

Enrolled
House Bill 2009

Sponsored by Representatives NATHANSON, RAYFIELD, Senator MEEK

CHAPTER

AN ACT

Relating to revenue; creating new provisions; amending ORS 276A.256, 285C.067, 285C.068, 285C.085, 285C.115, 285C.135, 285C.160, 285C.165, 285C.245, 285C.250, 285C.255, 285C.403, 285C.406, 285C.600, 285C.606, 285C.609, 285C.623, 307.123, 314.772, 316.502 and 317.850 and section 6, chapter 905, Oregon Laws 2007; and prescribing an effective date.

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

**RESEARCH AND DEVELOPMENT TAX CREDIT
FOR SEMICONDUCTORS**

SECTION 1. Sections 2 to 5 of this 2023 Act are added to and made a part of ORS chapter 315.

SECTION 2. (1) As used in this section, “qualified semiconductor company” means an entity whose primary business is the research, design, development, fabrication, assembly, testing, packaging or validation of semiconductors, or an entity whose primary business is the creation of semiconductor manufacturing equipment, semiconductor core intellectual property or electronic design automation software that is primarily intended for use in the semiconductor industry.

(2) A credit against taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 shall be allowed to eligible taxpayers for increases in qualified research expenses and basic research payments. The credit shall be determined in accordance with section 41 of the Internal Revenue Code, except as follows:

(a) The applicable percentage specified in section 41(a) of the Internal Revenue Code shall be 15 percent.

(b) “Qualified research” and “basic research” shall consist only of research conducted in Oregon by a qualified semiconductor company, in support of a trade or business directly related to semiconductors.

(c) Section 41(c)(4) of the Internal Revenue Code (relating to the alternative incremental credit) does not apply to the credit allowable under this section.

(3) The Income Tax Regulations as prescribed by the Secretary of the Treasury under authority of section 41 of the Internal Revenue Code apply for purposes of this section, except as modified by this section or as provided in rules adopted by the Department of Revenue.

(4) The maximum credit under this section may not exceed \$4 million for any taxpayer.

(5) Prior to claiming a credit under this section, a taxpayer must obtain from the Oregon Business Development Department:

(a) If applicable, approval from the Oregon Business Development Department as provided in section 5 of this 2023 Act.

(b) Certification as provided in section 4 of this 2023 Act.

(6) The Oregon Business Development Department shall provide information to the Department of Revenue about all certifications issued under section 4 of this 2023 Act, if required by ORS 315.058.

(7) The Director of the Oregon Business Development Department may order the suspension or revocation of a credit allowed under this section, as provided in ORS 315.061.

(8) A deduction may not be taken for the portion of expenses or payments, otherwise allowable as a deduction, that is equal to the amount of the credit claimed under this section.

(9) Notwithstanding ORS 317.090 (3), the refundable portion of a credit under this section is allowed against the tax imposed under ORS 317.090 and may reduce the tax imposed under ORS 317.090 to zero. Any remaining amount of credit above the minimum shall be refunded as provided in section 3 of this 2023 Act.

(10) Any tax credit that is otherwise allowable under this section and that is not used by the taxpayer in that year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

SECTION 3. (1)(a) If the amount allowable as a credit under section 2 of this 2023 Act, after any reduction applicable under subsection (2) of this section, when added to the sum of the amount of estimated tax paid under ORS 314.515 and any other tax prepayment amounts, exceeds the taxes imposed by ORS chapters 314 and 317 for the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter 317 for the tax year, the amount of the excess determined under this subsection shall be refunded to the taxpayer as provided in ORS 314.415.

(b) If the amount allowable as a credit under section 2 of this 2023 Act, after any reduction applicable under subsection (2) of this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

(2) If the taxpayer employs, in Oregon:

(a) Fewer than 150 employees at the close of the tax year, the amount of credit used in the calculation in subsection (1) of this section shall be reduced by 25 percent.

(b) At least 150 employees but fewer than 500 employees at the close of the tax year, the amount of credit used in the calculation in subsection (1) of this section shall be reduced by 50 percent.

(c) At least 500 employees but fewer than 3,000 employees at the close of the tax year, the amount of credit used in the calculation in subsection (1) of this section shall be reduced by 75 percent.

(3) Any amount not available for refund due to subsection (2) of this section may be carried forward as provided in section 2 (10) of this 2023 Act.

(4) This section applies only to taxpayers with fewer than 3,000 employees who are employed in Oregon at the close of the tax year.

SECTION 4. (1) A taxpayer seeking to claim the credit provided under section 2 of this 2023 Act shall file for each tax year a written application for certification with the Oregon Business Development Department. The application must include:

(a) A description of how the taxpayer meets the definition of a qualified semiconductor company under section 2 of this 2023 Act;

(b) A description of how proposed research and development activities for which the taxpayer seeks a tax credit under section 2 of this 2023 Act will support the taxpayer in conducting a business or trade directly related to semiconductors; and

(c) Any other information that is required by the department by rule.

(2) An application for certification under this section must be accompanied by a payment of any fee established by the department by rule under subsection (4) of this section.

(3) After considering timely filed and complete applications, along with amounts available under section 8 of this 2023 Act, the department shall, if the department deems appropriate, issue a certification to an applicant taxpayer if the department determines that the taxpayer is a qualified semiconductor company as that term is defined under section 2 of this 2023 Act, and if the taxpayer attests that the proposed research and development activities for which the taxpayer seeks the credit under section 2 of this 2023 Act will support the taxpayer in conducting a trade or business directly related to semiconductors.

(4) The department shall establish by rule a fee for filing a written application for certification under this section. The fee shall be adequate to recover the costs incurred by the department in reviewing the applications under this section.

(5) Information submitted to the department under this section or section 5 of the 2023 Act is exempt from public disclosure under ORS 192.311 to 192.478 and must be treated as confidential.

SECTION 5. (1) In order to be allowed a credit under section 2 of this 2023 Act for a tax year beginning in calendar year 2024, a taxpayer that intends to claim the credit for that tax year shall file not later than December 1, 2023, a registration with the Oregon Business Development Department.

(2) The registration required under this section shall be submitted in a form and manner prescribed by the department by rule and shall include:

(a) Documentation of the taxpayer's qualified research expenses and basic research expenses under section 2 of this 2023 Act, averaged over the three preceding calendar years; and

(b) A projection, for the tax year beginning in calendar year 2024, of the taxpayer's qualified research expenses and basic research expenses under section 2 of this 2023 Act.

(3) Not later than December 31, 2023, the department shall provide acknowledgment to any taxpayer that has timely registered under this section and shall provide preliminary confirmation that the taxpayer appears eligible for the credit allowed under section 2 of this 2023 Act.

(4) The department shall submit information collected pursuant to this section to the Legislative Revenue Officer not later than February 1, 2024.

(5) Any taxpayer that does not register as required under this section is not eligible to claim a credit under section 2 of this 2023 Act for a tax year beginning in calendar year 2024.

(6) This section does not apply to taxpayer eligibility for credits allowed for any tax year that begins on or after January 1, 2025.

SECTION 6. (1) The Legislative Revenue Officer shall prepare a report detailing the information submitted by applicants under section 5 of this 2023 Act. Information released or summarized in the report must be sufficiently anonymized and aggregated so that the report does not reasonably allow an individual whose information is included in the report to be identified. Not later than March 1, 2024, the officer shall submit the report, in the manner provided by ORS 192.245, to the legislative committees of the Legislative Assembly related to revenue.

(2) **The legislative committees of the Legislative Assembly related to revenue:**

(a) **Shall review the contents of the report required under this section;**

(b) **Shall consider options for modifying the provisions of sections 2 to 5 of this 2023 Act and for establishing criteria for granting certifications under section 4 of this 2023 Act and accommodating the limitations in section 8 of this 2023 Act; and**

(c) **May develop legislation intended to further options selected by the committees as provided in paragraph (b) of this subsection and proposed for consideration during the 2024 regular session of the Eighty-second Legislative Assembly.**

SECTION 7. Section 6 of this 2023 Act is repealed on January 2, 2025.

SECTION 8. The total amount of potential tax credits for all qualified semiconductor companies in this state may not, at the time of certification under section 4 of this 2023 Act, exceed:

(1) **\$35 million for the biennium beginning July 1, 2023;**

(2) **\$80 million for the biennium beginning July 1, 2025;**

(3) **\$90 million for the biennium beginning July 1, 2027; and**

(4) **\$50 million for the fiscal year beginning July 1, 2029.**

SECTION 9. ORS 316.502, as amended by section 13, chapter 115, Oregon Laws 2022, is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and amounts described in ORS 285B.630 and 285C.635, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

(2) A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of \$1 million.

(3) Moneys are continuously appropriated to the Department of Revenue to make:

(a) The refunds authorized under subsection (2) of this section; and

(b) The refund payments in excess of tax liability authorized under ORS 315.174, 315.262, 315.264, 315.266 and 316.090 and section 3, chapter 589, Oregon Laws 2021, and section 8, chapter 115, Oregon Laws 2022, **and section 3 of this 2023 Act.**

SECTION 10. ORS 317.850, as amended by section 14, chapter 115, Oregon Laws 2022, is amended to read:

317.850. (1) The net revenue from the tax imposed by this chapter, after deduction of refunds, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

(2) A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance *[shall]* **may** not at the close of any fiscal year exceed the sum of \$500,000.

(3) Moneys are continuously appropriated to the Department of Revenue to make:

(a) The refunds authorized under subsection (2) of this section; *[and]*

(b) The refund payments in excess of tax liability authorized under section 8, chapter 115, Oregon Laws 2022~~[.]~~; **and**

(c) **The refund payments in excess of tax liability authorized under section 3 of this 2023 Act.**

SECTION 11. ORS 314.772, as amended by section 11, chapter 34, Oregon Laws 2022, and section 15, chapter 115, Oregon Laws 2022, is amended to read:

314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits allowed or allowable to a C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are allowable to the shareholders of the S corporation.

(2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.763, on income of the shareholder of an S corporation, there shall be taken into account the shareholder's

pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), recapture or recovery shall be passed through to shareholders in pro rata shares as determined in the manner prescribed under section 1377(a) of the Internal Revenue Code.

(3) The character of any item included in a shareholder's pro rata share under subsection (2) of this section shall be determined as if such item were realized directly from the source from which realized by the corporation, or incurred in the same manner as incurred by the corporation.

(4) If the shareholder is a nonresident and there is a requirement applicable for the business tax credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS 316.117, then that provision shall apply to the nonresident shareholder.

(5) As used in this section, "business tax credit" means the following credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleanings), ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS 315.593 (short line railroads), ORS 315.640 (university venture development funds), ORS 315.643 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for Cultural Development Account contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle contributions), section 2, chapter 34, Oregon Laws 2022 (small forest option), and section 8, chapter 115, Oregon Laws 2022 (agricultural overtime pay), **and section 2 of this 2023 Act (semiconductors).**

APPLICABILITY CLAUSE

SECTION 12. Sections 2 to 5 of this 2023 Act apply to tax years beginning on or after January 1, 2024, and before January 1, 2030.

ENTERPRISE ZONE SUNSET EXTENSIONS

SECTION 13. ORS 285C.255 is amended to read:

285C.255. (1) Notwithstanding any other provision of ORS 285C.050 to 285C.250:

(a) An area may not be designated as an enterprise zone after June 30, [2025] **2032**;

(b) A business firm may not obtain authorization under ORS 285C.140 after June 30, [2025] **2032**; and

(c) An enterprise zone, except for a reservation enterprise zone or a reservation partnership zone, that is in existence on June 29, [2025] **2032**, is terminated on June 30, [2025] **2032**.

(2) Notwithstanding subsection (1) of this section:

(a) A reservation enterprise zone may be designated, and a reservation partnership zone may be cosponsored, under ORS 285C.306 after June 30, [2025] **2032**; and

(b) A business firm may obtain authorization under ORS 285C.140 after June 30, [2025] **2032**:

(A) If located in a reservation enterprise zone or a reservation partnership zone; or

(B) As allowed under ORS 285C.245 [(1)(b)] **(6)**.

SECTION 14. ORS 285C.406 is amended to read:

285C.406. In order for a taxpayer to claim the property tax exemption under ORS 285C.409 or a corporate excise or income tax credit under ORS 317.124:

(1) The written agreement between the business firm and the rural enterprise zone sponsor that is required under ORS 285C.403 (3)(c) must be entered into prior to the termination of the enterprise zone under ORS 285C.245 **or 285C.255 (1)(c)**; and

(2)(a) For the purpose of the property tax exemption, the business firm must obtain certification under ORS 285C.403 on or before June 30, [2025] **2032**; or

(b) For the purpose of the corporate excise or income tax credit, the business firm must obtain certification under ORS 285C.403 on or before June 30, 2018.

ENTERPRISE ZONE TRANSPARENCY

SECTION 15. Section 16 of this 2023 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 16. (1)(a) An agreement between a zone sponsor and a business firm seeking exemption within the enterprise zone of the sponsor, including, but not limited to, an agreement entered into under ORS 285C.160, may not become effective before the day that is 21 days following the date on which the zone sponsor makes the terms of the agreement public by posting them on the zone sponsor's website. The name and any confidential or proprietary information of the business firm may not be made public under this subsection.

(b) The Oregon Business Development Department may adopt rules to implement this subsection.

(2) Upon request, the department shall provide technical assistance to a zone sponsor intending to enter into an agreement with a business firm.

SECTION 17. Section 18 of this 2023 Act is added to and made a part of ORS 285C.400 to 285C.420.

SECTION 18. (1)(a) An agreement between a zone sponsor and a business firm seeking exemption within the rural enterprise zone of the sponsor, including, but not limited to, a written agreement entered into under ORS 285C.403, may not become effective before the day that is 21 days following the date on which the zone sponsor makes the terms of the agreement public by posting them on the zone sponsor's website. The name and any confidential or proprietary information of the business firm may not be made public under this subsection.

(b) The Oregon Business Development Department may adopt rules to implement this subsection.

(2) Upon request, the department shall provide technical assistance to a zone sponsor intending to enter into an agreement with a business firm.

SECTION 19. ORS 276A.256 is amended to read:

276A.256. (1) For each statute that authorizes a tax expenditure with a purpose connected to economic development and that is listed in subsection (2) of this section, the state agency charged with certifying or otherwise administering the tax expenditure shall submit a report to the State Chief Information Officer. If a statute does not exist to authorize a state agency to certify or otherwise administer the tax expenditure, or if a statute does not provide for certification or administration of the tax expenditure, the Department of Revenue shall submit the report.

(2) This section applies to:

(a) ORS 285C.175, 285C.362, **285C.409**, 307.123, 307.455, 315.141, 315.331, 315.336, 315.341, 315.506, 315.507, 315.514, 315.533, 316.698, 316.778, 317.124, 317.391 and 317.394 and sections 1 to 5, chapter 112, Oregon Laws 2016.

(b) Grants awarded under ORS 469B.256 in any tax year in which certified renewable energy contributions are received as provided in ORS 315.326.

(c) ORS 315.354 except as applicable in ORS 469B.145 (2)(a)(L) or (N).

(d) ORS 316.116, if the allowed credit exceeds \$2,000.

(3) The following information, if the information is already available in an existing database the state agency maintains, must be included in the report required under this section:

(a) The name of each taxpayer or applicant approved for the allowance of a tax expenditure or a grant award under ORS 469B.256.

(b) The address of each taxpayer or applicant.

(c) The total amount of credit against tax liability, reduction in taxable income or exemption from property taxation granted to each taxpayer or applicant.

(d) Specific outcomes or results required by the tax expenditure program and information about whether the taxpayer or applicant meets those requirements. This information must be based on data the state agency has already collected and analyzed in the course of administering the tax expenditure. Statistics must be accompanied by a description of the methodology employed in the statistics.

(e) An explanation of the state agency's certification decision for each taxpayer or applicant, if applicable.

(f) Any additional information that the taxpayer or applicant submits and that the state agency relies on in certifying the determination.

(g) Any other information that state agency personnel deem valuable as providing context for the information described in this subsection.

(4) The information reported under subsection (3) of this section may not include proprietary information or information that is exempt from disclosure under ORS 192.311 to 192.478 or 314.835.

(5) No later than September 30 of each year, a state agency described in subsection (1) of this section shall submit to the State Chief Information Officer the information required under subsection (3) of this section as applicable to applications for allowance of tax expenditures the state agency approved during the agency fiscal year ending during the current calendar year. The information must then be posted on the Oregon transparency website described in ORS 276A.253 no later than December 31 of the same year.

(6)(a) In addition to the information described in subsection (3) of this section, the State Chief Information Officer shall post on the Oregon transparency website:

(A) Copies of all reports that the State Chief Information Officer, the Department of Revenue or the Oregon Business Development Department receives from counties and other local governments relating to properties in enterprise zones that have received tax exemptions under ORS 285C.170, 285C.175 or 285C.409, or that are eligible for tax exemptions under ORS 315.506, 315.507 or 317.124 by reason of being in an enterprise zone; and

(B) Copies of any annual reports that agencies described in subsection (1) of this section are required by law to produce regarding the administration of statutes listed in subsection (2) of this section.

(b) The reports must be submitted to the State Chief Information Officer in a manner and format that the State Chief Information Officer prescribes.

(7) The information described in this section that is available on the Oregon transparency website must be accessible in the format and manner required by the State Chief Information Officer.

(8) The information described in this section must be provided to the Oregon transparency website by posting reports and providing links to existing information systems applications in accordance with standards established by the State Chief Information Officer.

SECTION 20. Section 21 of this 2023 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 21. (1) The Oregon Business Development Department, in consultation with the Legislative Revenue Officer, shall conduct a study of the transparency of enterprise zone programs.

(2) With respect to agreements related to enterprise zone programs entered into between zone sponsors and business firms, the study shall compare:

(a) The transparency required under statute and the transparency of the processes by which such agreements have actually been entered into.

(b) The differences in actual transparency among the various enterprise zones.

(c) The differences in actual transparency between enterprise zones under ORS 285C.050 to 285C.250 and rural enterprise zones under ORS 285C.400 to 285C.420.

(3) With respect to the outcomes under the enterprise zone programs, the department shall study the information that should be included in the reports published pursuant to ORS 276A.256 to enable evaluation of the outcomes.

(4) Not later than September 15, 2024, the department shall submit a report of the findings of the study, in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to revenue, and may include recommendations for legislation in the report.

SECTION 22. Section 21 of this 2023 Act is repealed on January 2, 2025.

INFRASTRUCTURE IMPACT OF ENTERPRISE ZONES

SECTION 23. Section 24 of this 2023 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 24. The sponsor of an enterprise zone intending to enter into an agreement with a business firm for purposes of ORS 285C.050 to 285C.250 that may increase the use of infrastructure located outside the zone sponsor's boundaries shall provide timely notice of the intent to all adjacent local governments within whose boundaries infrastructure may be so affected.

SECTION 25. Section 26 of this 2023 Act is added to and made a part of ORS 285C.400 to 285C.420.

SECTION 26. The sponsor of a rural enterprise zone intending to enter into an agreement with a business firm for purposes of ORS 285C.400 to 285C.420 that may increase the use of infrastructure located outside the zone sponsor's boundaries shall provide timely notice of the intent to all adjacent local governments within whose boundaries infrastructure may be so affected.

INELIGIBILITY OF FULFILLMENT CENTERS

SECTION 27. ORS 285C.135 is amended to read:

285C.135. (1) To be an eligible business firm, a business firm must be engaged, or proposing to engage, within the enterprise zone, in the business of providing goods, products or services to businesses or other organizations through activities including, but not limited to, manufacturing, assembly, fabrication, processing, shipping or storage.

(2) A business firm is not an eligible business firm if the firm is:

(a) Engaged within the enterprise zone in the business of providing goods, products or services to the general public for personal or household use.

(b) Significantly engaged in a business activity within the enterprise zone that consists of retail sales or services, child care, housing, retail food service, health care, tourism, entertainment, financial services, professional services, leasing space to others, property management, construction or other similar activities, even if for another business or organization.

(c) **Significantly engaged in operating a fulfillment center within the enterprise zone from which deliveries are made to retail purchasers within, or in the region surrounding, the enterprise zone.**

(3) If a business firm described in subsection (2) of this section engages in an activity described in subsection (1) of this section, the business firm is an eligible business firm if the activity is performed at a location that is separate from the activity of the firm that is described in subsection (2)

of this section. Property at the location at which the firm conducts an activity described in subsection (2) of this section may not be exempt under ORS 285C.175.

(4) Two or more business firms that otherwise meet the requirements of this section may elect to be treated as one eligible business firm if 100 percent of the equity interest in the business firms is owned by the same person or persons, or if one of the business firms owns 100 percent of the equity interest of the other or others.

(5) Notwithstanding subsections (1) to (3) of this section, each of the following business firms is an eligible business firm under subsection (1) of this section:

(a) A business firm engaged in the activity of providing a retail or financial service within the enterprise zone if:

(A) The activity serves customers by responding to orders or requests received only by telephone, computer, the Internet or similar means of telecommunications; and

(B) Not less than 90 percent of the customers or orders are located and originate in an area from which long distance telephone charges, in the absence of a toll-free number, would apply if the order were placed by telephone.

(b) A business firm that operates a facility within the enterprise zone that serves statewide, regional, national or global operations of the firm through administrative, design, financial, management, marketing or other activities, without regard to the relationship of these activities to any otherwise eligible activities within the enterprise zone.

(c) A business firm that operates a hotel, motel or destination resort in the enterprise zone if the sponsor has elected under ORS 285C.070 to treat a business firm engaged in hotel, motel or destination resort operations in an enterprise zone as an eligible business firm.

(d) A business firm that is engaged in electronic commerce if the enterprise zone has been designated for electronic commerce under ORS 285C.095.

NOTE: Amendments to ORS 285C.403 that would otherwise appear under the heading “Ineligibility of Fulfillment Centers” are made by section 49 below under the heading “School District Fee in Lieu of Property Tax.”

SECTION 28. The amendments to ORS 285C.135 by section 27 of this 2023 Act apply to determinations of a business firm’s eligibility made on or after the effective date of this 2023 Act.

TERMINATION

SECTION 29. ORS 285C.245 is amended to read:

285C.245. (1) **An enterprise zone designated under ORS 285C.050 to 285C.250 shall terminate on the earliest of the date on which:**

(a) **Ten years plus that number of days necessary to delay the date of termination to the June 30 next following have elapsed since the effective date of the designation;**

(b) **The termination is requested or ordered under subsection (2) or (3) of this section, respectively; or**

(c) **The enterprise zone is terminated under ORS 285C.255 (1)(c).**

(2)(a) **The governing body of the zone sponsor may submit to the Oregon Business Development Department a resolution requesting termination of an enterprise zone. The sponsor shall provide copies of the resolution to the county assessor and the Department of Revenue.**

(b) **After receipt of the request, the Director of the Oregon Business Development Department shall order termination of the enterprise zone and shall specify the effective date of the termination.**

(3)(a) **If a zone sponsor is unable or unwilling to carry out its responsibilities under ORS 285C.105, the director shall order termination of the enterprise zone and shall specify the effective date of the termination.**

(b)(A) Notwithstanding paragraph (a) of this subsection, in the case of failure to provide enhanced local public services, local incentives or local regulatory flexibility that the sponsor has established under ORS 285C.105, termination is not required if the sponsor provides to any affected authorized, qualified or certified business firms new enhanced local public services, local incentives or local regulatory flexibility of comparable value, or makes reasonable corrections of shortcomings in existing local incentives.

(B) A sponsor may reduce the time within which it will provide enhanced local public services, local incentives and local regulatory flexibility to a time period equal to the amount of time allowed for an exemption under ORS 285C.175 or 285C.409 without causing termination under this section.

(4) A reservation enterprise zone designated, or a reservation partnership zone cosponsored, under ORS 285C.306 shall terminate in accordance with subsection (1) of this section but may be redesignated at any time under ORS 285C.306.

[(1)] (5) [When] The termination of an enterprise zone [occurs] under this section[:]

[(a) The termination of the enterprise zone] does not affect:

[(A)] (a) The continuation of a [qualified business firm's] property tax exemption first allowed for the qualified property or facility of a business firm under ORS 285C.175 or 285C.409, respectively, before the effective date of the termination of the enterprise zone; or

[(B)] (b) The ability of [an authorized] a business firm to claim exemption under ORS 285C.175 or 285C.409 if:

[(i)] (A) The application for authorization [application] or certification of the business firm was filed with the sponsor under ORS 285C.140 or 285C.403, respectively, before the effective date of the termination of the zone;

[(ii)] (B) The business firm remains authorized or certified, as applicable, at the time the exemption is claimed;

[(iii)] (C) The business firm completes construction, reconstruction, addition, modification or installation of the qualified property or facility, as applicable, within a reasonable time and without interruption of construction, reconstruction, addition, modification or installation activity; and

[(iv)] (D) The qualified property or facility meets all other applicable requirements for exemption under ORS 285C.175 or 285C.409, respectively.

[(b)] (6)(a) A business firm that is currently authorized or qualified in [the] an enterprise zone when the zone is terminated shall be allowed [until] for 10 years after the effective date of the termination [of the enterprise zone] to apply for authorization under ORS 285C.140 and to subsequently claim the exemption under ORS 285C.175 for any qualified property that is constructed, added, modified or installed inside the former enterprise zone boundaries, as those boundaries existed at the time of termination, and entirely outside [of] the boundaries of any current enterprise zone.

(b) Construction, addition, modification or installation of qualified property must commence prior to the end of the final tax year [in] for which qualified property of the firm is exempt under ORS 285C.175 and must be completed within a reasonable time and without interruption of construction, addition, modification or installation activity. The property must meet all other applicable requirements for exemption under ORS 285C.175.

[(c)] (7) Disqualification under ORS 285C.240 of all exempt property of [the] a business firm:

(a) After the effective date of the termination of the enterprise zone shall prohibit and terminate all authorizations sought or obtained by the business firm that would not [otherwise] be allowed [except for paragraph (b) of this] but for subsection (6) of this section.

(b) [Disqualification under ORS 285C.240 of all exempt property of the business firm] On or after the effective date of the termination of the enterprise zone shall cause the assessor to deny any claim for exemption under ORS 285C.175 of qualified property of the business firm made [in] for a subsequent tax year.

[(2) An enterprise zone designated under ORS 285C.050 to 285C.250 shall terminate when 10 years plus that number of days necessary to delay the date of termination to the June 30 next following have elapsed since the effective date of the designation.]

[(3) An enterprise zone designated under ORS 285C.050 to 285C.250 shall terminate prior to the time specified in subsection (2) of this section only as provided in subsections (4) and (5) of this section.]

[(4) The governing body of the sponsor may submit a resolution requesting termination of the enterprise zone to the Oregon Business Development Department. The sponsor shall provide copies of the resolution to the county assessor and the Department of Revenue. After receipt of the request, the Director of the Oregon Business Development Department shall order termination of the enterprise zone and shall specify the effective date of the termination.]

[(5) If a sponsor is unable or unwilling to carry out its responsibilities under ORS 285C.105, the director shall order termination of the enterprise zone and shall specify the effective date of the termination. However, in the case of failure to provide enhanced local public services, local incentives or local regulatory flexibility that the sponsor has established under ORS 285C.105, termination is not required if the sponsor provides to any affected authorized or qualified business firms new enhanced local public services, local incentives or local regulatory flexibility of comparable value, or makes reasonable corrections of shortcomings in existing local incentives. A sponsor may reduce the time within which it will provide enhanced local public services, local incentives and local regulatory flexibility to a time period equal to the amount of time allowed for an exemption under ORS 285C.175 without causing termination under this section.]

[(6) A reservation enterprise zone designated, or a reservation partnership zone cosponsored, under ORS 285C.306 shall terminate in accordance with subsection (2) of this section, but may be redesignated at any time under ORS 285C.306.]

(8)(a) A business firm that is currently certified in a rural enterprise zone when the zone is terminated shall be allowed for 10 years after the effective date of the termination to apply for certification under ORS 285C.403 and to subsequently claim the exemption under ORS 285C.409 for any facility that is constructed, reconstructed or installed inside the former rural enterprise zone boundaries, as those boundaries existed at the time of termination, and entirely outside the boundaries of any current enterprise zone.

(b) Construction, reconstruction or installation of the facility must commence prior to the end of the final tax year for which the facility of the firm is exempt under ORS 285C.409 and must be completed within a reasonable time and without interruption of construction, reconstruction or installation activity.

(c) The facility must meet all other applicable requirements for exemption under ORS 285C.409 and 285C.412.

(9) Disqualification under ORS 285C.420 of all exempt facilities of a business firm:

(a) After the effective date of the termination of the rural enterprise zone shall prohibit and terminate all certifications sought or obtained by the business firm that would not be allowed but for subsection (8) of this section.

(b) On or after the effective date of the termination of the rural enterprise zone shall cause the assessor to deny any claim for exemption under ORS 285C.409 of a facility of the business firm made for a subsequent tax year.

SECTION 30. ORS 285C.068 is amended to read:

285C.068. (1) A port located in whole or in part within an existing enterprise zone may be added as a cosponsor of the enterprise zone by resolution of the governing body of the port, subject to the consent of the existing zone sponsor and with notice to the Oregon Business Development Department.

(2) The addition of a port as a cosponsor of an existing enterprise zone under this section does not change the termination date of the enterprise zone under ORS 285C.245 [(2)].

SECTION 31. ORS 285C.085 is amended to read:

285C.085. (1) The Oregon Business Development Department shall be the lead agency for state participation in a federal enterprise zone program. The Director of the Oregon Business Development Department may take action necessary for such participation to the extent allowed by state law.

(2) Any area designated as a federal enterprise zone by an agency of the federal government may be designated as a state enterprise zone by the director at the request of a city, county or port within whose jurisdiction some or all of the federal enterprise zone is located, without regard to any limitation contained in ORS 285C.090.

(3) The boundary of an existing state enterprise zone may be amended by the director at the request of the sponsor to include the entire area of a federal enterprise zone without regard to ORS 285C.115 (2). A change in the boundary of an existing state enterprise zone under this subsection does not change the termination date of the enterprise zone under ORS 285C.245 [(2)].

(4) A request by a city, county or port under subsection (2) or (3) of this section shall be in such form and include such information as required by the department, but the request must:

(a) Include a resolution adopted by the governing body of the city, county or port; and

(b) Provide that all areas within both the federal enterprise zone and the city, county or port are included in a state enterprise zone.

(5) The termination under federal law of a federal enterprise zone does not affect the existence or dimensions of a state enterprise zone, except when, as determined by the director, the termination is for nonperformance or for violations of federal guidelines.

SECTION 32. ORS 285C.115 is amended to read:

285C.115. (1) The sponsor of an enterprise zone may change the boundary of the enterprise zone by resolution of the governing body of the sponsor.

(2) The amended enterprise zone shall:

(a) Add land zoned for use by eligible business firms that has or will have infrastructure facilities, road access, on-site water, on-site sewage disposal and necessary utility services;

(b) Continue to include any authorized business firms within the enterprise zone;

(c) Add residential areas or nonresidential areas that are adjacent to residential areas only if the level of economic hardship in the areas to be added is at least as severe as the conditions that existed at the time the original enterprise zone was designated or that currently exist in the original enterprise zone;

(d) Retain at least 50 percent of the lands in the original enterprise zone; and

(e) Meet the applicable total area and greatest distance requirements set forth in ORS 285C.090.

(3) If the enterprise zone is a reservation enterprise zone or a reservation partnership zone and the land to be added to the zone is not described in ORS 285C.306, the boundary change, and the resulting boundary of the zone, must fully satisfy the provisions of this section.

(4) A boundary change under subsection (1) of this section may:

(a) Remove only the land that is residential or not zoned or available for use by eligible business firms; or

(b) Change the name of the enterprise zone.

(5) The boundary of an urban enterprise zone may not be modified to include land located outside a regional or metropolitan urban growth boundary.

(6) An area that is under the jurisdiction of a city, county or port that is not a sponsor of the enterprise zone may be added to the enterprise zone under this section only if the governing body of the nonsponsoring city, county or port adopts a resolution requesting the change and requesting that the city, county or port become a cosponsor, or a resolution consenting to the change, as provided under ORS 285C.065 (1).

(7) The resolution of the governing body of a city, county or port to become a cosponsor under subsection (6) of this section may include a restriction described in ORS 285C.070 (4). A restriction made under this paragraph may be made without regard to the time limitation described in ORS 285C.070 (4)(c) and becomes final on the effective date of the boundary change.

(8) A boundary change under this section is not final until a positive determination has been made by the Oregon Business Development Department under ORS 285C.117.

(9) A change in the boundary of an enterprise zone under this section does not change the termination date of the enterprise zone under ORS 285C.245 [(2)].

SECTION 33. ORS 285C.165 is amended to read:

285C.165. (1) In the case of an authorized business firm that has not yet claimed the exemption under ORS 285C.175 on qualified property:

(a) After the January 1, but on or before the April 1, that first occurs more than two years after the application for authorization is approved, an authorized business firm shall submit a written statement to both the sponsor and the county assessor attesting to the firm's continued intent to complete the proposed investment and seek the enterprise zone exemption. The statement may include significant changes to the descriptions and estimates of anticipated qualified property or employment. If the firm is subject to a compensation requirement under ORS 285C.160 (3)(a)(A), the statement shall acknowledge that the applicable county average annual wage in the agreement is updated to equal the level that is current with the statement.

(b) Every two years after the submission of a statement described in paragraph (a) of this subsection, the firm shall submit another such statement. The statement must be submitted after January 1, but on or before April 1 of that year.

(2) If the firm fails to submit a statement required under subsection (1) of this section, the authorization of the firm shall be considered inactive. An inactive authorized business firm may claim the exemption under ORS 285C.175 only as provided under subsection (3) of this section.

(3)(a) An inactive authorized business firm may file an exemption claim under ORS 285C.220 only if the claim includes a filing fee equal to the greater of \$200 or one-tenth of one percent of the total investment cost of the qualified property listed in the property schedule that is filed with the claim and is subject to the exemption.

(b) The filing fee required under this subsection is in addition to and not in lieu of any other required filing fee.

(c) An exemption under ORS 285C.175 may not be granted if the filing fee does not accompany the claim.

(d) Any filing fee collected under this subsection shall be deposited to the county general fund.

(4) If an inactive authorized business firm is subject to a compensation requirement under ORS 285C.160 (3)(a)(A) and files a claim for exemption under ORS 285C.220 in the manner prescribed in subsection (3) of this section, notwithstanding the terms of the agreement executed under ORS 285C.160, the applicable county average annual wage shall be updated to equal the level that is current with the date of the filing of the claim.

(5) This section applies only until the enterprise zone is terminated **under ORS 285C.245 or 285C.255**. Following zone termination, ORS 285C.245 applies.

SECTION 34. ORS 285C.250 is amended to read:

285C.250. (1)(a) Within a reasonable period of time prior to the termination of an enterprise zone under ORS 285C.245 [(2)], the sponsors of the enterprise zone may redesignate the enterprise zone in accordance with ORS 285C.065 and 285C.074, except that the redesignation shall take effect no sooner than the date of termination.

(b) The sponsor of an enterprise zone terminated under ORS 285C.245 [(4) or (5)] **(2) or (3)** is not eligible to redesignate an enterprise zone or designate a new enterprise zone for a period not to exceed 10 years after the zone is terminated.

(c) Paragraph (b) of this subsection does not apply to a county government if the terminated zone was also jointly sponsored by one or more cities or ports.

(2) Enterprise zones redesignated under this section are subject to ORS 285C.245.

APPLICABILITY CLAUSE

SECTION 35. Sections 16, 18, 24 and 26 of this 2023 Act apply to agreements entered into on or after the effective date of this 2023 Act.

STRATEGIC INVESTMENTS

SECTION 36. ORS 285C.606 is amended to read:

285C.606. (1) The State of Oregon, acting through the Oregon Business Development Commission, may determine that real and personal property constituting a project shall receive the tax exemption provided in ORS 307.123 if:

- (a) The project is an eligible project;
- (b) The project directly benefits a traded sector industry, as defined in ORS 285B.280; and
- (c) The total cost of the project equals or exceeds:
 - (A) [~~\$100~~] **\$150** million; or
 - (B) [~~\$25~~] **\$40** million, if the project is located in a rural area.

(2) The minimum total costs required under subsection (1)(c) of this section shall be adjusted each year for the property tax year beginning on July 1 by multiplying \$150 million and \$40 million, respectively, by the ratio of the increase, if any, in the monthly averaged Consumer Price Index for All Urban Consumers, West Region, for the 12 consecutive months ending December 31 of the prior calendar year over the monthly averaged index for the 12 consecutive months ending December 31, 2023. The amount of any increase determined under this subsection shall be rounded to the nearest multiple of \$100,000.

[~~(2)~~] **(3)** In addition to and not in lieu of the determination described in subsection (1) of this section, the State of Oregon, acting through the Oregon Business Development Commission, shall determine that real and personal property constituting a project shall receive the tax exemption provided in ORS 307.123 if:

- (a) The requirements of subsection (1) of this section are met; and
- (b) The project is to be constructed or installed in a strategic investment zone established under ORS 285C.623.

[~~(3)~~] **(4)** Notwithstanding subsection (1) or [~~(2)~~] **(3)** of this section, property may not qualify for the tax exemption under ORS 307.123 if the property:

- (a) Was previously owned or leased by the business firm benefiting from the tax exemption;
- (b) Was previously exempt under ORS 307.123 for any period of time; or
- (c) If located in a strategic investment zone, is not newly constructed or newly installed property.

[~~(4)~~] **(5)** The State of Oregon, acting through the State Treasurer, may authorize and issue revenue bonds for an eligible project that qualifies for exemption under ORS 307.123 if the project also is eligible for funding through the issuance of revenue bonds under ORS 285B.320 to 285B.371.

[~~(5)~~] *A business firm that will be benefited by an eligible project shall enter into a first-source hiring agreement with a publicly funded job training provider that will remain in effect until the end of the tax exemption period.*

(6) A business firm that will be benefited by an eligible project shall:

(a) Enter into a first-source hiring agreement with a publicly funded job training provider that will remain in effect until the end of the tax exemption period; and

(b) Hold a job fair after placing a timely announcement of the job fair through WorkSource Oregon.

[~~(6)~~] **(7)** If an eligible project is leased or subleased to any person, the lessee shall be required to pay property taxes levied upon or with respect to the leased premises only in accordance with ORS 307.123.

[~~(7)~~] **(8)** For purposes of determining the assessment and taxation of the eligible project in ORS 307.123 and the calculation of the community services fee in ORS 285C.609 (4)(b), the Oregon Business Development Commission, when it determines that the project is an eligible project, shall:

- (a) Describe the real and personal property to be included in the eligible project;

- (b) Establish the maximum value of the property subject to exemption; or
- (c) Employ a comparable method to define the eligible project.

[(8)] (9) Property of an eligible project that is currently exempt under ORS 307.123 may remain exempt for any remaining period of exemption allowed under ORS 307.123 upon the property being acquired by a business firm that is different from the business firm that initially benefited from the exemption, if the acquiring firm satisfies all applicable requirements under ORS 285C.600 to 285C.635 and assumes the obligations, conditions, requirements and other terms of the agreement described in ORS 285C.609 (4).

SECTION 37. ORS 285C.623 is amended to read:

285C.623. (1) A county seeking to ensure that all eligible projects constructed or installed within a particular geographic area within the county receive the tax exemption under ORS 307.123 may request designation of the geographic area as a strategic investment zone. The request must be made by official action of the governing body of the county taken at a regular or duly called special meeting of the governing body by the affirmative vote of a majority of members of the governing body. The request must set forth the proposed boundaries of the zone.

(2) The governing body of the county shall forward appropriate actions requesting zone establishment to the Oregon Business Development Department for consideration by the Oregon Business Development Commission. If the commission determines that the proposed zone is likely to achieve the purpose set forth in ORS 285C.603 and other objectives established for the zone by the requesting county, the department or the commission, the commission shall designate the geographic area a strategic investment zone.

(3) Any eligible project described in ORS 285C.606 [(2)] (3) and newly constructed or installed after the date of zone designation under this section shall qualify for exemption under ORS 307.123 if the business firm benefited by the eligible project complies with the fee agreement described in subsection (4) of this section.

(4) The county may not make the request under subsection (1) of this section unless, after a public hearing:

(a) The county and, if the proposed zone will be located within a city **or port**, the city **or port** have entered into an agreement described in this subsection.

(b) The agreement provides for the payment of a fee by each business firm that is to own or operate an eligible project within the proposed zone, as a condition for the exemption under ORS 307.123. The agreement shall provide for the payment of the fee, as follows:

(A) The fee shall be for community services support that relates to the direct impact of the eligible project on public services.

(B) The fee shall be in an amount equal to 25 percent of the property taxes that would, but for the exemption, be due on the exempt property in each assessment year, but not exceeding \$2 million per eligible project in any year or, if the eligible project is located in a rural area, \$500,000 per eligible project in any year.

(C) The fee shall be paid annually during the tax exemption period by each business firm having an eligible project within the zone, as of a date set forth in the agreement.

(c) The agreement provides for the refunding or crediting of overpayments, for interest on late payments or underpayments and for the manner in which the appeal of the assessed value of the property included in the project will affect the fee.

(5) The agreement described in subsection (4) of this section may provide for any other requirements that each business firm must comply with in order for the eligible project of the firm to qualify for exemption under ORS 307.123.

(6)(a) The fee collected under subsection (4)(b) of this section shall be distributed by the county based on an additional agreement described in this subsection. An agreement described in this subsection is effective only if:

(A) The county and the city **or port**, if any, in which the eligible project is located have entered into the agreement; and

(B) Local taxing districts listed in ORS 198.010 or 198.180, **other than ports**, that constitute at least 75 percent of the property tax authority of all local taxing districts listed in ORS 198.010 or 198.180, **other than ports**, that are in the code area in which the eligible project is located have entered into the agreement.

(b) If an additional agreement is not entered into under paragraph (a) of this subsection within three months after the date of the determination by the commission under ORS 285C.606 (1), the commission shall, by official action, establish a formula for distributing the fee collected under subsection (4)(b) of this section.

(7)(a) A county may not enter into an agreement under subsection (4) of this section for designation of a strategic investment zone on or after the effective date of this 2023 Act.

(b) A strategic investment zone designated on the basis of an agreement entered into under subsection (4) of this section before the effective date of this 2023 Act may continue to operate in accordance with the terms of this section in effect on the date on which the agreement was entered into.

SECTION 38. ORS 285C.609 is amended to read:

285C.609. (1) A determination under ORS 285C.606 (1) by the Oregon Business Development Commission that a project shall be exempt from property taxation under ORS 307.123 must be requested by official action of the governing body of the county taken at a regular or duly called special meeting thereof by the affirmative vote of a majority of its members.

(2) The governing body of any Oregon county shall forward appropriate prospective eligible projects to the Oregon Business Development Department for processing.

(3) For purposes of this section, for projects located on a federally recognized Oregon Indian reservation, the governing body of a county shall be considered to be the governing body of the federally recognized Oregon Indian tribe.

(4) The county may not make the request under subsection (1) of this section unless, after a public hearing:

(a) The county and, if the proposed eligible project will be located within **the boundaries of a city or port**, the city **or port** have entered into an agreement with the business firm, as described in this subsection. **The Oregon Business Development Department shall make available, in a timely manner, training materials related to negotiation techniques in such circumstances to the county, city or port, as applicable.**

(b) The agreement provides for the payment of a fee by the business firm, as follows:

(A) The fee shall be for community services support that relates to the direct impact of the eligible project on public services.

(B) The fee shall be in an amount equal to 25 percent of the property taxes that would, but for the exemption, be due on the exempt property in each assessment year, but not exceeding [\$2.5] **\$3** million in any year.

(C) The fee shall be paid annually during the tax exemption period, as of a date set forth in the agreement.

(c) The agreement provides for the refunding or crediting of overpayments, for interest on late payments or underpayments and for the manner in which the appeal of the assessed value of the property included in the project will affect the fee.

(5) The maximum fee amount allowed under subsection (4)(b) of this section shall be adjusted each year for the property tax year beginning on July 1 by multiplying \$3 million by the ratio of the increase, if any, in the monthly averaged Consumer Price Index for All Urban Consumers, West Region, for the 12 consecutive months ending December 31 of the prior calendar year over the monthly averaged index for the 12 consecutive months ending December 31, 2023. The amount of any increase determined under this subsection shall be rounded to the nearest multiple of \$1,000.

[5] (6) The agreement described in subsection (4) of this section may provide for any other requirements related to the project.

[(6)(a)] **(7)(a)** The fee collected under subsection (4)(b) of this section shall be distributed by the county based on an agreement. The agreement is effective only if **the following public bodies have entered into the agreement:**

(A) The county and the city **or port**, if any, in which the eligible project is located [*have entered into the agreement*]; [*and*]

(B) All special districts in the code area in which the eligible project is located that provide services related to public safety, fire prevention and response, ambulance or other emergency medical response or emergency communications; and

[(B)] (C) Local taxing districts listed in ORS 198.010 or 198.180, **other than ports**, that constitute at least 75 percent of the property tax authority of all local taxing districts listed in ORS 198.010 or 198.180, **other than ports**, in the code area in which the eligible project is located [*have entered into the agreement*].

(b) If an effective agreement is not entered into under paragraph (a) of this subsection within three months after the date of the determination by the commission under ORS 285C.606 (1), the commission shall, by official action, establish a formula for distributing the fee collected under subsection (4)(b) of this section.

SECTION 39. ORS 307.123 is amended to read:

307.123. (1) Except as provided in subsection (4) of this section, real or personal property that the Oregon Business Development Commission, acting pursuant to ORS 285C.606, has determined is an eligible project under ORS 285C.600 to 285C.635 shall be subject to assessment and taxation as provided in this section.

(2)(a) The following portions of the real market value of the eligible project, increased annually for growth at the rate of three percent, shall be taxable at the taxable portion's assessed value under ORS 308.146:

(A) [*The minimum cost of the project under ORS 285C.606 (1)(c)(A)*] **\$100 million, adjusted annually for inflation since 2024 based on the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, and rounded to the nearest multiple of \$100,000; or**

(B) If the project is located in a rural area as defined in ORS 285C.600:

(i) [*\$25*] **\$40 million** for a project with a total cost of not more than \$500 million.

(ii) [*\$50*] **\$75 million** for a project with a total cost of more than \$500 million and not more than \$1 billion.

(iii) [*\$100*] **\$150 million** for a project with a total cost of more than \$1 billion.

(b) The taxable portion of real market value, as adjusted, shall be allocated as follows until the entire amount is assigned: first to land, second to buildings, third to real property machinery and equipment and last to personal property.

(c) The remainder of the real market value shall be exempt from taxation for a period of 15 years from the beginning of the tax year after the earliest of the following dates:

(A) The date the property is certified for occupancy or, if no certificate of occupancy is issued, the date the property is used to produce a product for sale; or

(B) The expiration of the exemption for commercial facilities under construction under ORS 307.330.

(3) If the real market value of the property falls below the value determined under subsection (2)(a) of this section, the owner or lessee shall pay taxes only on the assessed value of the property.

(4) Notwithstanding subsection (1) of this section, real or personal property that has received an exemption under ORS 285C.175 may not be assessed under this section.

(5) The Department of Revenue may adopt rules and prescribe forms that the department determines are necessary for administration of this section.

(6) The determination by the Oregon Business Development Commission that a project is an eligible project that may receive a tax exemption under this section shall be conclusive, so long as the property included in the eligible project is constructed and installed in accordance with the application approved by the commission.

(7) Notwithstanding subsection (1) of this section, if the owner or lessee of property exempt under this section fails to pay the fee required under ORS 285C.609 (4)(b) by the end of the tax year in which it is due, the exemption shall be revoked and the property shall be fully taxable for the following tax year and for each subsequent tax year for which the fee remains unpaid. If an unpaid fee is paid after the exemption is revoked, the property shall again be eligible for the exemption provided under this section, beginning with the tax year after the payment is made. Reinstatement of the exemption under this subsection shall not extend the 15-year exemption period provided for in subsection (2)(c) of this section.

SECTION 40. ORS 285C.600 is amended to read:

285C.600. As used in ORS 285C.600 to 285C.635:

(1) “Business firm” has the meaning given that term in ORS 285C.050.

(2) **“Consumer Price Index for All Urban Consumers, West Region” means the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.**

(3) “Eligible project” means a project that meets criteria established by the Oregon Business Development Commission to be exempt from property taxation under ORS 307.123.

(4) “First-source hiring agreement” has the meaning given that term in ORS 285C.050.

(5) “Newly created jobs” means, for an eligible project, total jobs less retained jobs.

(6) “Publicly funded job training provider” has the meaning given that term in ORS 285C.050.

(7) “Rural area” means an area located entirely outside of the urban growth boundary of a city with a population of 40,000 or more, as the urban growth boundary is acknowledged on the date on which an applicant submits an application, pursuant to rules adopted by the Oregon Business Development Department, for property tax exemption under ORS 307.123.

(8) “Strategic investment zone” means a geographic area established under ORS 285C.623, within which the property of eligible projects may be exempt from property taxation under ORS 307.123.

APPLICABILITY CLAUSES

SECTION 41. (1) The amendments to ORS 285C.606 by section 36 of this 2023 Act apply to property determined to be an eligible project on or after the effective date of this 2023 Act for property tax years beginning on or after July 1, 2024.

(2) The amendments to ORS 285C.609 by section 38 of this 2023 Act apply to agreements negotiated by counties, cities and ports on or after the effective date of this 2023 Act for property tax years beginning on or after July 1, 2024.

(3) The amendments to ORS 307.123 by section 39 of this 2023 Act apply to property determined to be an eligible project on or after the effective date of this 2023 Act for property tax years beginning on or after July 1, 2024.

SECTION 42. The amendments to ORS 285C.623 by section 37 of this 2023 Act apply to property tax years beginning on or after July 1, 2024.

SECTION 43. The Legislative Revenue Officer shall conduct a review of the strategic investment program established under ORS 285C.600 to 285C.635 and 307.123. Not later than October 1, 2034, the officer shall submit a report of the findings of the review, in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to revenue, and may include recommendations for legislation in the report.

SECTION 44. Section 6, chapter 905, Oregon Laws 2007, as amended by section 5, chapter 757, Oregon Laws 2015, and section 11, chapter 82, Oregon Laws 2022, is amended to read:

Sec. 6. (1) ORS 285C.615 and 285C.635 apply to:

(a) Tax years beginning on or after January 1, 2009.

(b) Income taxes attributable to eligible projects that first become exempt from property taxation under ORS 307.123 on or after January 1, 2008.

(2) Distributions under ORS 285C.635 (3) may not be made after July 15, [2025] 2030.

SCHOOL DISTRICT FEE IN LIEU OF PROPERTY TAX

SECTION 45. ORS 285C.067 is amended to read:

285C.067. (1) **Prior to designating an enterprise zone under ORS 285C.065 or 285C.250:**

(a) [A] **The governing body of the** city, county or port [*that seeks*] **seeking** to designate [*an*] **the** enterprise zone [*under ORS 285C.065 or 285C.250*] shall consult with all local taxing districts with territory in the zone [*prior to designating the zone*].

(b) **The governing bodies of the zone sponsor and each school district as defined in ORS 332.002 (2) with territory in the enterprise zone shall set a rate for the school support fee imposed pursuant to sections 48 (2) and 51 (2) of this 2023 Act that is at least 15 percent and not more than 30 percent. The rate shall apply to all qualified property and facilities granted exemption under ORS 285C.175 or 285C.409, respectively, located in the enterprise zone.**

(2) The Oregon Business Development Department may adopt rules on the consultations required under subsection (1) of this section and procedures related to the consultations.

SECTION 46. ORS 285C.160 is amended to read:

285C.160. (1) An eligible business firm seeking authorization under ORS 285C.140 and the sponsor of the enterprise zone in which the firm intends to invest may enter into a written agreement to extend the period during which the qualified property is exempt from taxation under ORS 285C.175 if the firm complies with the terms of the agreement.

(2) The period for which the qualified property is to continue to be exempt must be set forth in the agreement and may not exceed two additional tax years **for which a school support fee must be paid in accordance with section 48 of this 2023 Act.**

(3) In order for an agreement under this section to extend the period of exemption, the agreement must be executed on or before the date on which the firm is authorized, and:

(a) If the enterprise zone is a rural enterprise zone or an urban enterprise zone located inside a metropolitan statistical area of fewer than 400,000 residents, the agreement must require that the firm:

(A)(i) Annually compensate all new employees hired by the firm at an average rate of at least 150 percent of the county average annual wage for each assessment year during the tax exemption period, as determined at the time of authorization; or

(ii) If the enterprise zone is located in a qualified rural county, annually compensate all new employees hired by the firm at an average rate of at least 130 percent of the county average annual wage for each assessment year during the tax exemption period, as determined at the time of authorization; and

(B) Meet any additional requirement that the sponsor may reasonably request.

(b) Notwithstanding paragraph (a)(A) of this subsection, the average wage received by the newly hired employees must equal or exceed 100 percent of the average wage in the county.

(c) If the enterprise zone is an urban enterprise zone located inside a metropolitan statistical area of 400,000 residents or more, the agreement must require that the firm meet any additional requirement the sponsor may reasonably require.

(4) If a firm enters into an agreement under this section that includes a compensation requirement under subsection (3)(a)(A) of this section and the firm subsequently submits one or more statements of continued intent under ORS 285C.165, notwithstanding the terms of the agreement made under this section, for each statement of continued intent submitted, the county average annual wage under subsection (3)(a)(A) of this section shall be adjusted to a level that is current with the statement.

SECTION 47. Section 48 of this 2023 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 48. (1) As used in this section, “affected school district” means a school district as defined in ORS 332.002 (2) in which the qualified property of a business firm granted exemption under ORS 285C.175 is located.

(2)(a) An agreement entered into under ORS 285C.160 by the governing body of a zone sponsor and a business firm shall provide for a school support fee to be paid in lieu of the property taxes that would otherwise be imposed on the business firm’s qualified property.

(b) The amount of the school support fee of each affected school district shall equal the respective rate set under ORS 285C.067 (1)(b) multiplied by the property taxes that would, but for the exemption, be due on the qualified property for each property tax year to which the agreement relates.

(c) The agreement may also include:

(A) A rate of interest and a penalty to be imposed on delinquent fee payments;

(B) A means and schedule for curing a delinquent fee payment; and

(C) Any other provisions the zone sponsor and business firm agree upon that do not conflict with this section.

(3)(a) On or before November 1 following the beginning of each of the two additional tax years agreed upon under ORS 285C.160, the governing body of the zone sponsor shall provide to the governing body of each affected school district all information necessary for the affected school district to collect the fee directly from the business firm.

(b) On or before each following December 1, the governing body of each affected school district shall send to the business firm a notice of the required fee payment. The fee shall be due not later than December 31 of the same year.

(4) Each affected school district shall be responsible for making refunds to business firms of overpayments of the district’s school support fee and any interest or penalty imposed on the fee.

(5)(a) If a fee payment is delinquent for more than 60 days following the date of delinquency or any later date allowed for curing the delinquency, the governing body of each affected school district shall give written notice of the delinquency to the business firm and the assessor of the county in which the affected school district is situated.

(b) Upon receipt of the written notice under paragraph (a) of this subsection, the assessor shall:

(A) Disqualify the property for the property tax years, if any, for which exemption under ORS 285C.175 would otherwise be allowable following the disqualifying event; and

(B) Impose the amount of the outstanding fee along with any amounts of interest or penalty imposed on the fee.

(6) The amount determined to be due under subsection (5) of this section:

(a) May be paid to the tax collector before completion of the next general property tax roll pursuant to ORS 311.370; and

(b) Shall be added to the tax extended against the property on the next general property tax roll.

(7) Amounts collected under this section shall be deemed to have been imposed for the property tax year to which the fee payment relates.

(8) The fee shall be considered moneys received in lieu of property taxes for purposes of ORS 327.011 (1)(g).

(9) The amount of a fee and any interest or penalty imposed on the fee, and the disqualification of qualified property under this section, may be appealed to the Oregon Tax Court under ORS 305.404 to 305.560.

SECTION 49. ORS 285C.403 is amended to read:

285C.403. (1)(a) [Any] A business firm proposing to apply for the tax exemption provided under ORS 285C.409 shall, before the commencement of construction or installation of property or improvements at a location in a rural enterprise zone and before the hiring of employees, apply for certification with the sponsor of the zone and with the county assessor of the county or counties in

which the zone is located. *[The application shall be made on a form prescribed by the Department of Revenue.]*

(b) A business firm may not be certified under this section if it is significantly engaged in operating a fulfillment center within the rural enterprise zone from which deliveries are made to retail purchasers within, or in the region surrounding, the rural enterprise zone.

(2) *[The]* **An application for certification shall be made on a form prescribed by the Department of Revenue and shall** contain the following information:

(a) A description of the firm's proposed business operations and facility in the rural enterprise zone;

(b) A description and estimated cost or value of the property or improvements to be constructed or installed at the facility;

(c) An estimate of the number of employees at the facility that will be hired by the firm;

(d) A commitment to meet the applicable requirements of ORS 285C.412;

(e) A commitment to satisfy all additional conditions agreed to pursuant to the written agreement between the rural enterprise zone sponsor and the business firm under subsection (3)(c) of this section; and

(f) Any other information considered necessary by the Department of Revenue.

(3) The sponsor and the county assessor shall certify the business firm by approving the application if the sponsor and the county assessor determine that all of the following requirements have been met:

(a) The governing body of the county and city in which the facility is located has adopted a resolution approving the property tax exemption for the facility.

(b) The business firm has committed to meet the applicable requirements of ORS 285C.412.

(c) The business firm has entered into a written agreement with the sponsor of the rural enterprise zone that *[may include any additional requirements that the sponsor may reasonably request, including but not limited to contributions for local services or infrastructure benefiting the facility. The written agreement shall state the number of consecutive tax years for which the facility, following commencement of operations, is to be exempt from property tax under ORS 285C.409. The agreement may not provide for a period of exemption that is less than seven consecutive tax years or more than 15 consecutive tax years. If the agreement is silent on the number of tax years for which the facility is to be exempt following placement in service, the exemption shall be for seven consecutive tax years]* **conforms to subsection (4) of this section.**

(d) When the written agreement required under paragraph (c) of this subsection is executed, the facility is located in:

(A) A qualified rural county; or

(B) A county with chronically low income or chronic unemployment, based on the most recently revised annual data available.

(4)(a)(A) The written agreement required under subsection (3)(c) of this section shall state the number of consecutive tax years for which the facility, following commencement of operations, is to be exempt from property tax under ORS 285C.409.

(B) The agreement may not provide for a period of exemption that is less than seven consecutive tax years or more than 15 consecutive tax years.

(C) If the agreement is silent on the number of tax years for which the facility is to be exempt following placement in service, the exemption shall be for seven consecutive tax years.

(b) The agreement must require a school support fee to be paid in accordance with section 51 of this 2023 Act.

(c) The agreement may include any additional requirements that the sponsor may reasonably request, including but not limited to contributions for local services or infrastructure benefiting the facility.

~~[(4)]~~ (5) The approval of an application by both the sponsor and the county assessor under subsection (3) of this section shall be prima facie evidence that the business firm will qualify for the property tax exemption under ORS 285C.409.

~~[(5)]~~ (6) The sponsor and the county assessor shall provide copies of an approved application to the applicant, the Department of Revenue and the Oregon Business Development Department.

~~[(6)]~~ (7) If the sponsor or the county assessor fails or refuses to certify the business firm, the business firm may appeal to the Oregon Tax Court under ORS 305.404 to 305.560. The business firm shall provide copies of the firm's appeal to the sponsor, the county assessor, the Oregon Business Development Department and the Department of Revenue.

SECTION 50. Section 51 of this 2023 Act is added to and made a part of ORS 285C.400 to 285C.420.

SECTION 51. (1) As used in this section, "affected school district" means a school district as defined in ORS 332.002 (2) in which the facility of a business firm granted exemption under ORS 285C.409 is located.

(2)(a) An agreement entered into under ORS 285C.403 by the governing body of a zone sponsor and a business firm shall provide for a school support fee to be paid in lieu of the property taxes that would otherwise be imposed on the business firm's facility for each year of exemption after the fifth year.

(b) The amount of the school support fee of each affected school district shall equal the respective rate set under ORS 285C.067 (1)(b) multiplied by the property taxes that would, but for the exemption, be due on the facility for each property tax year after the fifth year of exemption.

(c) The agreement may also include:

(A) A rate of interest and a penalty to be imposed on delinquent fee payments;

(B) A means and schedule for curing a delinquent fee payment; and

(C) Any other provisions the zone sponsor and business firm agree upon that do not conflict with this section.

(3)(a) On or before November 1 following the beginning of the sixth and each subsequent property tax year for which an exemption under ORS 285C.409 is granted, the governing body of the zone sponsor shall provide to the governing body of each affected school district all information necessary for the affected school district to collect the fee directly from the business firm.

(b) On or before each following December 1, the governing body of each affected school district shall send to the business firm a notice of the required fee payment. The fee shall be due not later than December 31 of the same year.

(4) Each affected school district shall be responsible for making refunds to business firms of overpayments of the district's school support fee and any interest or penalty imposed on the fee.

(5)(a) If a fee payment is delinquent for more than 60 days following the date of delinquency or any later date allowed for curing the delinquency, the governing body of each affected school district shall give written notice of the delinquency to the business firm and the assessor of the county in which the affected school district is situated.

(b) Upon receipt of the written notice under paragraph (a) of this subsection, the assessor shall:

(A) Disqualify the property for the property tax years, if any, for which exemption under ORS 285C.409 would otherwise be allowable following the disqualifying event; and

(B) Impose the amount of the outstanding fee along with any amounts of interest or penalty imposed on the fee.

(6) The amount determined to be due under subsection (5) of this section:

(a) May be paid to the tax collector before completion of the next general property tax roll pursuant to ORS 311.370; and

(b) Shall be added to the tax extended against the property on the next general property tax roll.

(7) Amounts collected under this section shall be deemed to have been imposed for the property tax year to which the fee payment relates.

(8) The fee shall be considered moneys received in lieu of property taxes for purposes of ORS 327.011 (1)(g).

(9) The amount of a fee and any interest or penalty imposed on the fee, and the disqualification of a facility under this section, may be appealed to the Oregon Tax Court under ORS 305.404 to 305.560.

SECTION 52. Section 53 of this 2023 Act is added to and made a part of ORS 285C.050 to 285C.250.

SECTION 53. For enterprise zones designated before the effective date of this 2023 Act, notwithstanding the deadline provided in ORS 285C.067 (1), the governing bodies of the zone sponsor and each school district as defined in ORS 332.002 (2) with territory in the enterprise zone may, at any time following the effective date of this 2023 Act, and otherwise in accordance with ORS 285C.067, set a rate for the school support fee imposed pursuant to sections 48 (2) and 51 (2) of this 2023 Act.

SECTION 54. Section 53 of this 2023 Act is repealed on January 2, 2028.

APPLICABILITY CLAUSES

SECTION 55. (1) The amendments to ORS 285C.067 (1)(b) by section 45 of this 2023 Act apply:

(a) For enterprise zones designated before the effective date of this 2023 Act, to agreements entered into under ORS 285C.160 or 285C.403 on or after the effective date of the school support fee rate set by the zone sponsor and the school district under section 53 of this 2023 Act.

(b) For enterprise zones designated on or after the effective date of this 2023 Act, to agreements entered into under ORS 285C.160 or 285C.403 on or after the effective date of this 2023 Act.

(2) Section 48 of this 2023 Act and the amendments to ORS 285C.160 by section 46 of this 2023 Act apply to agreements entered into under ORS 285C.160 on or after the effective date of this 2023 Act for property tax years beginning on or after July 1, 2024.

(3) Section 51 of this 2023 Act and the amendments to ORS 285C.403 (3) and (4) by section 49 of this 2023 Act apply to written agreements entered into under ORS 285C.403 (3)(c) on or after the effective date of this 2023 Act for property tax years beginning on or after July 1, 2024.

(4) The amendments to ORS 285C.403 (1) and (2) by section 49 of this 2023 Act apply to applications for certification submitted on or after the effective date of this 2023 Act.

CAPTIONS

SECTION 56. The unit captions used in this 2023 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.

EFFECTIVE DATE

SECTION 57. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.

Passed by House June 21, 2023

.....
Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 24, 2023

.....
Rob Wagner, President of Senate

Received by Governor:

.....M,....., 2023

Approved:

.....M,....., 2023

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2023

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Secretary of State