A-Engrossed
Senate Bill 1084

Ordered by the Senate May 24
Including Senate Amendments dated May 24

Sponsored by Senators KNOPP, MEEK, Representative WALLAN; Senator FINDLEY

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.

Restores tax credit allowed for qualified research activities at increased maximum credit amount. Expands availability of credit to personal income taxpayers. Provides for refundability of portion of credit for taxpayer with fewer than 150 employees and for transferability of credit. Sets limit for credits allowed for transfer in state per tax year. 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.

Provides that business firm is not eligible to claim enterprise zone exemptions if significantly engaged in operating retail purchase fulfillment center.

Increases maximum community service fee for strategic investment program and indexes fee amount for inflation.

Increases taxable portion of real market value of eligible project in strategic investment program.

Increases maximum annual amount of distribution county may receive under gain share program and indexes maximum amount for inflation.

Directs Oregon Business Development Department, in consultation with Legislative Revenue Officer, to study transparency of agreements related to enterprise zone programs entered into between zone sponsors and business firms. Requires department to report study findings to interim committees of Legislative Assembly related to economic development.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to economic incentives; creating new provisions; amending ORS 285B.627, 285C.135, 285C.255, 285C.403, 285C.406, 285C.600, 285C.609, 285C.635, 307.123, 316.502, 317.152, 317.154 and 317.850 and section 6, chapter 911, Oregon Laws 1989, and section 6, chapter 905, Oregon Laws 2007; and prescribing an effective date.

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

<u>**SECTION 1.**</u> **Section 2 of this 2023 Act and ORS 317.152, 317.153 and 317.154 are added to and made a part of ORS chapter 315.**

<u>**SECTION 2.**</u> **(1) If 80 percent of the amount allowable as a credit under ORS 317.152 or 317.154, 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.**

(2) If 80 percent of the amount the amount allowable as a credit under ORS 317.152 or 317.154, when added to the sum of the amounts allowable as payment of tax under ORS

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.

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.

(3) This section applies only to taxpayers with fewer than 150 employees, wherever located, at the close of the tax year.

SECTION 3. ORS 317.152 is amended to read:

317.152. (1) A credit against taxes otherwise due under [*this chapter*] **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 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 [*five*] **15** percent.

(b) "Qualified research" and "basic research" shall consist only of research conducted in Oregon.

(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).

(2) For purposes of this section, "eligible taxpayer" means a corporation, other than a corporation excluded under Internal Revenue Code section 41(e)(7)(E).

(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 [*$1 million*] **$15 million.**

(5) A person that has earned a tax credit under this section may transfer the credit to a taxpayer subject to tax under ORS chapter 316, 317 or 318. The transfer must comply with ORS 315.056. Upon receipt of a notice of tax credit transfer as described in ORS 315.056, the department shall notify the transferor and the transferee if the transfer is approved, and shall certify that the transferee is eligible to claim the credit within the limitation established under section 7 of this 2023 Act.

(6) 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.

[*(5)*] **(7)** 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.

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

SECTION 4. ORS 317.154 is amended to read:

317.154. (1) A credit against taxes otherwise due under [*this chapter*] **ORS chapter 316 or, if**

the taxpayer is a corporation, under ORS chapter 317 or 318 shall be allowed for qualified research expenses that exceed 10 percent of Oregon sales.

(2) For purposes of this section:

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

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

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

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

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

(6) 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.

(7) A person that has earned a tax credit under this section may transfer the credit to a taxpayer subject to tax under ORS chapter 316, 317 or 318. The transfer must comply with ORS 315.056. Upon receipt of a notice of tax credit transfer as described in ORS 315.056, the Department of Revenue shall notify the transferor and the transferee if the transfer is approved, and shall certify that the transferee is eligible to claim the credit within the limitation established under section 7 of this 2023 Act.

(8) 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.

[*(7)*] **(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.

SECTION 5. 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 2 of this 2023 Act**.

SECTION 6. 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 2 of this 2023 Act.

SECTION 7. The total amount of credits that may be claimed by transferees, as provided in ORS 315.056, 317.152 and 317.154, may not exceed $100 million per tax year.

SECTION 8. Section 9 of this 2023 Act is added to and made a part of ORS 317A.100 to 317A.158.

SECTION 9. Notwithstanding ORS 317A.100, any amounts of credit against taxes imposed under ORS chapter 316, 317 or 318 that are allowed a taxpayer under ORS 317.152 or 317.154 for qualified research expenses are excluded from the definition of "commercial activity" and are exempt from the tax imposed under ORS 317A.116.

SECTION 10. Section 6, chapter 911, Oregon Laws 1989, as amended by section 14, chapter 746, Oregon Laws 1995, section 1, chapter 548, Oregon Laws 2001, section 15, chapter 739, Oregon Laws 2003, section 86, chapter 94, Oregon Laws 2005, and section 7, chapter 730, Oregon Laws 2011, is amended to read:

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

SECTION 11. (1) Section 2 of this 2023 Act and the amendments to ORS 316.502, 317.152, 317.154 and 317.850 by sections 3 to 6 of this 2023 Act apply to tax years beginning on or after January 1, 2024, and before January 1, 2030.

(2) Section 9 of this 2023 Act applies to tax years beginning on or after January 1, 2024, and before January 1, 2030.

SECTION 12. The total combined amount of potential tax credits allowed under ORS 317.152 and 317.154 at the time of certification under ORS 317.152 or 317.154 may not exceed $200 million for any biennium.

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

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

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

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

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

(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*] **2035**; and

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

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

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

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

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

(1) The written agreement between the business firm and the rural enterprise zone sponsor that is required under ORS 285C.403 (3)(c) must be entered into prior to the termination of the enterprise zone under ORS 285C.245; 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*] **2035**; 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.

SECTION 15. 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*] **2035**.

SECTION 16. 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:

(a) Acquisition and assembly costs associated with creating large development parcels.

(b) Transportation improvements such as access roads, intersections, turning lanes, signals, sidewalks, curbs, transit stops and storm drains.

(c) Water and sewer infrastructure.

(d) Natural resource mitigation.

(e) Site grading activities.

(f) Environmental remediation and mitigation activities to address brownfields issues in accordance with state and federally approved remediation plans.

(g) Planning, engineering and administrative costs associated with applying for necessary local, state and federal permits.

(h) Interest-carrying costs incurred by a project sponsor for amounts borrowed to develop a regionally significant industrial site, not to exceed 20 percent of the total amount forgiven, if any, under subsection (5) of this section.

(8) The total amount of tax reimbursement arrangements [*and loan amounts*] authorized under this section may not exceed $10 million per year.

(9) Funds received pursuant to a tax reimbursement arrangement or a loan agreement under subsection (5) of this section may not be used for the payment of:

(a) A penalty or fine; or

(b) Environmental remediation activities conducted at a regionally significant industrial site that is listed or proposed to be listed as a national priority pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) for which the project sponsor, eligible employer or any party to the tax reimbursement arrangement or loan agreement is liable under 42 U.S.C. 9607 at that regionally significant industrial site.

(10) The department shall adopt rules to administer and implement the provisions of this section.

SECTION 17. ORS 285C.135 is amended to read:

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

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

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

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

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

(3) If a business firm described in subsection (2) of this section engages in an activity described in subsection (1) of this section, the business firm is an eligible business firm if the activity is performed at a location that is separate from the activity of the firm that is described in subsection (2) of this section. Property at the location at which the firm conducts an activity described in subsection (2) of this section may not be exempt under ORS 285C.175.

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

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

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

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

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

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

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

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

SECTION 18. ORS 285C.403 is amended to read:

285C.403. (1)**(a)** [*Any*] **A** business firm proposing to apply for the tax exemption provided under ORS 285C.409 shall, before the commencement of construction or installation of property or improvements at a location in a rural enterprise zone and before the hiring of employees, apply for certification with the sponsor of the zone and with the county assessor of the county or counties in which the zone is located. [*The application shall be made on a form prescribed by the Department of Revenue.*]

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) A qualified rural county; or

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

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

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

(6) If the sponsor or the county assessor fails or refuses to certify the business firm, the business

firm may appeal to the Oregon Tax Court under ORS 305.404 to 305.560. The business firm shall provide copies of the firm's appeal to the sponsor, the county assessor, the Oregon Business Development Department and the Department of Revenue.

SECTION 19. ORS 285C.609 is amended to read:

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

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

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

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

(a) The county and, if the proposed eligible project will be located within a city, the city have entered into an agreement with the business firm, as described in this subsection.

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

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

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

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

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

(5) The 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:

(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 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.

(7) The maximum fee amount under subsection (4)(b)(B) of this section shall be adjusted each year for the property tax year beginning on July 1 by multiplying $3 million by the ratio of the increase, if any, in the monthly averaged Consumer Price Index for All Urban Consumers, West Region, for the 12 consecutive months ending December 31 of the prior cal-

endar year over the monthly averaged index for the 12 consecutive months ending December 31, 2023.

SECTION 20. 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 million for a project with a total cost of not more than $500 million.*]

(i) For a project with a total cost of at least $25 million and not more than $38 million, the total cost of the project.

(ii) $38 million for a project with a total cost of more than $38 million and not more than $500 million.

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

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

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

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

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

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

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

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

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

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

(7) Notwithstanding subsection (1) of this section, if the owner or lessee of property exempt under this section fails to pay the fee required under ORS 285C.609 (4)(b) by the end of the tax year in which it is due, the exemption shall be revoked and the property shall be fully taxable for the following tax year and for each subsequent tax year for which the fee remains unpaid. If an unpaid fee is paid after the exemption is revoked, the property shall again be eligible for the exemption provided under this section, beginning with the tax year after the payment is made. Reinstatement

of the exemption under this subsection shall not extend the 15-year exemption period provided for in subsection (2)(c) of this section.

SECTION 21. 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*] **$20** 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 maximum distribution allowed under subsection (3)(b) of this section shall be adjusted each year by multiplying $20 million by the ratio of the increase, if any, in the monthly averaged Consumer Price Index for All Urban Consumers, West Region, for the 12 consecutive months ending December 31 of the prior calendar year over the monthly averaged index for the 12 consecutive months ending December 31, 2023.

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

SECTION 22. ORS 285C.600 is amended to read:

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

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

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

[*(2)*] **(3)** "Eligible project" means a project that meets criteria established by the Oregon Business Development Commission to be exempt from property taxation under ORS 307.123.

[*(3)*] **(4)** "First-source hiring agreement" has the meaning given that term in ORS 285C.050.

[*(4)*] **(5)** "Newly created jobs" means, for an eligible project, total jobs less retained jobs.

[*(5)*] **(6)** "Publicly funded job training provider" has the meaning given that term in ORS 285C.050.

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

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

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

SECTION 24. The Oregon Business Development Department, in consultation with the Legislative Revenue Officer, shall conduct a study of the transparency of agreements related to enterprise zone programs entered into between zone sponsors and business firms. The study shall compare the transparency required under statute and the transparency of the process by which such agreements have actually been entered into. The study shall also compare the differences in actual transparency among the various enterprise zones. 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 economic development, and may include recommendations for legislation in the report.

SECTION 25. Section 24 of this 2023 Act is repealed on January 2, 2025.

SECTION 26. 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.