# House Bill 2009

Sponsored by Representatives NATHANSON, RAYFIELD


## 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.**

Establishes income and corporate excise tax credit allowed for qualified research activities and sets increased maximum credit amount. Limits use of credit to semiconductor or other advanced manufacturing industries. Applies to tax years beginning on or after January 1, 2024, and before January 1, 2030.

Extends sunset date of enterprise zone program and modifies related provisions. Provides limitation on number of years for which property in enterprise zone may be exempt from property taxes imposed by school districts.

Creates sunset date for strategic investment program and modifies related provisions. Disallows agreements entered into on or after July 1, 2030.

Increases minimum total cost of eligible project under strategic investment program and indexes cost to increase, if any, in consumer price index. Decreases maximum amount of personal income tax revenue that may be distributed per year to any county under strategic investment program. Extends sunset date for gain share program. Applies to property tax years beginning on or after July 1, 2024.

Requires addition to federal taxable income of amounts excluded as gain attributable to investment in federal qualified opportunity zone. Allows subtraction in later tax year if gain is temporarily deferred at federal level. Applies to tax years beginning on or after January 1, 2024, and to amounts initially invested in non-Oregon opportunity zones on or after January 1, 2024.

Takes effect on 91st day following adjournment sine die.


## A BILL FOR AN ACT

Relating to revenue; creating new provisions; amending ORS 276A.256, 285C.068, 285C.085, 285C.115, 285C.160, 285C.165, 285C.245, 285C.250, 285C.255, 285C.406, 285C.409, 285C.412, 285C.606, 285C.609, 285C.623, 285C.635, 307.123, 314.772, 316.502, 317.850 and 318.031 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 4 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 or 318 shall be allowed to eligible taxpayers for increases in qualified research expenses and basic research payments. The credit shall be determined**

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.

**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 25 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) The following do not apply to the credit allowable under this section:**

**(A) Section 41(c)(4) of the Internal Revenue Code (relating to the alternative incremental credit).**

**(B) Section 41(h) of the Internal Revenue Code (relating to termination of the federal credit).**

**(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 $5 million, if the taxpayer employs fewer than 150 employees, or $10 million for all other taxpayers.**

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

**<u>SECTION 3.</u> (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, at least 500 employees but fewer than 2,000 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 50 percent.**

**(3) This section applies only to taxpayers with fewer than 2,000 employees, wherever located, 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 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) The department shall consider applications for certification under this section in the chronological order in which the applications are filed with the department. If the department determines that an applicant taxpayer is a qualified semiconductor company as that term is defined under section 2 of this 2023 Act, and that the proposed research and development activities of the taxpayer 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, the department shall issue a certification to the taxpayer.**

**(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.**

**SECTION 5. The total amount of potential tax credits for all qualified semiconductor companies in this state may not, at the time of preliminary certification under section 4 of this 2023 Act, exceed $ ________ million for any biennium.**

**SECTION 6.** 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 7.** 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 8.** 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 gleaning), 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)**.

**SECTION 9.** ORS 318.031, as amended by section 12, chapter 34, Oregon Laws 2022, and section 16, chapter 115, Oregon Laws 2022, is amended to read:

318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter 317 shall be administered as uniformly as possible (allowance being made for the difference in imposition of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are incorporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523, 315.533, 315.593 and 315.643 and section 2, chapter 34, Oregon Laws 2022, and section 8, chapter 115, Oregon Laws 2022, **and section 2 of this 2023 Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

**APPLICABILITY CLAUSE**

**SECTION 10. Sections 2 to 4 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 11.** 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*] **2030**;

(b) A business firm may not obtain authorization under ORS 285C.140 after June 30, [*2025*] **2030**; and

(c) An enterprise zone, except for a reservation enterprise zone or a reservation partnership zone, that is in existence on June 29, [*2025*] **2030**, is terminated on June 30, [*2025*] **2030**.

(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*] **2030**; and

(b) A business firm may obtain authorization under ORS 285C.140 after June 30, [*2025*] **2030**:

(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 12.** 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*] **2030**; 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 13. Section 14 of this 2023 Act is added to and made a part of ORS 285C.050 to 285C.250.**

**SECTION 14. (1) 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 30 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.**

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

**SECTION 15. Section 16 of this 2023 Act is added to and made a part of ORS 285C.400 to 285C.420.**

**SECTION 16. (1) 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 30 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.**

**(2) Upon request, the Oregon Business Development 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.050 to 285C.250.**

**SECTION 18. (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 19. Section 18 of this 2023 Act is repealed on January 2, 2025.**

## INFRASTRUCTURE IMPACT OF ENTERPRISE ZONES

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

**SECTION 21. 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 22. Section 23 of this 2023 Act is added to and made a part of ORS 285C.400 to 285C.420.**

**SECTION 23. 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.**

## EXCLUSION OF SCHOOL DISTRICT TAXES

**SECTION 24.** 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)**(a)** 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.

**(b) Notwithstanding ORS 285C.175, during the period of an extension agreed to pursuant to this section, the property of a business firm shall not be exempt from ad valorem property taxes imposed by a school district as defined in ORS 332.002 (2).**

(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 25.** ORS 285C.409 is amended to read:

285C.409. (1)**(a)** A facility of a certified business firm is exempt from ad valorem property taxation:

[*(a)*] **(A)** For the first tax year following the calendar year in which the business firm is certified under ORS 285C.403 or after which construction or reconstruction of the facility commences, whichever event occurs later;

[*(b)*] **(B)** For each subsequent tax year in which the facility is not yet in service as of the assessment date; and

[*(c)*] **(C)** For a period of at least seven consecutive tax years but not more than 15 consecutive tax years, as provided in the written agreement between the business firm and the rural enterprise zone sponsor under ORS 285C.403 (3)(c), if the facility satisfies the requirements of ORS 285C.412. The period described in this paragraph shall commence as of the first tax year in which the facility is in service as of the assessment date.

**(b) Notwithstanding paragraph (a) of this subsection, beginning with the sixth year of exemption, the facility of a business firm shall not be exempt from ad valorem property taxes imposed by a school district as defined in ORS 332.002 (2).**

(2) An exemption under this section may not be allowed for real or personal property that has received a property tax exemption under ORS 285C.170 or 285C.175.

(3) For each tax year that the facility is exempt from taxation under this section, the county assessor shall:

(a) Enter on the assessment and tax roll, as a notation, the real market value and assessed value of the facility.

(b) Enter on the assessment and tax roll, as a notation, the amount of tax that would be due if the facility were not exempt.

(c) Indicate on the assessment and tax roll that the property is exempt and is subject to potential additional taxes as provided in ORS 285C.420 by adding the notation "enterprise zone exemption (potential additional tax)."

(4) The amount determined under subsection (3)(b) of this section and the name of the business firm shall be reported to the Department of Revenue on or before December 31 of each tax year so that the department may compute the distributions described in ORS 317.131.

(5) The following property may not be exempt from property taxation under this section:

(a) Land.

(b) Any property that existed at the facility on an assessment date before the assessment date for the first tax year for which property of the firm is exempt under this section.

**SECTION 26.** ORS 285C.412 is amended to read:

285C.412. In order for a facility of a business firm to continue to be exempt from ad valorem property taxation under ORS 285C.409 for a tax year following the first assessment date on which the facility is in service, all of the conditions of any one of the alternative subsections in this section must be met:

(1) In order for the exemption under ORS 285C.409 [*(1)(c)*] **(1)(a)(C)** to be allowable pursuant to this subsection:

(a) By the end of the calendar year in which the facility is placed in service, the total cost of the facility exceeds the lesser of $25 million or one percent of the real market value of all nonexempt taxable property in the county in which the facility is located, as determined for the assessment year in which the business firm is certified (and rounded to the nearest $10 million of such value);

(b) The business firm hires or will hire at least 75 full-time employees at the facility by the end of the fifth calendar year following the year in which the facility is placed in service; and

(c) The annual average compensation for employees, based on payroll, at the business firm's facility must be at least 150 percent of the average wage in the county in which the facility is located, or, if the facility is located in a qualified rural county, determined as of the date on which the written agreement between the zone sponsor and the business firm was executed, the annual average compensation must be at least 130 percent of the average wage in the county in which the facility is located. This requirement may be initially met in any year during the first five years after the year in which the facility is placed in service, and thereafter is met if:

(A) The annual average compensation at the facility for the year equals or exceeds 150 percent of the average wage in the county for the year in which the requirement is initially met or, for a facility located in a qualified rural county, determined as of the date on which the written agreement between the zone sponsor and the business firm was executed, the annual average compensation at the facility for the year equals or exceeds 130 percent of the average wage in the county for the year in which the requirement is initially met; and

(B) The average wage at the facility equals or exceeds 100 percent of the average wage in the county.

(2) In order for the exemption under ORS 285C.409 [*(1)(c)*] **(1)(a)(C)** to be allowable pursuant to this subsection:

(a) The facility meets the total cost requirements set forth in subsection (1)(a) of this section;

(b) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section; and

(c)(A) The business firm hires or will hire at least 10 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service, and at the time that the business firm is certified, the location of the facility is in a county with a population of 10,000 or fewer; or

(B) The business firm hires or will hire at least 35 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service, and at the time that the business firm is certified, the location of the facility is in a county with a population of 40,000 or fewer.

(3) In order for the exemption under ORS 285C.409 [*(1)(c)*] **(1)(a)(C)** to be allowable pursuant to this subsection:

(a) By the end of the calendar year in which the facility is placed in service, the total cost of the facility exceeds the lesser of $12.5 million or one-half of one percent of the real market value of all nonexempt taxable property in the county in which the facility is located, as determined for the assessment year in which the business firm is certified (and rounded to the nearest $10 million of such value);

(b) At the time that the business firm is certified, the location of the facility is 10 or more miles from Interstate Highway 5, as measured between the two closest points between the facility site and anywhere along that interstate highway;

(c) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section; and

(d)(A) The business firm hires or will hire at least 50 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service; or

(B) The business firm satisfies the requirements of subsection (2)(c)(A) or (B) of this section.

(4) In order for the exemption under ORS 285C.409 [*(1)(c)*] **(1)(a)(C)** to be allowable pursuant to this subsection:

(a) Within three years either before or after the property tax year in which the facility is placed in service, the business firm places one or more other facilities in the same or another enterprise zone for which the business firm is certified and otherwise meets the requirements of ORS 285C.400 to 285C.420;

(b) The total cost of all facilities of the business firm exceeds $25 million by the end of the calendar year in which the last such facility is placed in service;

(c) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section independently for each facility of the firm; and

(d) The business firm hires or will hire a total of at least 100 full-time employees at all of the firm's facilities by the end of the fifth calendar year following the year in which the first such facility is placed in service.

(5) In order for the exemption under ORS 285C.409 [*(1)(c)*] **(1)(a)(C)** to be allowable pursuant to this subsection:

(a) By the end of the calendar year in which the facility is placed in service, the total cost of the facility exceeds $200 million;

(b) At the time that the business firm is certified, the location of the facility meets the siting requirements of subsection (3)(b) of this section;

(c) The business firm hires or will hire at least 10 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service; and

(d) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section.

**SECTION 27.** 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.

**TERMINATION**

**SECTION 28.** 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 rea-*

*sonable 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 29.** 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 30.** 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 31.** 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 32.** 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 33.** 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 CLAUSES

**SECTION 34. Sections 14, 16, 21 and 23 of this 2023 Act apply to agreements entered into on or after the effective date of this 2023 Act.**

**SECTION 35. The amendments to ORS 285C.160 and 285C.409 by sections 24 and 25 of this 2023 Act apply to exemptions first granted on or after the effective date of this 2023 Act for property tax years beginning on or after July 1, 2024.**

## 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)(a) 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 U.S. City Average Consumer Price Index 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.**

**(b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.**

[*(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, the city 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, 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 that constitute at least 75 percent of the property tax authority of all local taxing districts listed in ORS 198.010 or 198.180 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)**(A)** The county and, if the proposed eligible project will be located within a city, the city have entered into an agreement with the business firm, as described in this subsection.

**(B) At least one individual negotiating the agreement on behalf of the county or city must have completed a training program prescribed by the Oregon Business Development Department that includes, but is not limited to, applicable negotiation techniques.**

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

(6)(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, 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 that constitute at least 75 percent of the property tax authority of all local taxing districts listed in ORS 198.010 or 198.180 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 285C.635 is amended to read:

285C.635. (1)(a) Upon receipt of information compiled under ORS 285C.615, the Oregon Department of Administrative Services shall determine the annual amount of personal income tax revenue attributable to retained jobs and newly created jobs for each eligible project for which an eligible business firm received a property tax exemption under ORS 307.123.

(b) The amount of personal income tax revenue attributable to each eligible project under this subsection may not include personal income tax revenue attributable to the estimated incremental income tax revenues generated by an eligible employer in connection with a tax reimbursement arrangement or loan agreement that has been entered into under the Oregon Industrial Site Readiness Program established by ORS 285B.627.

(c) In determining the amount of personal income tax revenue attributable to each eligible project, the Oregon Department of Administrative Services may rely on reasonable techniques of estimation, if appropriate.

(2) Not later than May 15 of each fiscal year, the Oregon Department of Administrative Services

shall certify to the Department of Revenue, the Legislative Revenue Officer and the Legislative Fiscal Officer the amounts determined under subsection (1) of this section and the amounts described in subsection (3) of this section to be distributed by the Department of Revenue.

(3)(a) Not sooner than July 10 and not later than July 15 of the fiscal year immediately following the fiscal year in which the certification under subsection (2) of this section is made, the Department of Revenue shall distribute to each county in which an eligible project is located an amount equal to the total of:

(A) Twenty percent of the total annual amount of personal income tax revenue attributable to retained jobs for all eligible projects in the county as determined under subsection (1) of this section; and

(B) Fifty percent of the total annual amount of personal income tax revenue attributable to newly created jobs for all eligible projects in the county as determined under subsection (1) of this section.

(b) Notwithstanding paragraph (a) of this subsection, a county may not receive a distribution under this section in an amount greater than [*$16*] **$5** million for any year.

(c) The county shall distribute the amounts received under paragraphs (a) and (b) of this subsection to the taxing districts in the county in which an eligible project is located in a manner consistent with the distribution of the community services fee under ORS 285C.609 for the project.

(4) The Department of Revenue shall retain unreceipted revenue from the tax imposed under ORS chapter 316 in an amount necessary to make the distributions required under subsection (3) of this section. The department shall make the distributions out of the unreceipted revenue in lieu of paying the revenue over to the State Treasurer for deposit in the General Fund.

(5) The Oregon Department of Administrative Services shall adopt rules necessary to administer this section.

**SECTION 40.** 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); 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*] **$60** 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.

## APPLICABILITY CLAUSES

**SECTION 41. (1) The amendments to ORS 285C.606 by section 29 of this 2023 Act apply to business firms claiming exemption for eligible property under ORS 307.123 on or after the effective date of this 2023 Act and to property tax years beginning on or after July 1, 2024.**

**(2) The amendments to ORS 285C.609 by section 31 of this 2023 Act apply to agreements negotiated by counties and cities on or after the effective date of this 2023 Act and to property tax years beginning on or after July 1, 2024.**

**(3) The amendments to ORS 307.123 by section 33 of this 2023 Act apply to property determined to be an eligible project on or after the effective date of this 2023 Act and to property tax years beginning on or after July 1, 2024.**

**SECTION 42. The amendments to ORS 285C.623 and 285C.635 by sections 37 and 39 of this 2023 Act apply to property tax years beginning on or after July 1, 2024.**

**SECTION 43. Section 44 of this 2023 Act is added to and made a part of ORS 285C.600 to 285C.635.**

**SECTION 44. (1) An agreement described in ORS 285C.609 (4) may not take effect if entered into on or after July 1, 2030.**

**(2) Notwithstanding subsection (1) of this section, an agreement described in ORS 285C.609 (4) that is entered into before July 1, 2030, shall continue in effect for the full term of the agreement and may be used to support a request under ORS 285C.609 (1) made before, on or after July 1, 2030.**

**SECTION 45.** 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**.

## OPPORTUNITY ZONE DISCONNECT

**SECTION 46. Section 47 of this 2023 Act is added to and made a part of ORS chapter 316.**

**SECTION 47. (1) There shall be added to federal taxable income for Oregon tax purposes any gain that is excluded from federal taxable income under section 1400Z-2 of the Internal Revenue Code for the tax year.**

**(2) Any amount added to federal taxable income for Oregon tax purposes under subsection (1) of this section that under section 1400Z of the Internal Revenue Code is temporarily deferred gain may thereafter be subtracted from federal taxable income for Oregon tax purposes for the year in which the amount is includible in federal taxable income under section 1400Z-2(b) of the Internal Revenue Code.**

**(3) Any adjustment in basis of opportunity zone property allowed under section 1400Z of the Internal Revenue Code for federal tax purposes shall be disregarded for Oregon tax purposes.**

**SECTION 48. Section 49 of this 2023 Act is added to and made a part of ORS chapter 317.**

**SECTION 49. (1) There shall be added to federal taxable income for Oregon tax purposes any gain that is excluded from federal taxable income under section 1400Z-2 of the Internal Revenue Code for the tax year.**

**(2) Any amount added to federal taxable income for Oregon tax purposes under subsection (1) of this section that under section 1400Z of the Internal Revenue Code is temporarily deferred gain may thereafter be subtracted from federal taxable income for Oregon tax purposes for the year in which the amount is includible in federal taxable income under section 1400Z-2(b) of the Internal Revenue Code.**

**(3) Any adjustment in basis of opportunity zone property allowed under section 1400Z of the Internal Revenue Code for federal tax purposes shall be disregarded for Oregon tax purposes.**

## APPLICABILITY CLAUSE

**SECTION 50. (1) Except as provided in subsection (2) of this section, sections 47 and 49 of this 2023 Act apply to tax years beginning on or after January 1, 2023.**

**(2) For purposes of the increase in basis under section 1400Z-2(b)(2)(B)(iii) of the Internal Revenue Code or treatment under section 1400Z-2(c) of the Internal Revenue Code, sections 47 and 49 of this 2023 Act apply to all investment amounts, whenever invested.**

## CAPTIONS

**SECTION 51. 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**

<u>**SECTION 52.**</u> **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.**