

# House Bill 2456

Sponsored by Representative NATHANSON (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Makes corrections to and updates tax statutes.

Allows governing body of local government to elect definition of "low income" from expanded definition for purposes of certain rental property tax exemptions.

Clarifies that property tax exemption for environmentally sensitive logging equipment applies to logging equipment actually used or held for use.

Allows city to extend for 24 months deadline for completion of construction of single-unit housing eligible for property tax exemption.

Extends sunset for homestead property tax deferral program.

Aligns provision for calculating interest paid by Department of Revenue if refund is owed with similar interest provisions. Applies to tax refunds owing as of January 1, 2018.

Allows tax credit for contribution to Oregon Production Investment Fund or for contribution to Opportunity Grant Fund for tax year immediately preceding current tax year, if return not yet filed for preceding tax year. Applies to tax years beginning on or after January 1, 2019, and before January 1, 2024.

Advances sunset and deadline for contributions for tax credit for donation to fiduciary organization for distribution to individual development accounts.

Provides that infrastructure for which tax credit for short line railroad rehabilitation is allowed may be leased. Establishes \$700,000 per-taxpayer limit on tax credit in single tax year. Modifies prioritization process if preliminary certifications exceed total amount available for credit. Changes biennial cap on amount available for credit to annual cap. Applies to tax years beginning on or after January 1, 2020, and before January 1, 2026.

Requires biennial review of special use fuel license fees by Department of Transportation and Oregon Transportation Commission.

Allows Department of Revenue to disclose information about vehicle privilege tax to Department of Transportation.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to taxation; creating new provisions; amending 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, 315.595, 315.603,  
4 315.643, 317.710, 319.535 and 320.470 and section 9, chapter 765, Oregon Laws 2007, section 24,  
5 chapter 723, Oregon Laws 2011, and section 37, chapter 101, Oregon Laws 2018; repealing ORS  
6 315.601 and 315.606; and prescribing an effective date.

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

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 jurisdiction over the  
11 property for which an exemption may be applied for under ORS 307.515 to 307.523.

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

15 (3) **According to the election of a governing body pursuant to ORS 307.519 (1)**, "low  
16 income" means:

17 (a) Income at or below 60 percent of the area median income as determined by the Oregon

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

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

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

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

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

19 **SECTION 2.** ORS 307.519 is amended to read:

20 307.519. (1) Except as provided in subsection (2) of this section, the exemptions granted under  
 21 ORS 307.515 to 307.523 apply only to the tax levy of a governing body that adopts the provisions  
 22 of ORS 307.515 to 307.523. **At the time of adoption, the governing body shall elect a definition**  
 23 **of “low income” under ORS 307.515.**

24 (2) The exemptions granted under ORS 307.515 to 307.523 apply to the tax levy of all taxing  
 25 districts in which property certified for exemption is located if, upon request of a governing body  
 26 that has adopted the provisions of ORS 307.515 to 307.523, the rates of taxation of such taxing dis-  
 27 tricts whose governing boards agree to the policy of exemption under ORS 307.515 to 307.523, when  
 28 combined with the rate of taxation of the governing body that adopts the provisions of ORS 307.515  
 29 to 307.523, equal 51 percent or more of the total combined rate of taxation on the property granted  
 30 exemption.

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

33 **SECTION 3. The amendments to ORS 307.515 by section 1 of this 2021 Act apply to**  
 34 **housing for which an application is filed under ORS 307.515 to 307.523 on or after the effective**  
 35 **date of this 2021 Act.**

36 **SECTION 4.** ORS 307.540 is amended to read:

37 307.540. As used in ORS 307.540 to 307.548:

38 (1) “Governing body” means the city or county legislative body having jurisdiction over the  
 39 property for which an exemption may be applied for under ORS 307.540 to 307.548.

40 (2) According to the election of a governing body pursuant to ORS 307.543 (1), “low income”  
 41 means:

42 (a) Income at or below 60 percent of the area median income as determined by the Oregon  
 43 Housing Stability Council based on information from the United States Department of Housing and  
 44 Urban Development; [or]

45 (b)(A) For the initial year that persons occupy property for which an application for exemption

1 is filed under ORS 307.545, income at or below 60 percent of the area median income as determined  
 2 by the Oregon Housing Stability Council based on information from the United States Department  
 3 of Housing and Urban Development; and

4 (B) For every subsequent consecutive year that the persons occupy the property, income at or  
 5 below 80 percent of the area median income as determined by the Oregon Housing Stability Council  
 6 based on information from the United States Department of Housing and Urban Development[.]; **or**

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

15 **SECTION 5. The amendments to ORS 307.540 by section 4 of this 2021 Act apply to**  
 16 **housing for which an application is filed under ORS 307.545 on or after the effective date of**  
 17 **this 2021 Act.**

18 **SECTION 6.** ORS 307.827 is amended to read:

19 307.827. (1) Environmentally sensitive logging equipment is exempt from ad valorem property  
 20 taxation.

21 (2) As used in this section:

22 (a) “Environmentally sensitive logging equipment” means logging equipment that was originally  
 23 manufactured after 1992.

24 (b) “Logging equipment” means machinery and equipment:

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

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

31 (C) Consisting of excavators used **or held for use** in logging road construction, maintenance,  
 32 reconstruction or improvements, including the closing or obliterating of existing forest roads.

33 (c) “Logging equipment” does not include:

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

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

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

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

40 **SECTION 7. The amendments to ORS 307.827 by section 6 of this 2021 Act apply to**  
 41 **property tax years beginning on or after July 1, 2019.**

42 **SECTION 8.** ORS 307.651 is amended to read:

43 307.651. As used in ORS 307.651 to 307.687, unless the context requires otherwise:

44 (1) “Governing body” means the city legislative body having jurisdiction over the property for  
 45 which an exemption may be applied for under ORS 307.651 to 307.687.

1 (2) “Qualified dwelling unit” means a dwelling unit that, at the time an application is filed pur-  
 2 suant to ORS 307.667, has a market value for the land and improvements of no more than 120 per-  
 3 cent, or a lesser percentage as adopted by the governing body by resolution, of the median sales  
 4 price of dwelling units located within the city.

5 (3) “Single-unit housing” means a structure having one or more dwelling units that:

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

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

11 (c) Is designed for each dwelling unit within the structure to be purchased by and lived in by  
 12 one person or one family.

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

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

16 (4) “Structure” does not include the land or any site development made to the land, as those  
 17 terms are defined in ORS 307.010.

18 **SECTION 9.** ORS 307.677 is amended to read:

19 307.677. Notwithstanding ORS 307.651 to 307.687:

20 (1) If the city finds that construction of single-unit housing was not completed *[by a date that is*  
 21 *12 months after the date on which applications may no longer be approved under ORS 307.674, and]*  
 22 **in accordance with ORS 307.651 (3)(b), the city may extend the deadline for completion of**  
 23 **construction for a period not to exceed an additional 24 consecutive months if the city further**  
 24 **finds that:**

25 (a) The failure to complete construction was due to circumstances beyond the control of the  
 26 owner<sup>]</sup>, *and that*; **and**

27 (b) The owner had been acting and could reasonably be expected to act in good faith and with  
 28 due diligence<sup>]</sup>, *the city may extend the deadline for completion of construction for a period not to ex-*  
 29 *ceed an additional 12 consecutive months*.

30 (2) If property granted exemption under ORS 307.651 to 307.687 is destroyed by fire or act of  
 31 God, or is otherwise no longer capable of occupancy due to circumstances beyond the control of the  
 32 owner, the exemption shall cease but no additional taxes or penalty shall be imposed under ORS  
 33 307.651 to 307.687 upon the property.

34 **SECTION 10.** ORS 307.681 is amended to read:

35 307.681. (1) Except as provided in ORS 307.684, if, after an application has been approved under  
 36 ORS 307.674, the city finds *[that construction of single-unit housing was not completed within two*  
 37 *years after the date the application was approved or on or before January 1, 2025, whichever is earlier,*  
 38 *or]* that any provision of ORS 307.651 to 307.687 is not being complied with, or any provision re-  
 39 quired by the city pursuant to ORS 307.651 to 307.687 is not being complied with, the city shall give  
 40 notice to the owner, mailed to the owner’s last-known address, of the proposed termination of the  
 41 exemption. The notice shall state the reasons for the proposed termination and shall require the  
 42 owner to appear at a specified time, not less than 20 days after mailing the notice, to show cause,  
 43 if any, why the exemption should not be terminated.

44 (2) If the owner fails to show cause why the exemption should not be terminated, the city shall  
 45 adopt an ordinance or resolution stating its findings and terminating the exemption. A copy of the

1 ordinance or resolution shall be filed with the county assessor and a copy sent to the owner at the  
2 owner's last-known address within 10 days after its adoption.

3 **SECTION 11. The amendments to ORS 307.651, 307.677 and 307.681 by sections 8 to 10 of**  
4 **this 2021 Act apply to property for which an application has been approved under ORS 307.674**  
5 **before, on or after the effective date of this 2021 Act.**

6 **SECTION 12.** Section 24, chapter 723, Oregon Laws 2011, as amended by section 31, chapter  
7 723, Oregon Laws 2011, is amended to read:

8 **Sec. 24.** (1) The amendments to ORS 305.612, 311.356, 311.666, 311.668, 311.670, 311.672, 311.676,  
9 311.679, 311.681, 311.684, 311.686, 311.688, 311.689, 311.691, 311.693, 311.695, 311.700, 311.701, 314.430  
10 and 410.422 by sections 1 to 4, 6 to 18, 20, 21 and 29 [of this 2011 Act], **chapter 723, Oregon Laws**  
11 **2011**, apply to property tax years beginning on or after July 1, 2011.

12 (2) The amendments to ORS 311.674 by section 5 [of this 2011 Act], **chapter 723, Oregon Laws**  
13 **2011**, apply to interest that accrues on taxes advanced to counties for tax-deferred property for  
14 property tax years beginning on or after July 1, 2011.

15 (3) A claim for an initial year of deferral, or for continued deferral, under ORS 311.666 to  
16 311.701 may not be filed on or after April 16, [2021] **2022**, and deferral may not be granted for a  
17 property tax year beginning after July 1, [2021] **2022**.

18 **SECTION 13.** ORS 314.415 is amended to read:

19 314.415. (1) If the Department of Revenue determines pursuant to ORS 305.270 that the amount  
20 of the tax due is less than the amount theretofore paid, the excess shall be refunded by the depart-  
21 ment with interest at the rate established under ORS 305.220 for a period beginning 45 days after  
22 the due date of the return or [on] the date the tax was paid, or, in the case of a return filed under  
23 ORS 118.100, the date that the return is filed, whichever is later, and ending at the time the refund  
24 is made.

25 (2)(a) The department may not allow or make a refund after three years from the time the return  
26 was filed, or two years from the time the tax (or a portion of the tax) was paid, whichever period  
27 expires later, unless before the expiration of this period a claim for refund is filed by the taxpayer  
28 in compliance with ORS 305.270. In any case, if the original return is not filed within three years  
29 of the due date, excluding extensions, of the return, the department may allow or make a refund only  
30 of amounts paid within two years from the date of the filing of the claim for refund. If a refund is  
31 disallowed for the tax year during which excess tax was paid for any reason set forth in this sub-  
32 section, the department may not allow the excess as a credit against any tax occurring on a return  
33 filed for a subsequent year.

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

35 (c) If a taxpayer would qualify under section 6511(h) of the Internal Revenue Code for a sus-  
36 pension of the running of the periods specified for filing a claim for refund of federal income tax,  
37 the period specified in paragraph (a) of this subsection shall also be suspended.

38 (d) The department may not pay an employee interest on a refund of a tax withheld by an em-  
39 ployer if the interest would be for any period prior to the time the employee files a personal income  
40 tax return for the tax year involved or for any period prior to the day that is 45 days after the date  
41 when the employee's annual return for that year was filed or was due, whichever is later.

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

1 (f) The amount of the refund, exclusive of interest on the refund, may not exceed the portion  
 2 of the tax paid during the period preceding the filing of the claim or, if no claim is filed, then during  
 3 the period preceding the allowance of the refund during which a claim might have been filed. Where  
 4 there has been an overpayment of any tax imposed, the amount of the overpayment and interest on  
 5 the overpayment shall be credited against any tax, penalty or interest then due from the taxpayer,  
 6 and only the balance shall be refunded.

7 (g) Except as provided in ORS 305.265 (12), if, pursuant to a notice of deficiency or assessment,  
 8 the taxpayer pays the amount specified in the notice, or any part thereof, and if, upon appeal, the  
 9 Oregon Tax Court or the Oregon Supreme Court orders that all or any part of the deficiency amount  
 10 specified in the notice and paid by the taxpayer be refunded, the amount so ordered to be refunded  
 11 shall bear interest at the rate established for refunds in ORS 305.220. Interest shall be computed  
 12 from the date of payment to the department. Nothing in this subsection shall require that interest  
 13 be paid upon any amount for any period for which interest upon the same amount for the same pe-  
 14 riod is required to be paid under ORS 305.419.

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

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

20 (B) The department may not make or allow a refund after the expiration of the period agreed  
 21 upon unless a claim for refund is filed by the taxpayer before the expiration of the period agreed  
 22 upon in compliance with the manner prescribed by the department. The period so agreed upon may  
 23 be extended by subsequent agreements in writing made before the expiration of the period previ-  
 24 ously agreed upon.

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

28 (4)(a) If the claim for credit or refund relates to an overpayment on account of the deductibility  
 29 by the taxpayer, or by a partnership, of the worthlessness of a share of stock in a corporation, of  
 30 the right to subscribe for or to receive a share of stock in a corporation, or of a debt, in lieu of the  
 31 three-year period of limitation prescribed in subsection (2) of this section, the period shall be seven  
 32 years from the date prescribed by law for the filing of the return for the year with respect to which  
 33 the claim is made.

34 (b) If the claim described in paragraph (a) of this subsection is made after the expiration of the  
 35 three-year period prescribed in subsection (2) of this section, the department may not allow interest  
 36 with respect to any credit or refund determined to be due upon the claim for the period beginning  
 37 at the close of the three-year period prescribed in subsection (2) of this section and ending at the  
 38 expiration of six months after the date on which the claim is filed.

39 (5)(a) If the claim for credit or refund relates to an overpayment attributable to a net operating  
 40 loss carryback or a net capital loss carryback, in lieu of the three-year period of limitation pre-  
 41 scribed in subsection (2) of this section, the period shall be the period that ends three years after  
 42 the time prescribed by law for filing the return (including extensions) for the taxable year of the  
 43 net operating loss or net capital loss that results in such carryback. In the case of such a claim, the  
 44 amount of the credit or refund may exceed the portion of the tax paid within the period provided  
 45 in subsection (1), (2) or (3) of this section, whichever is applicable, to the extent of the amount of

1 the overpayment attributable to the carryback. If the allowance of a credit or refund of an over-  
 2 payment of tax attributable to a net operating loss carryback or a net capital loss carryback is  
 3 otherwise prevented by the operation of any law or rule of law other than ORS 305.150, relating to  
 4 closing agreements, the credit or refund may be allowed or made if the claim for credit or refund  
 5 is filed within the period provided in this subsection. To the extent that the carryback was not an  
 6 issue in any proceeding in which the determination of a court, including the Oregon Tax Court, has  
 7 become final, the claimed credit or refund applicable to that carryback may be allowed or made  
 8 under this subsection.

9 (b) For purposes of subsection (1) or (2) of this section, if any overpayment of tax results from  
 10 a carryback of a net operating loss or net capital loss, the overpayment shall be deemed not to have  
 11 been made prior to the later of:

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

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

16 (C) The date of filing of the return for the year to which the net operating loss or net capital  
 17 loss is carried back.

18 (6) Notwithstanding any provision to the contrary in ORS 305.265 or 305.270 or this section, if  
 19 the taxpayer has agreed with the United States Commissioner of Internal Revenue for an extension,  
 20 or a renewal of an extension, of the period for proposing and assessing deficiencies in federal income  
 21 tax for any year, the period within which a claim for credit or refund may be filed or credit or re-  
 22 fund allowed or made if no claim is filed shall be the period provided within subsections (1) to (5)  
 23 of this section or six months after the date of the expiration of the agreed period for assessing de-  
 24 ficiency in federal income tax, whichever period expires later.

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

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

33 **SECTION 14.** ORS 315.271 is amended to read:

34 315.271. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be  
 35 allowed for donations to a fiduciary organization for distribution to individual development accounts  
 36 established under ORS 458.685. The credit shall equal a percentage of the taxpayer's donation  
 37 amount, as determined by the fiduciary organization, but not to exceed 90 percent of any donation  
 38 amount. To qualify for a credit under this section, donations to a fiduciary organization must be  
 39 made prior to January [1, 2022] **31, 2020**.

40 (2) If a credit allowed under this section is claimed, the amount upon which the credit is based  
 41 that is allowed or allowable as a deduction from federal taxable income under section 170 of the  
 42 Internal Revenue Code shall be added to federal taxable income in determining Oregon taxable in-  
 43 come. As used in this subsection, the amount upon which a credit is based is the allowed credit di-  
 44 vided by the applicable percentage, as determined by the fiduciary organization.

45 (3) The allowable tax credit that may be used in any one tax year shall not exceed the tax li-

1 ability of the taxpayer.

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

8 (5) The total credits allowed to all taxpayers in any tax year under this section and ORS 458.690  
 9 may not exceed \$7.5 million. The total credit allowed to a taxpayer in any tax year under this sec-  
 10 tion and ORS 458.690 may not exceed \$500,000.

11 **SECTION 15.** Section 9, chapter 765, Oregon Laws 2007, as amended by section 7, chapter 701,  
 12 Oregon Laws 2015, is amended to read:

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

15 **SECTION 16.** ORS 315.514 is amended to read:

16 315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the  
 17 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film  
 18 production development contributions made by the taxpayer [*during the tax year*] to the Oregon  
 19 Production Investment Fund established under ORS 284.367.

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

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

31 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of  
 32 \$14 million are certified for each fiscal year;

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

35 (C) Provide the necessary financial incentives for taxpayers to make contributions, taking into  
 36 consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

37 (3) Contributions made under this section shall be deposited in the Oregon Production Invest-  
 38 ment Fund.

39 (4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided  
 40 in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit  
 41 under this section to the extent the amount certified for tax credit, when added to all amounts  
 42 previously certified for tax credit under this section, does not exceed \$14 million for the fiscal year  
 43 in which certification is made.

44 **(b) The Oregon Film and Video Office may issue a certification for a credit under this**  
 45 **section, and a credit may be allowed, for the tax year in which a contribution is made, or for**



1 **the tax year immediately preceding the tax year in which a contribution is made, if no return**  
 2 **has yet been filed for the preceding tax year.**

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

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

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

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

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

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

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

25 **SECTION 17.** ORS 315.643 is amended to read:

26 315.643. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the  
 27 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified Op-  
 28 portunity Grant contributions made by the taxpayer *during the tax year* to the Opportunity Grant  
 29 Fund established under ORS 348.266. **A credit is allowed for the tax year in which a contribution**  
 30 **is made, or for the tax year immediately preceding the tax year in which a contribution is**  
 31 **made, if no return has yet been filed for the preceding tax year.**

32 (2)(a) The Department of Revenue shall, in cooperation with the Higher Education Coordinating  
 33 Commission, conduct an auction of tax credits under this section. The auction may be conducted no  
 34 later than April 15 following December 31 of any tax year for which the credit is allowed. The de-  
 35 partment may conduct the auction in the manner that it determines is best suited to maximize the  
 36 return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to  
 37 conducting the auction. The reserve amount shall be at least 90 percent of the total amount of the  
 38 tax credit. Moneys necessary to reimburse the department for the actual costs incurred by the de-  
 39 partment in administering an auction, not to exceed 0.25 percent of auction proceeds, are contin-  
 40 uously appropriated to the department. Moneys necessary to reimburse the commission for the  
 41 actual costs incurred by the commission in administering an auction, not to exceed 0.25 percent of  
 42 auction proceeds, are continuously appropriated to the commission. The department shall deposit  
 43 net receipts from the auction required under this section in the Opportunity Grant Fund.

44 (b) The commission may adopt rules necessary for the administration of the auction.

45 (3) Contributions made under this section shall be deposited in the Opportunity Grant Fund.

1 (4)(a) Upon receipt of a contribution, the commission shall, except as provided in ORS 315.646,  
 2 issue to the taxpayer written certification of the amount certified for tax credit under this section  
 3 to the extent the amount 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 in which certification  
 5 is made.

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

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

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

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

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

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

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

28 **SECTION 18.** ORS 315.591 is amended to read:

29 315.591. As used in ORS 315.591 to 315.606:

30 (1) "Infrastructure" includes tracks, switches, sidings, roadbeds, railroad bridges and industrial  
 31 leads owned **or leased** by a short line railroad.

32 (2) "**Publicly owned short line railroad**" means a short line railroad owned or leased by  
 33 the state, a city, a county, a port or any other public or municipal corporation.

34 [(2)] (3) "Short line railroad" means a class II or class III railroad as defined in 49 C.F.R. 1201.

35 [(3)] (4) "Short line railroad rehabilitation project" means a project that involves the mainte-  
 36 nance, reconstruction or replacement of infrastructure.

37 [(4)] (5) "Short line railroad rehabilitation project costs" means costs that are directly related  
 38 to the work necessary to maintain, reconstruct or replace infrastructure. "Short line railroad re-  
 39 habilitation project costs" does not include costs that are funded by or used to qualify for any state  
 40 or federal grants, or costs that are used to claim a federal tax credit.

41 [(5)] "*Tier I short line railroad*" means a short line railroad owned or leased by a person for whom  
 42 the total length of short line railroad track owned or leased in Oregon is equal to or greater than 200  
 43 miles. The total amount of short line railroad track in Oregon calculated under this subsection includes  
 44 any short line railroad track owned or leased by the person, or if the person is a corporation, by the  
 45 person's parent corporation or subsidiaries, regardless of whether the track is owned or leased by one

1 *or more railroads.]*

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

5 **SECTION 19.** ORS 315.593 is amended to read:

6 315.593. (1) A credit against taxes imposed by ORS chapter 316 (or, if the taxpayer is a corpo-  
7 ration, under ORS chapter 317 or 318) is allowed to a taxpayer, based upon short line railroad re-  
8 habilitation project costs actually paid or incurred by the taxpayer during the tax year for which  
9 the credit is claimed.

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

11 [(a) *In the case of a tier I short line railroad, \$1,000 multiplied by the number of miles of short line*  
12 *railroad track the taxpayer owns or leases in this state on the day the short line railroad rehabilitation*  
13 *project is completed;*]

14 **(a) \$700,000 for all short line railroad rehabilitation project costs actually paid or incurred**  
15 **by the taxpayer in this state or, if the taxpayer is a corporation, by the taxpayer’s parent**  
16 **corporation or subsidiaries, regardless of whether the short line railroad rehabilitation**  
17 **project costs are paid or incurred by one or more railroads;**

18 (b) *[In the case of a tier II short line railroad,]* \$3,500 multiplied by the number of miles of short  
19 line railroad track the taxpayer owns or leases in this state on the day the short line railroad re-  
20 habilitation project is completed; or

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

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

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

25 (b) The taxpayer must:

26 (A) Own or lease the infrastructure;

27 (B) Be a short line railroad; and

28 (C) Receive a final written certification from the Department of Transportation before claiming  
29 the credit.

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

32 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
33 particular tax year may be carried forward and offset against the taxpayer’s tax liability for the next  
34 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried  
35 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
36 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,  
37 any credit not used in that third succeeding tax year may be carried forward and used in the fourth  
38 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be  
39 carried forward and used in the fifth succeeding tax year but may not be carried forward for any  
40 tax year thereafter.

41 (6) The credit allowed under this section is not in lieu of any depreciation or amortization de-  
42 duction for the short line railroad rehabilitation project to which the taxpayer otherwise may be  
43 entitled for purposes of ORS chapter 316, 317 or 318 for the tax year.

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

1        [(8)(a) *The Department of Revenue may by rule require that the Department of Transportation*  
 2 *provide information about a certification issued under ORS 315.595, including the name and taxpayer*  
 3 *identification number of the taxpayer or other person receiving certification, the date the certification*  
 4 *was issued in its final form, the approved amount of credit and the first tax year for which the credit*  
 5 *may be claimed.*]

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

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

13        [(10)] **(8)** The credit shall be claimed on a form prescribed by the Department of Revenue that  
 14 contains the information required by the department.

15        [(11)] **(9)** In the case of a credit allowed under this section:

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

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

21        (c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
 22 Department of Revenue terminates a taxpayer's taxable year under ORS 314.440, the credit allowed  
 23 under this section shall be prorated or computed in a manner consistent with ORS 314.085.

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

27        **(11) The Director of Transportation may order the suspension or revocation of a certi-**  
 28 **fication issued under this section, as provided in ORS 315.061.**

29        **SECTION 20.** ORS 315.595 is amended to read:

30        315.595. (1) Prior to construction of a short line railroad rehabilitation project, a taxpayer may  
 31 apply to the Department of Transportation for preliminary certification of the project in the manner  
 32 prescribed by rules adopted under this section, which must include:

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

34        (b) A description of the information required by the department to determine that the taxpayer  
 35 qualifies for the credit allowed under ORS 315.593;

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

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

40        (e) The month and date by which the department must notify an applicant of the preliminary  
 41 certification decision and the potential amount of the tax credit for which the applicant has received  
 42 preliminary certification.

43        **(2) Except as provided in subsection (3) of this section,** if the total amount of potential tax  
 44 credits allowed under ORS 315.593 for all taxpayers that have applied for preliminary certification  
 45 exceeds the limit in ORS [315.593] **315.603,** the department shall allocate the tax credits allowed

1 under ORS 315.593 *[as follows]* **in the following order:**

2 *[(a) By giving first priority to all tier II short line railroads that own or lease less than 75 miles*  
 3 *of short line railroad track in this state; and]*

4 *[(b) By giving second priority to all tier II short line railroads not described in paragraph (a) of*  
 5 *this subsection.]*

6 **(a) For publicly owned short line railroads, allocate an amount equal to the amount cal-**  
 7 **culated under ORS 315.593;**

8 **(b) If any amount remains after making the allocation under paragraph (a) of this sub-**  
 9 **section, for all other taxpayers, allocate an amount equal to the lesser of the amount cal-**  
 10 **culated under ORS 315.593 or \$250,000; and**

11 **(c) If any amount remains after making the allocation under paragraph (b) of this sub-**  
 12 **section, for any taxpayer for which the amount allocated under paragraph (b) of this sub-**  
 13 **section is less than the amount allowable under ORS 315.593, allocate an additional amount**  
 14 **by dividing the amount available among that group of taxpayers proportionally, based on the**  
 15 **amount each taxpayer would have otherwise received under ORS 315.593.**

16 *(3) [If the department must allocate tax credits to a group of taxpayers in an amount that is less*  
 17 *than the amount the taxpayers would otherwise receive under ORS 315.593,]* **If the amount allocated**  
 18 **under subsection (2)(a) of this section would exceed the limit in ORS 315.603, the department**  
 19 **shall divide the available tax credits among the [group] taxpayers described in subsection (2)(a)**  
 20 **of this section proportionally, based on the amount each taxpayer would have otherwise received**  
 21 **under ORS 315.593. If the amount allocated under subsection (2)(b) of this section would ex-**  
 22 **ceed the limit in ORS 315.603, the department shall reduce the dollar amount described in**  
 23 **subsection (2)(b) of this section to an amount that is necessary to meet the limit in ORS**  
 24 **315.603 and that allows the greatest number of taxpayers described in subsection (2)(b) of this**  
 25 **section to receive a credit that is equal to the amount calculated under ORS 315.593.**

26 **(4) The Department of Revenue may require that the Department of Transportation**  
 27 **provide information about the certification issued under this section, if required by ORS**  
 28 **315.058.**

29 **SECTION 21.** ORS 315.603 is amended to read:

30 315.603. The total amount of potential tax credits allowed under ORS 315.593 at the time of  
 31 preliminary certification under ORS 315.595 may not exceed [~~\$4~~] **\$2** million for any *[biennium]* **cal-**  
 32 **endar year.**

33 **SECTION 22.** (1) **The amendments to ORS 314.415 by section 13 of this 2021 Act apply to**  
 34 **tax refunds owing as of January 1, 2018.**

35 **(2) The amendments to ORS 315.514 and 315.643 by sections 16 and 17 of this 2021 Act**  
 36 **apply to tax years beginning on or after January 1, 2019, and before January 1, 2024.**

37 **(3) The amendments to ORS 315.591, 315.593, 315.595 and 315.603 by sections 18 to 21 of**  
 38 **this 2021 Act apply to tax years beginning on or after January 1, 2020, and before January**  
 39 **1, 2026.**

40 **SECTION 23.** ORS 315.601 and 315.606 are repealed.

41 **SECTION 24.** ORS 317.710 is amended to read:

42 317.710. (1) A corporation shall make a return with respect to the tax imposed by this chapter  
 43 as provided in this section.

44 (2) If the corporation is a member of an affiliated group of corporations making a consolidated  
 45 federal return, it shall file a return and determine its Oregon taxable income as provided in ORS

1 317.715. The corporation's tax liability shall be joint and several with any other corporation that is  
2 included in a consolidated state return with the corporation under subsection (5) of this section.

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

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

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

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

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

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

25 (6) If so directed by the department, by rule or instructions on the state tax return form, every  
26 corporation required to make a return under this chapter shall also file with the return a true copy  
27 of the corporation's federal income tax return for the same taxable year. For purposes of this sub-  
28 section, the corporation's federal income tax return includes a consolidated federal return for an  
29 affiliated group of which the corporation is a member. The department may, by rule or instructions,  
30 permit a corporation to submit specified excerpts from its federal return in lieu of submitting a copy  
31 of the entire federal return. The federal return or any part thereof required to be filed with the state  
32 return is incorporated in and shall be a part of the state return.

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

35 (A) Shall determine its Oregon taxable income under ORS 317.650 to 317.665;

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

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

38 (b) An interinsurance and reciprocal exchange and its attorney in fact with respect to its at-  
39 torney in fact net income as a corporate attorney in fact acting as attorney in compliance with ORS  
40 731.458, 731.462, 731.466 and 731.470 for the reciprocal or interinsurance exchange may file a con-  
41 solidated return under the circumstances in the manner and subject to the rules adopted by the  
42 department.

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

45 **SECTION 25.** ORS 319.535 is amended to read:

1 319.535. (1) In lieu of paying the per-gallon tax on the use of fuel in a motor vehicle imposed  
 2 under ORS 319.530, a person may pay to the Department of Transportation annually, for each motor  
 3 vehicle that consumes natural gas or propane, a special use fuel license fee computed under sub-  
 4 section (2) of this section based on the following schedule:

---

| COMBINED WEIGHT  | BASE  |
|------------------|-------|
| (Pounds)         |       |
| 0 - 10,000       | \$60  |
| 10,001 - 26,000  | \$300 |
| 26,001 and above | \$400 |

---

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

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

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

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

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

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

29 **(b) Recommend to the interim committees of the Legislative Assembly related to trans-**  
 30 **portation any adjustment to the fees that the department and commission deem appropriate.**

31 **SECTION 26.** ORS 320.470 is amended to read:

32 320.470. (1) Notwithstanding the confidentiality provisions of ORS 320.475, the Department of  
 33 Revenue may disclose information received under ORS 320.400 to 320.490 and 803.203 to the De-  
 34 partment of Transportation for the purposes of carrying out the provisions of ORS **320.405**, 320.410  
 35 and 803.203.

36 (2) The Department of Transportation may disclose information obtained under ORS 320.410 and  
 37 803.203 to the Department of Revenue for the purposes of carrying out the provisions of ORS 320.400  
 38 to 320.490 and 803.203.

39 (3) Any officer or employee of the Department of Transportation to whom information is dis-  
 40 closed under subsection (1) of this section is not required to execute a certificate under ORS 314.840  
 41 (3)(a).

42 (4) Except as otherwise provided in ORS 320.400 to 320.490 and 803.203, a person aggrieved by  
 43 an act or determination of the Department of Revenue or its authorized agent under ORS 320.400  
 44 to 320.490 and 803.203 may appeal, within 90 days after the act or determination, to the Oregon Tax  
 45 Court in the manner provided in ORS 305.404 to 305.560. These appeal rights are the exclusive

1 remedy available to determine the person's liability for the transportation project taxes.

2 **SECTION 27.** ORS 181A.195 is amended to read:

3 181A.195. (1) As used in this section:

4 (a) "Authorized agency" means state government as defined in ORS 174.111 [and], the Oregon  
5 State Bar **or a municipal tax collection agency in a city with a population of 250,000 or more.**

6 "Authorized agency" does not include:

7 (A) The Oregon State Lottery Commission or the Oregon State Lottery; or

8 (B) A criminal justice agency, as defined in ORS 181A.010, that is authorized by federal law to  
9 receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

10 (b) "Subject individual" means a person from whom an authorized agency may require finger-  
11 prints pursuant to statute for the purpose of enabling the authorized agency to request a state or  
12 nationwide criminal records check.

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

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

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

21 (3) The Department of State Police shall provide the results of a criminal records check con-  
22 ducted pursuant to subsection (2) of this section to the authorized agency requesting the check.

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

29 (5) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of  
30 State Police, the Department of State Police shall destroy the fingerprint cards and may not retain  
31 facsimiles or other material from which a fingerprint can be reproduced, except that the Department  
32 of State Police may retain the fingerprint cards or create facsimiles for the purpose of providing  
33 information under ORS 181A.205.

34 (6) If only a state criminal records check is conducted, after the criminal records check is  
35 completed, the Department of State Police shall destroy the fingerprint cards and the results of the  
36 criminal records check provided to the authorized agency and may not retain facsimiles or other  
37 material from which a fingerprint can be reproduced, except that the Department of State Police  
38 may retain the fingerprint cards and results or create facsimiles for the purpose of providing infor-  
39 mation under ORS 181A.205.

40 (7) An authorized agency may conduct criminal records checks on subject individuals through  
41 the Law Enforcement Data System maintained by the Department of State Police in accordance with  
42 rules adopted, and procedures established, by the Department of State Police.

43 (8) An authorized agency and the Department of State Police shall permit a subject individual  
44 for whom a fingerprint-based criminal records check was conducted to inspect the individual's own  
45 state and national criminal offender records and, if requested by the subject individual, provide the



1 individual with a copy of the individual's own state and national criminal offender records.

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

5 (a) Identifying applicable categories of subject individuals as specified by the Oregon Depart-  
 6 ment of Administrative Services under ORS 181A.215 who are subject to criminal records checks  
 7 by the authorized agency.

8 (b) Identifying applicable information that may be required from a subject individual to permit  
 9 a criminal records check as specified by the Oregon Department of Administrative Services under  
 10 ORS 181A.215.

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

12 (d) If the authorized agency uses criminal records checks for agency employment purposes:

13 (A) Determining when and under what conditions a subject individual may be hired on a pre-  
 14 liminary basis pending a criminal records check; and

15 (B) Defining the conditions under which a subject individual may participate in training, orien-  
 16 tation and work activities pending completion of a criminal records check.

17 (e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing  
 18 criminal offender information.

19 (10)(a) Except as otherwise provided in ORS 181A.400, 181A.875, 342.143, 342.223, 443.735,  
 20 475B.785 to 475B.949 and 703.090 and paragraph (d) of this subsection, an authorized agency, using  
 21 the rules adopted by the Oregon Department of Administrative Services under ORS 181A.215, shall  
 22 determine whether a subject individual is fit to hold a position, provide services, be employed or be  
 23 granted a license, certification, registration or permit. If a subject individual is determined to be  
 24 unfit, then the individual may not hold the position, provide services, be employed or be granted a  
 25 license, certification, registration or permit.

26 (b)(A) Subject to subparagraph (B) of this paragraph, an authorized agency making a fitness  
 27 determination of an individual under this subsection may request results of a previously made fitness  
 28 determination from an authorized agency that has already made a fitness determination for the in-  
 29 dividual. An authorized agency that receives a request under this paragraph shall provide the re-  
 30 quested information.

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

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

34 (ii) Who are in a category of individuals as specified by the Oregon Department of Administra-  
 35 tive Services by rule under ORS 181A.215; and

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

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

39 (A) The nature of the crime;

40 (B) The facts that support the conviction or pending indictment or that indicate the making of  
 41 a false statement;

42 (C) The relevancy, if any, of the crime or the false statement to the specific requirements of the  
 43 subject individual's present or proposed position, services, employment, license, certification or reg-  
 44 istration; and

45 (D) Intervening circumstances relevant to the responsibilities and circumstances of the position,

1 services, employment, license, certification, registration or permit, such as:

- 2 (i) The passage of time since the commission of the crime;
- 3 (ii) The age of the subject individual at the time of the crime;
- 4 (iii) The likelihood of a repetition of offenses or of the commission of another crime;
- 5 (iv) The subsequent commission of another relevant crime;
- 6 (v) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
- 7 (vi) The recommendation of an employer.

8 (d) A subject individual is not entitled to a fitness determination under this subsection if the  
9 subject individual:

10 (A) Is or seeks to be employed in any capacity having contact with a recipient of support ser-  
11 vices or a resident of a residential facility or adult foster home, as provided in ORS 443.004 (3), and  
12 has been convicted of any crime listed in ORS 443.004 (3) or (5).

13 (B) Is prohibited by federal law from holding a position, providing services, being employed or  
14 being granted a license, certification, registration or permit for which the fitness determination is  
15 requested by an authorized agency.

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

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

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

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

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

26 (E) A deferred sentence, conditional discharge or participation in a diversion program for any  
27 crime unless the crime is listed in ORS 443.004 (3) and (5); and

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

29 (b) The department or the authority may consider a charge, arrest, conviction, deferred sen-  
30 tence, conditional discharge, participation in a diversion program or pending indictment that may  
31 not be considered under paragraph (a) of this subsection in making a fitness determination for a  
32 subject individual who is:

33 (A) Described in ORS 418.016;

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

36 (C) An exempt family child care provider, as defined in ORS 329A.430, the provider's household  
37 members who are 16 years of age or older or a frequent visitor of a provider who is subject to a  
38 criminal records check;

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

40 (i) Provides care to children and is operated by a school district, as defined in ORS 332.002, a  
41 political subdivision of this state, a preschool recorded program, as defined in ORS 329A.250, or a  
42 government agency; and

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

44 (E) An emergency medical services provider, as defined in ORS 682.025, for the purpose of de-  
45 termining the fitness of the emergency medical services provider to receive or hold a license under

1 ORS 670.280.

2 (12) Criminal offender information is confidential. Authorized agencies and the Department of  
 3 State Police shall adopt rules to restrict dissemination of information received under this section to  
 4 persons with a demonstrated and legitimate need to know the information.

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

8 (14) If an authorized agency requires a criminal records check of employees, prospective em-  
 9 ployees, contractors, vendors or volunteers or applicants for a license, certification, registration or  
 10 permit, the application forms of the authorized agency must contain a notice that the person is  
 11 subject to fingerprinting and a criminal records check.

12 **SECTION 28. Section 29 of this 2021 Act is added to and made a part of ORS 181A.160 to**  
 13 **181A.250.**

14 **SECTION 29. (1) For the purpose of requesting a state or nationwide criminal records**  
 15 **check under ORS 181A.195, a municipal tax collection agency in a city with a population of**  
 16 **250,000 or more may require the fingerprints of a person who:**

17 (a)(A) Is employed or applying for employment by the city; or

18 (B) Provides services or seeks to provide services to the city as a contractor or volun-  
 19 teer; or

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

22 (2) A municipal tax collection agency in a city with a population of 250,000 or more may  
 23 enter into a written agreement with the Department of State Police for purposes of con-  
 24 ducting criminal records checks under this section. An agreement entered into under this  
 25 subsection must include terms pertaining to the scope of work and reimbursement of costs.

26 **SECTION 30.** Section 37, chapter 101, Oregon Laws 2018, is amended to read:

27 **Sec. 37.** On or before [December 1, 2020] **January 2, 2023**, the Department of Revenue shall  
 28 report in the manner required by ORS 192.245 to a committee of the Legislative Assembly related  
 29 to revenue regarding the relative efficacy of the provisions of ORS 317.716 (**2017 Edition**), in com-  
 30 parison to the provisions of section 951A of the Internal Revenue Code, requiring shareholders of  
 31 controlled foreign corporations to include global intangible low-taxed income in gross income.

32 **SECTION 31. This 2021 Act takes effect on the 91st day after the date on which the 2021**  
 33 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

34