legislative
12 Assembly adjourns sine die.”

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