

# House Bill 3253

Sponsored by Representative BYNUM (at the request of Oregon Business Council)

## 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**.

Creates income and corporate excise tax credits for investments in facilities used for manufacturing, siting of headquarters or research. Enhances credit amount for facility that provides environmental benefit.

Creates income tax credit for adding net full-time employment positions.

Restores corporate excise tax credit allowed for qualified research activities and sets increased maximum credit amount. Uses tiered credit percentages based on amount of increase in qualified research expenses. Provides for refundability of credit for taxpayer with fewer than 150 employees. Increases maximum amount of alternative qualified research credit allowed to taxpayer with insufficient increase in research expenses to claim standard credit.

Exempts from commercial activity subject to corporate activity tax amount of qualified research credit allowed against corporate excise tax.

Applies to tax years beginning on or after January 1, 2024, and before January 1, 2030.

Extends sunsets of certain programs providing economic incentives. Appropriates moneys for deposit in Small Business Expansion Loan Fund.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to economic incentives; creating new provisions; amending ORS 285B.627, 285C.255,  
3 285C.406, 314.772, 317.152, 317.154, 317.850 and 318.031 and section 6, chapter 911, Oregon Laws  
4 1989, and section 6, chapter 905, Oregon Laws 2007; and prescribing an effective date.

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

## 6 7 INVESTMENT, RENOVATION AND JOB CREATION TAX CREDIT

8  
9 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 315.**

10 **SECTION 2. (1) A credit is allowed against the taxes otherwise due under ORS chapter**  
11 **316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for expanding or lo-**  
12 **cating a qualified facility that is certified under sections 4 to 12 of this 2023 Act.**

13 **(2) Except as provided in subsection (3) of this section, the amount of the credit allowed**  
14 **shall be the least of:**

15 **(a) Ten percent of the amount the taxpayer has made in total qualifying investment in**  
16 **the qualified facility;**

17 **(b) \$20,000 for each net new full-time employment position filled by the taxpayer that has**  
18 **job duties associated with a qualified facility; or**

19 **(c) \$30 million, if the qualifying investment made in the first 12 months after preliminary**  
20 **certification under section 7 of this 2023 Act exceeds \$250,000.**

21 **(3) If the qualifying investment is a qualified environmental investment, the amount of**  
22 **the credit allowed shall be the lesser of:**

23 **(a) Twenty percent of the amount the taxpayer has made in total qualifying investment**  
24 **in the qualified facility;**

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

1 (b) \$25,000 for each net new full-time employment position filled by the taxpayer that has  
 2 job duties associated with a qualified facility; or

3 (c) \$50 million, if the qualifying investment made in the first 12 months after preliminary  
 4 certification under section 7 of this 2023 Act exceeds \$250,000.

5 (4) Only capital investments in a qualified facility that are made not more than 36 months  
 6 prior to the submission by the taxpayer of an application for preliminary certification are  
 7 included in the computation of the credit.

8 (5) The credit shall be claimed over five consecutive tax years, with the amount allowed  
 9 in each of the five tax years not exceeding the lesser of 20 percent of the total or the tax  
 10 liability of the taxpayer.

11 (6) In order for a tax credit to be allowable under this section:

12 (a) The qualified facility must be located in Oregon.

13 (b) At least 51 percent of the net new full-time employment positions with job duties as-  
 14 sociated with the qualified facility must pay a wage that equals or exceeds 125 percent, or  
 15 100 percent in the case of a qualified facility in a rural area, of the median annual wage for  
 16 production occupations in this state.

17 (c) All net new full-time employment positions must include health insurance coverage  
 18 for the employees for which the taxpayer pays at least 65 percent of the premium or mem-  
 19 bership cost.

20 (d) The qualified facility must have received final certification from the Director of the  
 21 Oregon Business Development Department under sections 4 to 12 of this 2023 Act.

22 (7) The Department of Revenue may require that the Oregon Business Development De-  
 23 partment provide information about the final certification issued under section 8 of this 2023  
 24 Act, if required by the Department of Revenue as provided in ORS 315.058.

25 (8) Each taxpayer shall maintain a record of the written certification of the amount of  
 26 the tax credit under this section for a period of at least five years after the tax year in which  
 27 the credit is claimed and provide the written certification to the Department of Revenue  
 28 upon request.

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

31 (10) Any tax credit otherwise allowable under this section that is not used by the tax-  
 32 payer in a particular tax year may be carried forward and offset against the taxpayer's tax  
 33 liability for the next succeeding tax year. Any credit remaining unused in the next succeed-  
 34 ing tax year may be carried forward and used in the second succeeding tax year, and likewise  
 35 any credit not used in that second succeeding tax year may be carried forward and used in  
 36 the third succeeding tax year, and any credit not used in that third succeeding tax year may  
 37 be carried forward and used in the fourth succeeding tax year, but may not be carried for-  
 38 ward for any tax year thereafter.

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

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

42 (b) If a change in the status of the taxpayer from resident to nonresident or from non-  
 43 resident to resident occurs, the credit allowed by this section shall be determined in a man-  
 44 ner consistent with ORS 316.117.

45 (c) If a change in the tax year of the taxpayer occurs as described in ORS 314.085, or if

1 the department terminates the taxpayer's tax year under ORS 314.440, the credit allowed  
2 under this section shall be prorated or computed in a manner consistent with ORS 314.085.

3 (12) A person that has earned a tax credit under this section may transfer the credit to  
4 a taxpayer subject to tax under ORS chapter 316, 317 or 318. The transfer must comply with  
5 ORS 315.056.

6 (13) The Director of the Oregon Business Development Department may order the sus-  
7 pension or revocation of a final certification issued under section 8 of this 2023 Act, as pro-  
8 vided in ORS 315.061.

9 (14) The credit allowed under this section is not in lieu of any depreciation or amorti-  
10 zation deduction for the qualified facility to which the taxpayer otherwise may be entitled for  
11 purposes of ORS chapter 316, 317 or 318 for such year.

12 (15) The taxpayer's adjusted basis for determining gain or loss may not be decreased by  
13 any tax credits allowed under this section.

14 (16) The definitions in section 4 of this 2023 Act apply to this section.

15 **SECTION 3.** Sections 4 to 12 of this 2023 Act are added to and made a part of ORS  
16 chapter 285C.

17 **SECTION 4.** As used in sections 2 and 4 to 12 of this 2023 Act:

18 (1) "Capital investment" means an expenditure to acquire, lease or improve land,  
19 buildings, machinery, equipment or fixtures or other property that is used in operating a  
20 business.

21 (2) "Environmental benefit" means:

22 (a) The prevention, control or reduction of air pollution or water pollution;

23 (b) The prevention, control or reduction of the generation or storage of solid waste, as  
24 defined in ORS 459.005, or hazardous waste, as defined in ORS 466.005; or

25 (c) The recycling or environmentally safe disposal of used oil.

26 (3) "Facility" means a single parcel, contiguous parcels or parcels that are separated only  
27 by a public thoroughfare or right-of-way, of owned or leased land in this state, the structures  
28 and personal property contained on the land or any part of the structures occupied by the  
29 owner.

30 (4) "Headquarters" means a principal central administrative office where primary head-  
31 quarters related functions and services are performed, including financial, personnel, ad-  
32 ministrative, legal, planning and similar business functions.

33 (5)(a) "Manufacturing" means fabricating, producing or manufacturing raw or prepared  
34 materials into usable products, imparting new forms, qualities, properties and combinations.

35 (b) "Manufacturing" does not include generating electricity.

36 (6) "Qualified environmental investment" means the amount of an investment in goods  
37 and services reasonably necessary to produce an environmental benefit.

38 (7) "Qualified facility" means a facility in this state that devotes at least 80 percent of  
39 the property and payroll at the facility to one or more of the following:

40 (a) Qualified manufacturing.

41 (b) Qualified headquarters.

42 (c) Qualified research.

43 (d) An environmental benefit.

44 (8) "Qualified headquarters" means a global, national or regional headquarters for a  
45 taxpayer that derives at least 65 percent of its revenue from sales made outside of this state.

1 (9) “Qualified manufacturing” means manufacturing tangible products in this state if at  
 2 least 65 percent of the product is at least one of the following:

- 3 (a) Directly sold out of state.
- 4 (b) Directly sold to one or more qualified facilities.

5 (10) “Qualified research” has the meaning given that term in section 41(d) of the Internal  
 6 Revenue Code, except that the research must be conducted by a taxpayer involved in manu-  
 7 facturing that derives at least 65 percent of its revenue from out-of-state sales.

8 (11)(a) “Qualifying investment” means investment in land, buildings, machinery, equip-  
 9 ment and fixtures for expansion of an existing qualified facility or establishment of a new  
 10 qualified facility in this state. If the qualified facility is a build-to-suit facility leased to the  
 11 taxpayer, “qualifying investment” includes the costs prescribed in this paragraph that are  
 12 spent by the third-party developer with respect to the qualified facility.

13 (b) “Qualifying investment” does not include relocating an existing qualified facility in  
 14 this state to another location in this state without additional capital investment of at least  
 15 \$250,000.

16 (12) “Rural area” has the meaning given that term in ORS 285C.350.

17 **SECTION 5.** For a qualified facility, the total amount of potential tax credit that receives  
 18 a preliminary certification from the Director of the Oregon Business Development Depart-  
 19 ment may not exceed \$30 million.

20 **SECTION 6.** (1) Prior to the placement in service of a qualified facility, any person may  
 21 apply to the Oregon Business Development Department for preliminary certification under  
 22 section 7 of this 2023 Act if:

23 (a) The qualified facility complies with the standards adopted by the Director of the  
 24 Oregon Business Development Department; and

25 (b) The applicant will be the owner, contract purchaser or lessee of the qualified facility  
 26 at the time of placement in service of the qualified facility.

27 (2) An application for preliminary certification shall be made in writing on a form pre-  
 28 pared by the department and shall contain:

29 (a) The applicant’s name, address, telephone number and federal taxpayer identification  
 30 number or numbers.

31 (b) The name, address, telephone number and e-mail address of a contact person for the  
 32 applicant.

33 (c) The address of the site where the qualified facility will be located.

34 (d) A detailed description of the qualified facility and fixed capital assets.

35 (e) An estimate of the capital investment and number of employment positions with job  
 36 duties associated with the qualified facility, including:

37 (A) A schedule of qualifying investments.

38 (B) A list of full-time employment positions, the estimated number of employees to be  
 39 hired for the positions each year during the first five years of operation and the annual  
 40 wages for each position, calculated without employee-related benefits.

41 (f) Other information as required by the department to determine eligibility for the in-  
 42 come tax credits and the amount of income tax credits, as prescribed by this section.

43 (g) An affirmation, signed by an authorized executive representing the applicant, that the  
 44 applicant:

45 (A) Agrees to furnish records of expenditures for qualifying investments to the depart-

1 **ment on request.**

2 **(B) Will continue in business at the qualified facility for five full calendar years after**  
 3 **final certification for the credit, other than for reasons beyond the control of the applicant.**

4 **(C) Agrees to furnish to the department information regarding the amount of income tax**  
 5 **credits claimed each year.**

6 **(D) Authorizes the Department of Revenue to provide tax information to the Oregon**  
 7 **Business Development Department for the purpose of determining any inconsistency in in-**  
 8 **formation furnished by the applicant.**

9 **(E) Agrees to allow site visits and audits to verify the applicant's continuing qualification**  
 10 **and the accuracy of information submitted to the department.**

11 **(F) Consents to the adjustment or recapture of any amount of income tax credit due to**  
 12 **noncompliance with this section.**

13 **(h) Letters of good standing from the Department of Revenue stating that the applicant**  
 14 **is not delinquent in paying taxes.**

15 **(i) The anticipated total qualifying investment.**

16 **(j) Information on the number and type of employment positions that will be created by**  
 17 **the qualified facility, the number of employment positions sustained throughout the con-**  
 18 **struction and operation of the qualified facility and the benefits of the qualified facility with**  
 19 **regard to overall economic activity in this state.**

20 **(k) Information demonstrating that the qualified facility will comply with applicable state**  
 21 **and local laws and regulations and obtain required licenses and permits.**

22 **(L) Any other information the director considers necessary to determine whether the**  
 23 **qualified facility is in accordance with the provisions of sections 4 to 12 of this 2023 Act, and**  
 24 **any applicable rules or standards adopted by the director.**

25 **(3) An application for preliminary certification shall be accompanied by a fee established**  
 26 **under section 9 of this 2023 Act. The director may refund all or a portion of the fee if the**  
 27 **application for certification is rejected.**

28 **SECTION 7. (1) The Director of the Oregon Business Development Department may re-**  
 29 **quire an applicant for certification of a qualified facility to submit plans, specifications and**  
 30 **contract terms, and after examination of the plans, specifications and terms may request**  
 31 **corrections and revisions.**

32 **(2) If the director determines that the qualified facility is technically feasible and should**  
 33 **operate in accordance with the representations made by the applicant, and is in accordance**  
 34 **with the provisions of sections 4 to 12 of this 2023 Act and any applicable rules or standards**  
 35 **adopted by the director, the director may issue a preliminary certificate approving the**  
 36 **placement in service of the qualified facility. The certificate shall indicate the potential**  
 37 **amount of tax credit allowable and shall list any conditions for claiming the credit.**

38 **(3) In accordance with ORS chapter 183, the director may issue an order altering, con-**  
 39 **ditioning, suspending or denying preliminary certification if the director determines that:**

40 **(a) The qualified facility does not comply with the provisions of sections 4 to 12 of this**  
 41 **2023 Act and applicable rules and standards;**

42 **(b) The applicant has previously received preliminary or final certification for the quali-**  
 43 **fied facility;**

44 **(c) The applicant was directly involved in an act for which any state agency has levied**  
 45 **civil penalties or revoked, canceled or suspended any certification; or**

1 (d) The applicant or the principal, director, officer, owner, majority shareholder or  
2 member of the applicant, or the manager of the applicant if the applicant is a limited liability  
3 company, is in arrears for payments owed to any government agency while in any capacity  
4 with direct or indirect control over a business.

5 **SECTION 8.** (1) The Director of the Oregon Business Development Department may issue  
6 a final certification for a qualified facility under this section only if:

7 (a) The qualified facility was installed or constructed under a preliminary certificate of  
8 approval issued under section 7 of this 2023 Act;

9 (b) The applicant demonstrates the ability to provide the information required by section  
10 6 (2) of this 2023 Act and does not violate any condition that may be imposed as described in  
11 subsection (4) of this section; and

12 (c) The qualified facility was installed or constructed in accordance with the applicable  
13 provisions of sections 4 to 12 of this 2023 Act and any applicable rules or standards adopted  
14 by the director.

15 (2) Any person may apply to the Oregon Business Development Department for final  
16 certification of a qualified facility:

17 (a) If the person received preliminary certification for the qualified facility under section  
18 7 of this 2023 Act; and

19 (b) After placement in service of the qualified facility.

20 (3) An application for final certification shall be made in writing on a form prepared by  
21 the department and shall contain:

22 (a) A statement that the conditions of the preliminary certification have been complied  
23 with;

24 (b) The actual amount of the qualifying investment, including copies of receipts for pur-  
25 chase and installation of the qualified facility;

26 (c) The amount of the credit under section 2 of this 2023 Act that is to be claimed;

27 (d) The number and type of employment positions created by the operation and mainte-  
28 nance of the qualified facility over the five-year period beginning with the year of preliminary  
29 certification under section 7 of this 2023 Act and information on the benefits of the qualified  
30 facility with regard to overall economic activity in this state;

31 (e) Information sufficient to demonstrate that the qualified facility will remain in opera-  
32 tion for at least five years, unless the director by rule specifies another period of operation;

33 (f) Documentation of compliance with applicable state and local laws and regulations and  
34 licensing and permitting requirements as defined by the director; and

35 (g) Any other information determined by the director to be necessary prior to issuance  
36 of a final certificate, including inspection of the qualified facility by the department.

37 (4) After the filing of the application under this section, the director may issue the cer-  
38 tificate together with any conditions that the director determines are appropriate to promote  
39 the purposes of sections 2 and 4 to 12 of this 2023 Act. If the applicant is an entity subject  
40 to regulation by the Public Utility Commission, the director may consult with the commis-  
41 sion prior to issuance of the certificate. The action of the director shall include certification  
42 of the actual cost of the qualified facility. However, the director may not certify an amount  
43 for tax credit purposes that is more than the amount approved in the preliminary certificate  
44 issued for the qualified facility.

45 (5) If the director rejects an application for final certification, or certifies a lesser

1 amount of credit than was claimed in the application, the director shall send to the applicant  
 2 written notice of the action, together with a statement of the findings and reasons for the  
 3 action, by certified mail, before the 60th day after the filing of the application. Failure of the  
 4 director to act constitutes rejection of the application.

5 (6) Upon approval of an application for final certification of a qualified facility, the di-  
 6 rector shall certify the qualified facility. The final certification shall indicate the amount of  
 7 qualifying investment attributable to the qualified facility and the total qualified facility cost.

8 (7) The director may establish by rule timelines and intermediate deadlines for sub-  
 9 mission of application materials.

10 **SECTION 9.** By rule and after hearing, the Director of the Oregon Business Development  
 11 Department may adopt a schedule of reasonable fees that the Oregon Business Development  
 12 Department may require of applicants for preliminary or final certification of a qualified fa-  
 13 cility under sections 4 to 12 of this 2023 Act. Before the adoption or revision of the fees, the  
 14 department shall estimate the total cost of the program to the department. The fees shall  
 15 be used to recover the anticipated cost of administering and enforcing the provisions of  
 16 sections 4 to 12 of this 2023 Act, including filing, investigating, granting and rejecting appli-  
 17 cations for certification and ensuring compliance with sections 4 to 12 of this 2023 Act, and  
 18 shall be designed not to exceed the total cost estimated by the department. Any excess fees  
 19 shall be held by the department and shall be used by the department to reduce any future  
 20 fee increases. The fee may vary according to the size and complexity of the qualified  
 21 facility. The fee is not considered part of the cost of the qualified facility to be certified.

22 **SECTION 10.** (1) A certificate issued under section 8 of this 2023 Act is required for  
 23 purposes of obtaining tax credits in accordance with section 2 of this 2023 Act. Such certi-  
 24 fication shall be granted for a period not to exceed five years. The five-year period shall begin  
 25 with the tax year of the applicant during which the completed application for final certifica-  
 26 tion of the qualified facility under section 8 of this 2023 Act is received by the Oregon Busi-  
 27 ness Development Department.

28 (2) If the original owner of the certificate uses any portion of the credit, the certificate  
 29 becomes nontransferable.

30 (3) For a transferee holding a credit that has been transferred, the five-year period shall  
 31 begin with the tax year in which the transferee pays for the credit.

32 **SECTION 11.** (1) The total amount of potential tax credits for all qualified facilities in this  
 33 state may not, at the time of preliminary certification under section 7 of this 2023 Act, ex-  
 34 ceed \$ \_\_\_\_\_ million for any tax year.

35 (2) In the event that the Director of the Oregon Business Development Department re-  
 36 ceives applications for preliminary certification with a total amount of potential tax credits  
 37 in excess of the limitation in subsection (1) of this section, the director shall allocate the  
 38 issuance of preliminary certifications according to standards and criteria established by rule  
 39 by the director.

40 **SECTION 12.** The Oregon Business Development Department shall by rule establish pol-  
 41 icies and procedures for the administration and enforcement of the provisions of sections 2  
 42 and 4 to 12 of this 2023 Act, including standards for what constitutes a single qualified fa-  
 43 cility.

44 **SECTION 13.** Sections 2 and 4 to 12 of this 2023 Act apply to new capital investments  
 45 made in a qualified facility on or after July 1, 2023, and to tax years beginning on or after

1 January 1, 2024, and before January 1, 2030.

2  
3 **FAMILY WAGE TAX CREDIT**  
4

5 **SECTION 14.** Section 15 of this 2023 Act is added to and made a part of ORS chapter 315.

6 **SECTION 15.** (1) A credit against taxes that are otherwise due under ORS chapter 316  
7 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer  
8 that is an employer and that adds net full-time employment positions, including remote em-  
9 ployment positions, during the tax year. The credit may be claimed for any newly filled em-  
10 ployment position that remains filled in subsequent tax years, for as many as four  
11 consecutive tax years.

12 (2) For the taxpayer to claim the credit allowed under this section, any added employ-  
13 ment positions that are to be considered for eligibility must be filled by employees that:

14 (a)(A) Receive a wage throughout the tax year that is at least 150 percent of the mini-  
15 mum wage under ORS 653.025 for the location in which the employment position is filled or,  
16 if the worker is working remotely, the location in which the taxpayer is doing business; or

17 (B) Meet the wage requirements of ORS 285C.160, if applicable, for the location in which  
18 the taxpayer is doing business;

19 (b) Are subject to the tax imposed under ORS chapter 316; and

20 (c) Remain employed by the taxpayer for at least 12 consecutive months.

21 (3) The amount of the credit allowed under this section shall equal 10 percent of the  
22 wages paid by the taxpayer to new employees during the tax year but, for the tax year, may  
23 not exceed \$5,000 per employment position or \$5 million total for the taxpayer.

24 (4) Prior to claiming the credit allowed under this section, a taxpayer is required to re-  
25 ceive written certification of eligibility from the Oregon Business Development Department.

26 (5) The credit allowed under this section may not exceed the tax liability of the taxpayer  
27 for the tax year.

28 (6) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,  
29 or if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440,  
30 the credit allowed by this section shall be prorated or computed in a manner consistent with  
31 ORS 314.085.

32 (7) A person that has earned a tax credit under this section may transfer the credit to  
33 a taxpayer subject to tax under ORS chapter 316, 317 or 318. The transfer must comply with  
34 ORS 315.056.

35 (8) The Director of the Oregon Business Development Department may order the sus-  
36 pension or revocation of a certification issued under this section, as provided in ORS 315.061.

37 (9) The Oregon Business Development Department shall adopt rules for the purposes of  
38 this section, including policies and procedures for certifying taxpayers as eligible for the  
39 credit allowed under this section as provided in subsection (4) of this section.

40 **SECTION 16.** Section 15 of this 2023 Act applies to tax years beginning on or after Jan-  
41 uary 1, 2024, and before January 1, 2030.

42  
43 **INCORPORATION OF TAX CREDIT PROVISIONS**  
44

45 **SECTION 17.** ORS 314.772, as amended by section 11, chapter 34, Oregon Laws 2022, and sec-



tion 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 (qualified facilities) and section 15 of this 2023 Act (new employment positions).**

**SECTION 18.** 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

1 315.643 and section 2, chapter 34, Oregon Laws 2022, and section 8, chapter 115, Oregon Laws 2022,  
 2 **and sections 2 and 15 of this 2023 Act** (all only to the extent applicable to a corporation) and ORS  
 3 chapter 317.

4  
 5 **RESEARCH ACTIVITIES TAX CREDITS**

6  
 7 **SECTION 19. Section 20 of this 2023 Act is added to and made a part of ORS chapter 317.**

8 **SECTION 20. (1) If 75 percent of the amount allowable as a credit under ORS 317.152 or**  
 9 **317.154, when added to the sum of the amount of estimated tax paid under ORS 314.515 and**  
 10 **any other tax prepayment amounts, exceeds the taxes imposed by ORS chapters 314 and 317**  
 11 **for the tax year (reduced by any nonrefundable credits allowable for purposes of ORS chapter**  
 12 **317 for the tax year), the amount of the excess determined under this subsection shall be**  
 13 **refunded to the taxpayer as provided in ORS 314.415.**

14 **(2) This section applies only to taxpayers with fewer than 150 employees, wherever lo-**  
 15 **cated, at the close of the tax year.**

16 **SECTION 21. ORS 317.152 is amended to read:**

17 317.152. (1) A credit against taxes otherwise due under this chapter shall be allowed to eligible  
 18 taxpayers for increases in qualified research expenses and basic research payments. The credit shall  
 19 be determined in accordance with section 41 of the Internal Revenue Code, except as follows:

20 **(a) If the excess amount as described in section 41(a)(1) of the Internal Revenue Code is**  
 21 **\$2.5 million or less,** the applicable percentage specified in section 41(a) of the Internal Revenue  
 22 Code shall be *[five]* **24** percent.

23 **(b) If the excess amount as described in section 41(a)(1) of the Internal Revenue Code is**  
 24 **more than \$2.5 million, the applicable percentage specified in section 41(a) of the Internal**  
 25 **Revenue Code shall be 15 percent.**

26 *[(b)]* **(c) “Qualified research” and “basic research” shall consist only of research conducted in**  
 27 **Oregon.**

28 *[(c)]* **(d) The following do not apply to the credit allowable under this section:**

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

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

31 **(2) For purposes of this section, “eligible taxpayer” means a corporation, other than a corpo-**  
 32 **ration excluded under Internal Revenue Code section 41(e)(7)(E).**

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

36 **(4) The maximum credit under this section may not exceed *[\$1 million]* \$9 million.**

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

39 **(6) Any tax credit that is otherwise allowable under this section and that is not used by the**  
 40 **taxpayer in that year may be carried forward and offset against the taxpayer’s tax liability for the**  
 41 **next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be**  
 42 **carried forward and used in the second succeeding tax year, and likewise any credit not used in that**  
 43 **second succeeding tax year may be carried forward and used in the third succeeding tax year, and**  
 44 **any credit not used in that third succeeding tax year may be carried forward and used in the fourth**  
 45 **succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried**

1 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year  
2 thereafter.

3 **SECTION 22.** ORS 317.154 is amended to read:

4 317.154. (1) A credit against taxes otherwise due under this chapter shall be allowed for quali-  
5 fied research expenses that exceed 10 percent of Oregon sales.

6 (2) For purposes of this section:

7 (a) "Oregon sales" shall be computed using the laws and administrative rules for calculating the  
8 numerator of the Oregon sales factor under ORS 314.665.

9 (b) "Qualified research" has the meaning given the term under section 41(d) of the Internal Re-  
10 venue Code and shall consist only of research conducted in Oregon.

11 (3) The credit under this section is equal to five percent of the amount by which the qualified  
12 research expenses exceed 10 percent of Oregon sales.

13 (4) The credit under this section *[shall]* **may** not exceed \$10,000 times the number of percentage  
14 points by which the qualifying research expenses exceed 10 percent of Oregon sales.

15 (5) The maximum credit under this section may not exceed *[\$1 million]* **\$9 million**.

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

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

27 **SECTION 23.** ORS 317.850, as amended by section 14, chapter 115, Oregon Laws 2022, is  
28 amended to read:

29 317.850. (1) The net revenue from the tax imposed by this chapter, after deduction of refunds,  
30 shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts  
31 available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

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

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

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

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

39 **(c) The refund payments in excess of tax liability authorized under section 20 of this 2023**  
40 **Act.**

41 **SECTION 24.** Section 25 of this 2023 Act is added to and made a part of ORS 317A.100 to  
42 317A.158.

43 **SECTION 25.** Notwithstanding ORS 317A.100, any amounts of credit against taxes im-  
44 posed under ORS chapter 317 that are allowed a taxpayer under ORS 317.152 or 317.154 for  
45 qualified research expenses are excluded from the definition of "commercial activity" and are

1 **exempt from the tax imposed under ORS 317A.116.**

2 **SECTION 26.** Section 6, chapter 911, Oregon Laws 1989, as amended by section 14, chapter 746,  
 3 Oregon Laws 1995, section 1, chapter 548, Oregon Laws 2001, section 15, chapter 739, Oregon Laws  
 4 2003, section 86, chapter 94, Oregon Laws 2005, and section 7, chapter 730, Oregon Laws 2011, is  
 5 amended to read:

6 **Sec. 6.** ORS 317.152 [to], **317.153 and 317.154** apply to amounts paid or incurred in tax years  
 7 beginning on or after January 1, 1989, and before January 1, 2018, **or in tax years beginning on**  
 8 **or after January 1, 2024, and before January 1, 2030.**

9 **SECTION 27.** (1) **Section 20 of this 2023 Act and the amendments to ORS 317.152, 317.154**  
 10 **and 317.850 by sections 21 to 23 of this 2023 Act apply to tax years beginning on or after**  
 11 **January 1, 2024, and before January 1, 2030.**

12 (2) **Section 25 of this 2023 Act applies to tax years beginning on or after January 1, 2024,**  
 13 **and before January 1, 2030.**

14  
 15 **SUNSET EXTENSIONS FOR ECONOMIC INCENTIVES PROGRAMS**

16  
 17 **SECTION 28.** ORS 285C.255 is amended to read:

18 285C.255. (1) Notwithstanding any other provision of ORS 285C.050 to 285C.250:

19 (a) An area may not be designated as an enterprise zone after June 30, [2025] **2035**;

20 (b) A business firm may not obtain authorization under ORS 285C.140 after June 30, [2025]  
 21 **2035**; and

22 (c) An enterprise zone, except for a reservation enterprise zone or a reservation partnership  
 23 zone, that is in existence on June 29, [2025] **2035**, is terminated on June 30, [2025] **2035**.

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

25 (a) A reservation enterprise zone may be designated, and a reservation partnership zone may  
 26 be cosponsored, under ORS 285C.306 after June 30, [2025] **2035**; and

27 (b) A business firm may obtain authorization under ORS 285C.140 after June 30, [2025] **2035**:

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

29 (B) As allowed under ORS 285C.245 (1)(b).

30 **SECTION 29.** ORS 285C.406 is amended to read:

31 285C.406. In order for a taxpayer to claim the property tax exemption under ORS 285C.409 or  
 32 a corporate excise or income tax credit under ORS 317.124:

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

36 (2)(a) For the purpose of the property tax exemption, the business firm must obtain certification  
 37 under ORS 285C.403 on or before June 30, [2025] **2035**; or

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

40 **SECTION 30.** Section 6, chapter 905, Oregon Laws 2007, as amended by section 5, chapter 757,  
 41 Oregon Laws 2015, and section 11, chapter 82, Oregon Laws 2022, is amended to read:

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

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

44 (b) Income taxes attributable to eligible projects that first become exempt from property taxa-  
 45 tion 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] **2035**.

**SECTION 31.** ORS 285B.627 is amended to read:

285B.627. (1) In consultation with the Department of Revenue, the Oregon Business Development Department shall establish and administer the Oregon Industrial Site Readiness Program. The purpose of the program is to:

(a) Enter into tax reimbursement arrangements with qualified project sponsors pursuant to subsection (5) of this section; or

(b) Provide loans, including forgivable loans, to qualified project sponsors pursuant to subsection (5) of this section.

(2)(a) Subject to standards and procedures that the Oregon Business Development Department shall establish by rule, the department shall designate regionally significant industrial sites for inclusion in the program.

(b) A regionally significant industrial site designated under this section must be an industrial site that is planned and zoned for industrial use.

(3) A project sponsor may apply to participate in the program by submitting an application and development plan in writing in a form prescribed by the department by rule.

(4) The department shall establish by rule criteria and standards for the qualification of project sponsors to participate in the program.

(5) Upon qualification of a project sponsor under this section, and before July 1, [2023] **2033**, the department may:

(a) Enter into a tax reimbursement arrangement with the project sponsor pursuant to which the project sponsor shall receive an amount equal to 50 percent of the estimated incremental income tax revenues generated by an eligible employer per tax year, beginning with the first tax year following the tax year in which a project sponsor is qualified under this section, until the total investment of the qualified project sponsor in the eligible site preparation costs, including interest, established under subsection (7) of this section has been recovered, at which time the tax reimbursement arrangement shall end; or

(b) Enter into a loan agreement with the project sponsor under terms and conditions specified and required by the department. In making a determination to enter into a loan agreement with the project sponsor, the department shall consider the reasonableness of the project sponsor's estimated costs to prepare the site for industrial use, including but not limited to eligible site preparation costs established by the department pursuant to subsection (7) of this section. The agreement may specify that a portion of the loan may be forgiven if the project sponsor enters into a contract with an eligible employer to conduct a business in the traded sector industry on a regionally significant industrial site within seven years after the project sponsor was qualified under this section.

(6)(a) The total amount of the loan that may be forgiven under subsection (5) of this section is the lesser of:

(A) Fifty percent of the total cost of eligible site preparation costs; or

(B) Fifty percent of the amount of the estimated incremental income tax revenues for the eligible employer for the term of the loan.

(b) Loan forgiveness may not be allowed under subsection (5) of this section if any portion of the loan that would not be forgiven would be repaid by the project sponsor with state funds received from any source.

(7) The department shall establish, by rule, eligible site preparation costs including, but not limited to, some or all of the following:

- 1 (a) Acquisition and assembly costs associated with creating large development parcels.
- 2 (b) Transportation improvements such as access roads, intersections, turning lanes, signals,
- 3 sidewalks, curbs, transit stops and storm drains.
- 4 (c) Water and sewer infrastructure.
- 5 (d) Natural resource mitigation.
- 6 (e) Site grading activities.
- 7 (f) Environmental remediation and mitigation activities to address brownfields issues in accord-
- 8 ance with state and federally approved remediation plans.
- 9 (g) Planning, engineering and administrative costs associated with applying for necessary local,
- 10 state and federal permits.
- 11 (h) Interest-carrying costs incurred by a project sponsor for amounts borrowed to develop a re-
- 12 regionally significant industrial site, not to exceed 20 percent of the total amount forgiven, if any,
- 13 under subsection (5) of this section.
- 14 (8) The total amount of tax reimbursement arrangements and loan amounts authorized under this
- 15 section may not exceed \$10 million per year.
- 16 (9) Funds received pursuant to a tax reimbursement arrangement or a loan agreement under
- 17 subsection (5) of this section may not be used for the payment of:
- 18 (a) A penalty or fine; or
- 19 (b) Environmental remediation activities conducted at a regionally significant industrial site that
- 20 is listed or proposed to be listed as a national priority pursuant to the Comprehensive Environ-
- 21 mental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) for which the project
- 22 sponsor, eligible employer or any party to the tax reimbursement arrangement or loan agreement
- 23 is liable under 42 U.S.C. 9607 at that regionally significant industrial site.
- 24 (10) The department shall adopt rules to administer and implement the provisions of this section.

**APPROPRIATION FOR SMALL BUSINESS EXPANSION LOANS**

**SECTION 32.** There is appropriated to the Oregon Business Development Department, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$\_\_\_\_\_ to be deposited in the Small Business Expansion Loan Fund established under ORS 285B.133 for the purpose of carrying out the provisions of ORS 285B.130.

**CAPTIONS**

**SECTION 33.** 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 34.** 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.