Chapter 285B — Economic Development II

2001 EDITION

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BUSINESS DEVELOPMENT

(Business Development Projects)

285B.050 Definitions for ORS 285B.050 to 285B.098. As used in ORS 285B.050 to 285B.098, unless the context requires otherwise:

(1) "Business development project" means the acquisition, engineering, improvement, rehabilitation, construction, operation or maintenance of any property, real or personal, that is used or is suitable for use by an economic enterprise and that will result in, or will aid, promote or facilitate, development of one or more of the following activities:

(a) Manufacturing or other industrial production;

(b) Agricultural development or food processing;

(c) Aquacultural development or seafood processing;

(d) Development or improved utilization of natural resources;

(e) Convention facilities and trade centers;

(f) Transportation or freight facilities; and

(g) Other activities that represent new technology or type of economic enterprise the Oregon Economic and Community Development Commission determines is needed to diversify the economic base of an area but not including:

(A) Construction of office buildings, including corporate headquarters; and

(B) Retail businesses, shopping centers or food service facilities.

(2) "Commission" means the Oregon Economic and Community Development Commission established under ORS 285A.040.

(3) "Fund" means the Oregon Business Development Fund.

(4) "Collateral" has the meaning given that term in ORS 79.0102 for property subject to a security interest.

(5) "Municipality" means any city, municipal corporation or quasi-municipal corporation.

(6) "Person" means any individual, association of individuals, joint venture, partnership or corporation.

(7) "Local development group" means any public or private corporation which has as one of its primary purposes, as stated in its articles of incorporation, charter or bylaws, the promotion of economic development in any part of the State of Oregon.

(8) "Applicant" means any county, municipality, person or any combination of counties, municipalities or persons applying for a loan from the Oregon Business Development Fund under ORS 285B.050 to 285B.098.

(9) "Owned and operated by women and minorities" means, with regard to any specific business enterprise, the ownership or control of more than 50 percent of the units of proprietary or ownership interest in that business enterprise by individuals who are women or members of minorities, as defined by ORS 430.347 (2).

(10) "Emerging small business" has the meaning given that term by ORS 200.005.

(11) "County" means any county or federally recognized Oregon Indian tribe. [Formerly 285.403; 2001 c.445 §171]

Note: For transition provisions regarding secured transactions, see notes under 79.0628.

285B.053 Borrowing money from Oregon Business Development Fund for projects. (1) Any county, municipality, person or any combination of counties, municipalities and persons may file with the Oregon Economic and Community Development Commission an application to borrow money from the Oregon Business Development Fund for a business development project as provided in ORS 285B.050 to 285B.098. The application shall be filed in such a manner and contain or be accompanied by such information as the commission may prescribe.

(2) Any applicant receiving a loan from the Oregon Business Development Fund shall annually report to the Economic and Community Development Department the estimated number of jobs created as a result of the business development project financed under ORS 285B.050 to 285B.098. The reporting requirement under this section shall continue for five years following the receipt of the loan proceeds or for the life of the loan, whichever period is longer. Agreement to comply with the requirements of this section shall be a condition for obtaining a loan from the Oregon Business Development Fund. [Formerly 285.405]

285B.056 Evaluation of project; fee. (1) Upon receipt of an application under ORS 285B.053, the Oregon Economic and Community Development Commission shall determine whether the plans and specifications for the proposed business development project set forth in or accompanying the application are satisfactory. If the commission determines that the plans and specifications are not satisfactory, it shall:

(a) Reject the application with a written statement of the reason for that rejection; or

(b) Require the applicant to submit additional information of the plans and specifications as may be necessary.

(2) The commission shall charge and collect from the applicant, at the time the application is filed, a fee not to exceed $100. Moneys referred to in this subsection shall be paid into the Oregon Business Development Fund. [Formerly 285.410]

285B.059 Conditions for commission approval of project; preferences; limits. (1) The Oregon Economic and Community Development Commission may approve a business development project proposed in an application filed under ORS 285B.050 to 285B.098 if, after investigation, it finds that:

(a) The proposed business development project is feasible and a reasonable risk from practical and economic standpoints, and the loan has reasonable prospect of repayment.

(b) The applicant can provide good and sufficient collateral for the loan.

(c) Moneys in the Oregon Business Development Fund are or will be available for the proposed business development project.

(d) There is a need for the proposed business development project, and the applicant’s financial resources are adequate to assure success of the project.

(e) If the proposed project is to be located in an incorporated city, the governing body of that city has executed a resolution recommending the proposed project.

(f) If the proposed project is to be located outside any incorporated city, the governing body of the county in which the project is to be located has executed a resolution recommending the proposed project.

(g) The Housing and Community Services Department received notification of the proposed project and any related workforce increase at the time the application was received by the commission.

(h) The applicant has not received or entered into a contract or contracts exceeding $500,000 with the commission, under authority of ORS 285B.050 to 285B.098, for the previous 365 days, nor is there an amount equal to 20 percent of the total value of the fund in outstanding loans with the commission at any one time for business development projects located in the same county as the proposed project. However, nothing in this paragraph prevents the commission from making a loan to an emerging small business, as provided in subsection (6) of this section, or making a loan of less than $100,000, as provided in ORS 285B.080.

(2) Preference shall be given to a business development project which has a high ratio of employment to the amount of money sought to be borrowed from the Oregon Business Development Fund, which benefits businesses with fewer than 50 employees or which is located within a rural area of the state. Consideration also shall be given to the extent of participation by local development groups, and the availability and cost of money to the applicant from, or through, commercial lending or financial institutions, or other financial sources, inasmuch as the Oregon Business Development Fund is intended to complement, not supplant, other sources of money for economic development.

(3) The total amount of moneys loaned from the fund for any business development project shall not exceed 50 percent of the cost of the project. Working capital equity contributed by the applicant or a related party shall not be

included in the calculation of total project costs.

(4) Except in cases where the applicant is a county or municipality, no money shall be loaned from the fund for any business development project unless there exists a commitment from a commercial or private lender, or a local development group, to participate in the financing of the project.

(5) To encourage private sector and local development group participation in the financing of business development projects, the commission may subordinate the security position of the fund to that of other lenders.

(6) In each fiscal year of a biennium, not less than 15 percent of all moneys available for lending from the Oregon Business Development Fund are reserved for loans to certified emerging small business enterprises which are located in or draw their workforces from within distressed communities as determined by the Economic and Community Development Department in cooperation with the Employment Department of this state. Any amounts reserved for loans to such businesses that are not loaned in one fiscal year shall be added to the amount reserved for loans to such businesses in the subsequent fiscal year. If the Economic and Community Development Department is unable to obtain a sufficient number of approvable applications to meet the requirements of this subsection, it may, notwithstanding the limitations imposed by ORS 285B.050 (1)(g)(B), make loans to service and retail businesses operated by certified emerging small business enterprises.

(7) In the operation of the Oregon Business Development Fund, the commission and the department shall, to the maximum extent feasible and consistent with constitutional limitations, seek to assure that an amount equal to that specified in subsection (6) of this section be loaned to businesses owned and operated by women and minorities. [Formerly 285.413; 1999 c.509 §27]

285B.062 Agreement for project loan; required provisions; interest rate; discount for early repayment. If the Oregon Economic and Community Development Commission approves the business development project, the commission, on behalf of the state, and the applicant may enter into a loan contract of not more than $500,000, secured by good and sufficient collateral, which shall set forth, among other matters:

(1) A plan for repayment by the applicant to the Oregon Business Development Fund moneys borrowed from the fund used for the business development project with interest charged on those moneys at the rate of not less than one percentage point more than the prevailing interest rate on United States Treasury bills, notes or bonds of a comparable term, as determined by the commission. However, the commission may make such loans to emerging small businesses, as defined in ORS 200.005, at a rate of not less than one percentage point less than such prevailing interest rate. The repayment plan, among other matters:

(a) Shall provide for commencement of repayment by the applicant of moneys used for the business development project and interest thereon no later than one year after the date of the loan contract or at such other time as the commission may provide.

(b) May provide for reasonable extension of the time for making any repayment in emergency or hardship circumstances if approved by the commission.

(c) Shall provide for such evidence of debt assurance of, and security for, repayment by the applicant as is considered necessary by the commission.

(d) Shall set forth a schedule of payments and the period of loan which shall not exceed the usable life of the contracted project or 20 years from the date of the contract, whichever is less, and shall also set forth the manner of determining when loan payments are delinquent. The payment schedule shall include repayment of interest which accrues during any period of delay in repayment authorized by paragraph (a) of this subsection, and the payment schedule may require payments of varying amounts for collection of accrued interest.

(e) Shall set forth a procedure for formal declaration of default of payment by the commission, including formal notification of all relevant federal, state and local agencies; and further, a procedure for notification of all relevant federal, state and local agencies that declaration of default has been rescinded when appropriate.

(f) May offer a discount not to exceed 10 percent of the outstanding principal for the early repayment of the entire outstanding principal of any loan. The commission by rule shall adopt policies that provide for greater discounts for earlier repayments and that provide for greater discounts for firms that have created at least one job per each $15,000 loaned to the firm from the Oregon Business Development Fund.

(2) Provisions satisfactory to the commission for field engineering and inspection, the commission to be the final judge of completion of the contract.

(3) That the liability of the state under the contract is contingent upon the availability of moneys in the Oregon Business Development Fund for use in the business development project.

(4) Such further provisions as the commission considers necessary to insure expenditure of the funds for the

purposes set forth in the approved application.

(5) That the commission may institute appropriate action or suit to prevent use of the facilities of a business development project financed by the Oregon Business Development Fund if the applicant is delinquent in the repayment of any moneys due the fund. [Formerly 285.415]

285B.065 Loans in distressed areas exempt from requirements of ORS 285B.059 and 285B.062. The Economic and Community Development Department may make loans in distressed areas, as defined by the department, without regard to the requirements for security and collateral under ORS 285B.059 and 285B.062 that are otherwise applicable. [Formerly 285.416]

285B.068 Payment of moneys for project; applicant to pay percentage of loan principal to Oregon Business Development Fund. (1) If the Oregon Economic and Community Development Commission approves a loan for a business development project and the applicant has received all necessary permits required by federal, state and local agencies, the commission shall pay moneys for the project from the Oregon Business Development Fund, in accordance with the terms of the loan contract as prescribed by the commission.

(2) Immediately upon receiving the loan proceeds, the applicant shall pay to the commission one and one-half percent of the principal amount of the loan, to be paid back to the Oregon Business Development Fund. A maximum of three percent of the principal amount of the loan may be paid from the fund to local development groups for the purposes set forth in ORS 285B.092 (1)(a). [Formerly 285.417]

285B.071 Authority to obtain moneys to repay fund. Any county or municipality that enters into a contract with the Oregon Economic and Community Development Commission for a business development project and repayment as provided in ORS 285B.062 may obtain moneys for repayment to the Oregon Business Development Fund under the contract in the same manner as other moneys are obtained for purposes of the county or municipality or other moneys available to the developer. [Formerly 285.420]

285B.074 Contract for loan service; fee. The Economic and Community Development Department may, by contract, provide for local business development funds to service outstanding loans from the Oregon Business Development Fund. The department may provide for a fee of up to two percent of the outstanding loan balance on such loans to compensate local business development funds for services provided under this section. [Formerly 285.425]

285B.077 Report required. The Oregon Economic and Community Development Commission shall submit to the Legislative Assembly and the Governor a biennial report of the transactions of the Oregon Business Development Fund in such detail as will adequately indicate the condition of the fund. [Formerly 285.430]

285B.080 Director as agent; limitation on authority. (1) The Oregon Economic and Community Development Commission may appoint the Director of the Economic and Community Development Department as its representative and agent in all matters pertaining to ORS 285B.050 to 285B.098.

(2) The director shall ensure that all provisions of ORS 285B.050 to 285B.098 are complied with and that appropriately trained personnel are employed to properly administer the fiscal and other portions of ORS 285B.050 to 285B.098.

(3) The director shall have the authority in the director’s sole discretion to approve loans for business development projects in the amount of $100,000 or less and to disburse funds for such projects. [Formerly 285.433]

285B.083 Use of refinancing and other financial assistance. Except as provided in ORS 285B.086, if any business development project is refinanced or financial assistance is obtained from other sources after the execution of the loan from the state, those shall be first used to repay the state, unless provided otherwise by the committee, if the refinancing or financial assistance applies only to the business development project authorized and does not include any subsequent addition, expansion, improvement or further development. [Formerly 285.435]

285B.086 Authority to lend funds for joint governmental projects or match money; form of loan application; loan limit. (1) The Oregon Economic and Community Development Commission may authorize funds from the Oregon Business Development Fund to be used in appropriate joint governmental participation projects or as match money with any municipally, county, state or federally funded business development project authorized within a

county or city, subject to the stipulations of ORS 285B.050 to 285B.098.

(2) Any application for a loan under this section shall be in such form as the commission prescribes and shall furnish such proof of federal, state or local approval as appropriate for funding of the business development project.

(3) The total amount of moneys loaned from the fund for federal, state or local joint business development project purposes shall not exceed $500,000 per project. [Formerly 285.437]

285B.089 Loan contract; required provisions. If the Oregon Economic and Community Development Commission approves an application for the loan of moneys authorized by ORS 285B.086, the commission shall enter into a loan contract, secured by good and sufficient collateral, with the applicant that provides, among other matters:

(1) That the loan bear interest at the same rate of interest as provided in ORS 285B.062 (1).

(2) That the contract shall set forth a schedule of payments including interest and principal for the period of the loan, which shall not exceed the usable life of the contracted project or 25 years from the date of the contract, whichever is less, and shall set forth the manner of determining when loan payments are delinquent. The same schedule shall include repayment of interest which accrues during any period of delay in repayment authorized by ORS 285B.050 to 285B.098, and the repayment schedule may require payments of varying amounts for collection of that accrued interest. However, the commission may make provisions for extensions of time in making repayment if the delinquencies are caused by acts of God or other conditions beyond the control of the applicant and the security will not be impaired thereby.

(3) Such provisions as the commission considers necessary to insure expenditure of the moneys loaned for the purposes provided in ORS 285B.086, including all provisions of ORS 285B.059. [Formerly 285.440]

285B.092 Oregon Business Development Fund; uses. (1) There is created within the State Treasury a revolving fund known as the Oregon Business Development Fund, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. Moneys in this fund are continuously appropriated to the Oregon Economic and Community Development Commission for the following purposes:

(a) Administrative expenses of the commission in marketing public business finance, processing applications, investigating proposed business development projects and servicing outstanding loans. In any one year, administrative expenses charged under this paragraph may not be greater than the total revenues received in that year from fees provided for in subsection (2)(a) of this section, plus four percent of the total asset value of the fund.

(b) Payment of loans to applicants under ORS 285B.050 to 285B.098.

(c) Transfers of moneys as provided in ORS 285B.374 (4)(a).

(d) Purchase or buy out of superior or prior liens or mortgages on or a security interest in any business development project financed in part by a loan from the fund, when the commission determines:

(A) A loan from the fund is in default and is in liquidation or at risk of being forced into liquidation by another creditor to the project;

(B) Such action is necessary to maintain or enhance the value of the commission’s collateral in the project; and

(C) The amount of the purchase or buyout of superior or prior liens or mortgages on that project does not exceed $500,000.

(2) The fund created by subsection (1) of this section shall consist of:

(a) Fees required by ORS 285B.056 (2) and 285B.068 (2).

(b) Repayment of moneys loaned to counties, municipalities or persons from the Oregon Business Development Fund, including interest on those moneys.

(c) Payment of such moneys as may be appropriated to the fund by the Legislative Assembly.

(d) Moneys obtained from any interest accrued from funds.

(e) Moneys from any grant made to the fund by any federal agency.

(3) Notwithstanding any other law, if at any time there are insufficient funds in the Oregon Entrepreneurial Development Loan Fund established by ORS 285B.758, the Director of the Economic and Community Development Department may direct the transfer of unobligated funds from the Oregon Business Development Fund to the Oregon Entrepreneurial Development Loan Fund. Transfers under this subsection shall be in amounts necessary to meet the reasonably foreseeable demand for participation in the entrepreneurial loan program. [Formerly 285.443; 1999 c.247 §3; 1999 c.509 §28]

285B.093 Oregon Targeted Development Account; purpose. (1) The Oregon Economic and Community Development Commission may establish the Oregon Targeted Development Account as an account within the Oregon

Business Development Fund.

(2) If the account is established, the purpose of the Oregon Targeted Development Account is to promote cooperation and foster partnership among the commission, the Economic and Community Development Department and financial institutions in Oregon to encourage investment in distressed areas, as defined by the department.

(3) The Economic and Community Development Department may make loans from the Oregon Targeted Development Account in distressed areas without regard to the minimum rate of interest that is otherwise applicable under ORS 285B.062. The department may make loans in distressed areas at an interest rate that is determined by the Oregon Economic and Community Development Commission.

(4) ORS 285B.059 (1)(e) to (g), (2) and (5) does not apply to business development projects financed wholly or in part with moneys from the Oregon Targeted Development Account. [1999 c.247 §1]

285B.095 Retention and use of payments, receipts and interest. All payments, receipts and interest from outstanding indebtedness or any other source shall be retained and accumulated in the Oregon Business Development Fund and shall be used for the purposes of the fund. [Formerly 285.445]

285B.098 Status of loan to county or municipality. A loan made to a county or municipality under ORS 285B.050 to 285B.098 shall not be a general obligation of that county or municipality, nor a charge upon the tax revenues of that county or municipality, nor a charge upon any other revenues or property of that county or municipality not specifically pledged thereto. A loan made to a county or municipality under ORS 285B.050 to 285B.098 may be secured by the business development project for which the loan is made, as well as by any revenues derived from that project, and any nontax-derived revenues or property of the county or municipality not otherwise pledged or committed for other purposes. A county or municipality may repay any portion of a loan incurred under ORS 285B.050 to 285B.098 from any funds available to it. [Formerly 285.447]

(Tax Exemption for Small City Business Development)

285B.103 Definitions for ORS 285B.103 to 285B.108. As used in ORS 285B.103 to 285B.108:

(1) “Business firm” has the meaning given that term in ORS 285B.650.

(2) “County per capita personal income” means the most recently available county per capita personal income statistics published by the Bureau of Economic Analysis of the United States Department of Commerce for a county.

(3) “County unemployment rate” means the most recently available unemployment rate for the county, as determined by the Employment Department.

(4) “Facility” means the land, real property improvements and personal property that are used by a business firm to conduct business operations, and that are the subject of an application for preliminary certification under ORS 285B.105 or annual certification under ORS 285B.108.

(5) “Qualified location” means any area within the boundaries of a city of 10,000 or fewer residents that is located in a county that:

(a) Has a county unemployment rate that is in the highest quartile of county unemployment rates in this state as of the date of the application for preliminary certification under ORS 285B.105; and

(b) Has a county per capita personal income that is in the lowest quartile of county per capita personal incomes in this state as of the date of the application for preliminary certification under ORS 285B.105. [2001 c.944 §2]

285B.105 Preliminary certification of facility; content of application; review. (1) A business firm seeking the income and corporate excise tax exemption allowed under ORS 316.778 or 317.391 shall, before the commencement of construction or installation of property or improvements at the location for which the exemption is sought and before the hiring of any employees at that location, apply to the Economic and Community Development Department for preliminary certification under this section.

(2) The application shall be on a form prescribed by the department and shall contain the following information:

(a) The proposed location of the facility;

(b) A description of the property to be constructed, acquired, installed or leased and that is to comprise the facility upon being placed in service;

(c) If any property described in paragraph (b) of this subsection is to be leased, the term of the lease;

(d) The number of full-time, year-round employees the business firm intends to hire;

(e) The minimum annual average compensation intended to be given to the employees described in paragraph (d)

of this subsection;

(f) A description of any other business activities of the firm in this state at the time of application, sufficient for the department to be able to determine if the proposed facility will constitute a new business in this state; and

(g) Any other information that the department requires.

(3) An application filed under this section must be accompanied by a fee in an amount prescribed by the Economic and Community Development Department by rule. The fee required by the department may not exceed $500.

(4)(a) When an application is filed under this section, the department shall send copies of the application to the governing bodies of the city and county in which the facility is proposed to be located.

(b) The governing body of a city or county may object to the preliminary certification of a business firm if the firm would be in competition with an existing business employing individuals within the city or county or would be incompatible with economic growth standards that the city or county had adopted prior to the date of application for preliminary certification. If the governing body of the city or county decides to object to preliminary certification of the firm, the governing body shall adopt a resolution stating its objection and the reason for its objection.

(c) The governing body of a city or county has 60 days from the date the application is sent to the city or county to object to preliminary certification. If the objection is not made within the 60-day period, the city or county shall be deemed to have agreed to preliminary certification.

(5) When an application is filed under this section, the department shall review the application and determine whether all of the following requirements are met:

(a) The proposed facility is to be located at a qualified location.

(b) The proposed facility is intended to operate as a facility for at least 10 years following the date the facility becomes operational.

(c) The business firm intends to hire at least 10 employees for full-time, year-round employment at a minimum annual compensation of:

(A) 150 percent of the county per capita personal income of the county in which the facility is to be located as of the date of the application for preliminary certification; or

(B) 100 percent of the county per capita personal income of the county in which the facility is to be located as of the date of the application for preliminary certification and also provide health insurance coverage that at least equals the benefits provided to employees of the city or county in which the facility is to be located.

(d) The business operations of the business firm that are to be conducted at the facility constitute a new business that the firm does not operate at another location in this state.

(e) The business operations of the business firm will not compete with existing businesses in the city or county in which the facility is to be located.

(6) If the department determines that the proposed facility, if completed as described in the application, will meet the criteria set forth in subsection (5) of this section and the governing body of the city or county has not objected to preliminary certification of the firm, the department shall issue a preliminary certification to the firm.

(7) If the department determines that the proposed facility, as set forth in the application, does not meet the requirements for preliminary certification under this section, the department may not issue a preliminary certification. The applicant may appeal the decision to not issue a preliminary certification in the manner of a contested case under ORS 183.310 to 183.550. No appeal may be made if the reason for not issuing a preliminary certification is the objection of the governing body of the city or county under subsection (4) of this section. [2001 c.944 §3]

285B.108 Annual certification of facility; content of application; review. (1) Following completion of the construction, acquisition or lease of the facility and the hiring of employees to conduct business operations at the facility and the commencement of operations at the facility, a business firm that obtained preliminary certification under ORS 285B.105 shall apply for annual certification under this section.

(2) The application shall be filed with the Economic and Community Development Department on or before 30 days after the end of the income or corporate excise tax year of the business firm.

(3) The application shall contain the following information:

(a) A description of the business operations conducted at the facility;

(b) The date business operations commenced at the facility;

(c) The number of full-time, year-round employees employed by the business firm at the facility;

(d) A schedule of the annual compensation paid to the employees; and

(e) Any other information required by the department.

(4) An application filed under this section must be accompanied by a fee in an amount prescribed by the Economic

and Community Development Department by rule. The fee required by the department may not exceed $100.

(5) The department shall review a business firm's application and approve the application if:

(a) The business operations of the firm at the facility commenced within 10 years before the date of application for annual certification;

(b) The facility and the business operations actually conducted at the facility are reasonably similar to the proposed facility and proposed operations described in the application for preliminary certification; and

(c) The business firm has met the employment and minimum compensation requirements described in ORS 285B.105 (5)(c).

(6) In the case of the first application for annual certification filed by a business firm under this section, the department may approve the application only if, in addition to the requirements under subsection (5) of this section, business operations commenced at the facility within six months following the date of preliminary certification under ORS 285B.105.

(7) The department may consult with the city or county in determining whether to approve or disapprove an application under this section.

(8) If the department determines to approve an application, it shall issue an annual certification to the business firm.

(9) If the department determines to disapprove an application, the business firm or any owner of the business firm may not be allowed the exemption described in ORS 316.778 or 317.391 for the tax year for which the annual certification was sought or for any subsequent tax year.

(10) The decision of the department to disapprove an application under this section may be appealed in the manner of a contested case under ORS 183.310 to 183.550.

(11) An annual certification may not be issued under this section for a tax year that is more than 10 years following the year business operations at the facility are commenced.

(12) The department must determine to approve or disapprove an application under this section within 30 days of the date the application is filed. [2001 c.944 §4]

SMALL BUSINESS DEVELOPMENT

(Generally)

285B.120 Oregon Small Business Development Act. ORS 271.510, 271.520, 285B.092, 285B.123, 285B.165 to 285B.171, 285B.320 to 285B.326, 285B.335, 285B.341, 285B.344, 285B.350, 285B.365, 285B.371 to 285B.377, 657.471, 659A.015 and 777.250 shall be known as the Oregon Small Business Development Act of 1983. [Formerly 285.500]

285B.123 Policy. (1) The Legislative Assembly finds that:

(a) Small businesses comprise more than 97 percent of the business entities in this state.

(b) Small businesses provide more than three-quarters of the private sector jobs in this state.

(c) The small business contribution to the economy of this state exceeds the national average contribution and its continuance is vital to the economic health and growth of this state.

(d) All national economic indicators establish that the greatest source of future new jobs is in the small business sector of the economy.

(2) The purpose of the Oregon Small Business Development Act of 1983 is to encourage and assist the development and continued growth of small business in this state.

(3) As used in the Oregon Small Business Development Act of 1983, "small business" means a manufacturing business having 200 or fewer employees and all other forms of business having 50 or fewer employees.

(4) The provisions of ORS 285B.120 and 657.471 are intended to assist in carrying out the Oregon Small Business Development Act of 1983. [Formerly 285.503]

(Capital Access for Small Businesses)

285B.126 Definitions for ORS 285B.126 to 285B.147. As used in ORS 285B.126 to 285B.147, unless the context requires otherwise:

(1) "Financial institution" means a financial institution, as defined in ORS 706.008.

(2) “Loss reserve account” means an account in the State Treasury or any financial institution which is established and maintained by the Economic and Community Development Department for the benefit of a financial institution participating in the capital access program established under ORS 285B.126 to 285B.147.

(3) “Qualified business” means any person, conducting business for profit or not for profit, that is authorized to conduct business in the State of Oregon.

(4) “Qualified loan” means a loan or portion of a loan made by a financial institution to a qualified business for any business activity that has its primary economic effect in Oregon. The term does not include:

(a) A loan for the construction or purchase of residential housing.

(b) A loan for purchase of real property that is not used for the business operations of the borrower.

(c) A loan for the refinancing of an existing loan when and to the extent that the outstanding balance is not increased. [Formerly 285.507]

285B.129 Policy. (1) The Legislative Assembly finds that:

(a) There is a persistent shortage of equity capital available to small businesses in Oregon.

(b) Small businesses make important contributions to economic growth and vitality in this state.

(c) Many financial institutions in Oregon are limited in their ability to provide financing to small but rapidly growing businesses.

(2) It is the purpose of ORS 285B.126 to 285B.147 to establish a capital access program under which the State of Oregon will provide public fiscal resources to assist Oregon financial institutions to overcome obstacles and constraints in meeting the full range of economically sound financing needs of Oregon businesses. [Formerly 285.510]

285B.132 Contracts with financial institutions for capital access; contents of contract; status of information. (1) The Economic and Community Development Department may contract with any financial institution for the purpose of allowing the financial institution to participate in the capital access program established by ORS 285B.126 to 285B.147.

(2) A contract between the Economic and Community Development Department and a financial institution under this section shall provide:

(a) For the creation of a loss reserve account by the department for the benefit of the financial institution.

(b) That the financial institution, qualified business and the department will deposit moneys to the credit of the institution’s loss reserve account when the financial institution makes a qualified loan to a qualified business.

(c) That the department will pay moneys in the loss reserve account, not exceeding an amount equal to the total amount credited to the loss reserve account, to the financial institution to reimburse the institution for any financial loss incurred as a result of any qualified loan made under the capital access program established by ORS 285B.126 to 285B.147.

(d) That the liability of the State of Oregon and the Economic and Community Development Department to the financial institution under the contract is limited to the amount of money credited to the loss reserve account of the institution.

(e) That the financial institution shall provide such information as the department may require, including financial information that is identifiable with, or identifiable from, the financial records of a particular customer who is the recipient of a qualified loan.

(f) For such other terms as the department may require.

(3) A financial institution is not subject to ORS 192.555 (1) when the financial institution provides information to the Economic and Community Development Department as required by subsection (2)(e) of this section. [Formerly 285.513]

285B.135 Loss reserve accounts; limitation on amount. (1) The Economic and Community Development Department shall establish a loss reserve account for each financial institution with which the department makes a contract under ORS 285B.132.

(2) The loss reserve account for a financial institution shall consist of moneys paid as fees by borrowers and the financial institution under ORS 285B.138 and moneys transferred to the account from the Capital Access Fund under ORS 285B.138.

(3) Notwithstanding ORS chapter 293 or 295, the department may establish and maintain loss reserve accounts with any financial institution under such policies as the department may adopt.

(4) All moneys in a loss reserve account established under ORS 285B.126 to 285B.147 are the property of the

State of Oregon.

(5) The amounts transferred from the Capital Access Fund to a loss reserve account on behalf of any single qualified business shall not exceed $150,000. [Formerly 285.515]

285B.138 Enrollment of qualified loan in program; procedure; fee; transfers to loan reserve account. (1) When a financial institution participates in the capital access program established by ORS 285B.126 to 285B.147, if the financial institution decides to enroll a qualified loan under the capital access program in order to obtain the protection against loss provided by its loss reserve account, the financial institution shall notify the Economic and Community Development Department of the loan within 30 days after the loan is made. The notification shall be in writing on a form prescribed by the department.

(2) When making a qualified loan that will be enrolled under the capital access program, the financial institution shall require the qualified business to which the loan is made to pay a fee of not less than one and one-half percent of the principal amount of the loan but not more than three and one-half percent of such principal amount. The financial institution shall also pay a fee in an amount equal to the fee paid by the borrower. The financial institution shall deliver the fees collected under this subsection to the department for deposit in the loss reserve account for the institution.

(3) When depositing fees collected under subsection (2) of this section to the credit of the loss reserve account for a financial institution, the department shall transfer an amount that is not less than the total amount of the fees paid by the borrower and the financial institution from the Capital Access Fund to the loss reserve account for the institution. [Formerly 285.517]

285B.139 Definitions; rules; exception to minimum amount required for transfer to loss reserve account. (1) As used in this section, “brownfield” and “environmental action” have the meanings given those terms in ORS 285A.185 and 285A.188, respectively.

(2) Notwithstanding the provisions of ORS 285B.138 (3), the Economic and Community Development Department shall adopt rules that provide that, for qualified loans to businesses in distressed areas, as defined by the department, or for use in an environmental action on brownfields, the department shall transfer an amount that is not less than 150 percent of the total amount of the fees paid by the borrower and the financial institution from the Capital Access Fund to the loss reserve account of the institution. However, the total amount transferred under this section shall not exceed 40 percent of the moneys appropriated to the Capital Access Fund. [1991 c.688 §15; 1993 c.765 §80; 1995 c.71 §1; 1997 c.738 §4; 1999 c.247 §5; 2001 c.96 §3]

285B.141 Claims for reimbursement of losses; amounts subject to reimbursement. (1) The Economic and Community Development Department shall establish procedures under which financial institutions participating in the capital access program established by ORS 285B.126 to 285B.147 may submit claims for reimbursement for losses incurred as a result of qualified loan defaults.

(2) Costs for which a financial institution may be reimbursed from its loss reserve account include loan principal, accrued interest on the principal, actual and necessary costs of seeking recovery of the principal amount and interest thereon and any other related costs.

(3) A financial institution may seek reimbursement of loan losses prior to the liquidation of collateral from defaulted loans. The financial institution shall repay its loss reserve account for any moneys received as reimbursement under this section if the financial institution recovers moneys from the borrower or from the liquidation of collateral for the defaulted loan. [Formerly 285.520]

285B.144 Financial report of Capital Access Fund. (1) The Economic and Community Development Department shall annually prepare a report conforming to generally accepted accounting principles that describes the financial condition of the Capital Access Fund.

(2) The reports required under this section shall be submitted to the Governor and to the Joint Legislative Committee on Trade and Economic Development. [Formerly 285.525]

285B.147 Capital Access Fund; use; investment earnings; administrative expenses. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Capital Access Fund. All moneys in the fund are continuously appropriated to the Economic and Community Development Department for the purpose of making payments to loss reserve accounts established under ORS 285B.126 to 285B.147.

(2) Moneys in the Capital Access Fund, with the approval of the State Treasurer, may be invested as provided by

ORS 293.701 to 293.820, and the earnings from such investment shall be credited to the Capital Access Fund.

(3) The Capital Access Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly.

(b) Interest earned on moneys in the fund.

(c) Moneys returned to the fund from loss reserve accounts or other sources.

(4) The Economic and Community Development Department may charge administrative costs to the fund to pay for actual and necessary administrative expenses incurred by the department in administering the fund and establishing and maintaining loss reserve accounts under ORS 285B.126 to 285B.147. [Formerly 285.527]

285B.150 Transfers to Capital Access Fund when insufficient funds available. (1) Notwithstanding any other law, if at any time there are insufficient funds in the Capital Access Fund established by ORS 285B.147 to continue the operation of the program authorized by ORS 285B.126 to 285B.147, the Director of the Economic and Community Development Department may direct the transfer of unobligated funds from the Oregon Business Development Fund to the Capital Access Fund. Such transfers shall be in amounts necessary to meet the reasonably foreseeable demand for participation in the capital access program.

(2) Notwithstanding any other law, if at any time after the transfer of funds provided for in subsection (1) of this section, there are insufficient funds in the Capital Access Fund established by ORS 285B.147 to continue the operation of the program authorized by ORS 285B.126 to 285B.147, the Director of the Economic and Community Development Department may direct the transfer of unobligated funds from the Credit Enhancement Fund to the Capital Access Fund. Such transfers shall be in amounts necessary to meet the reasonably foreseeable demand for participation in the capital access program. The use of funds so transferred shall continue to be governed by ORS 285B.215 (3). [Formerly 285.528]

Note: 285B.150 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

285B.153 Reservation of Oregon Business Development Fund for small loans. In each fiscal year of a biennium, not less than 17 percent of all moneys available for lending from the Oregon Business Development Fund is reserved for loans to businesses receiving loans in aggregate original principal amount not exceeding $50,000. Any amounts reserved for loans to such businesses that are not loaned in one fiscal year shall be added to the amount reserved for loans to such businesses in the subsequent fiscal year. [Formerly 285.530]

285B.156 [Formerly 285.533; repealed by 1999 c.509 §61]

(Local Business Development)

285B.159 “Local business development fund” defined. As used in ORS 285B.074 and 285B.162, unless the context requires otherwise, “local business development fund” means a private nonprofit corporation or other nonprofit entity, a public corporation or public agency that makes loans or provides other financial assistance to businesses in this state for the purpose of promoting economic development. [Formerly 285.535; 2001 c.104 §98]

285B.162 Coordination of marketing and finance programs. The Economic and Community Development Department shall work with local business development funds to strengthen the coordination in the marketing of finance programs for small business, the review and analysis of loan applications and the operation of publicly operated business finance programs. [Formerly 285.537]

(Small Business Development Center)

285B.165 Purpose of ORS 285B.165 to 285B.171. (1) The purpose of ORS 285B.165 to 285B.171 is to establish and sustain a statewide network of small business development centers.

(2) The Legislative Assembly finds that:

(a) It is in the state’s interest to help small businesses develop and improve skills in such areas as marketing, management and capital formation through a network of small business development centers;

(b) Small business employers create most of the new jobs in Oregon and are vital to Oregon's long term economic vitality;

(c) Community colleges and state universities can link small business with college resources, expert resource people in the business community and other training resources throughout the state; and

(d) Information resources, business counseling and training assistance in a convenient format support the vitality of small business. [Formerly 285.540; 2001 c.148 §3]

285B.166 "State university" defined for ORS 285B.165 to 285B.171. As used in ORS 285B.165 to 285B.171, "state university" means a state institution of higher education listed in ORS 352.002. [2001 c.148 §2]

285B.168 Grants; application; authorized uses; eligibility. (1) The Economic and Community Development Department may make grants available on a justified need basis to a community college district, a community college service district or, with the concurrence of the Commissioner for Community College Services and the Chancellor of the Oregon University System, a state university to assist in the formation, improvement and operation of small business development centers. The grant application shall include:

(a) Evidence of the potential demand for assistance;

(b) Plans for involving other training resources and expert resource people from the business community in the program;

(c) An outline of training options to be available, including subject, training location, electronic availability and other considerations important to the small business community;

(d) Plans for the establishment and maintenance, either in a geographically accessible location or in electronic form, of resource information critical to the success of small business;

(e) Plans for providing small business owners and managers individual counseling, to the greatest extent practicable, in subject areas critical to small business success;

(f) A budget for the year for which a grant is requested, including cost apportionment among the Economic and Community Development Department, small business clients, the community college or state university and other sources; and

(g) A plan for evaluating the effect of the program on small business clients served.

(2) The grants made under subsection (1) of this section are to be used by the community college district, community college service district or state university to provide funds for:

(a) Small business development center staff and support staff;

(b) Expert resource persons from the business community;

(c) Other training and business resources in skill areas for which, or areas of the state where, the community college district, community college service district or state university can demonstrate it does not otherwise have the capacity or expertise to provide the resources; and

(d) Other costs related to providing training, counseling and business resources to small business clients.

(3) To be eligible for grants under subsection (1) of this section, programs shall be required to provide funds, in-kind contributions or some combination of funds and contributions, in accordance with rules adopted by the Economic and Community Development Department. [Formerly 285.543; 2001 c.148 §4]

285B.171 Short title. ORS 285B.165 to 285B.171 shall be known and may be cited as the "Small Business Training Assistance Act." [Formerly 285.547]

(Miscellaneous)

285B.174 Programs to assist businesses in procuring government contracts and grants. In cooperation with other state and public agencies, state universities as defined in ORS 285B.166 and community colleges may develop programs to assist Oregon businesses with the procurement of government contracts and grants. Small business development centers established under ORS 285B.165 to 285B.171 may assist with these programs. [Formerly 285.550; 2001 c.148 §5]

285B.177 [Formerly 285.553; repealed by 1999 c.509 §61]

MICROENTERPRISE DEVELOPMENT

285B.178 Definitions for ORS 285B.178 to 285B.183. As used in ORS 285B.178 to 285B.183 and section 4, chapter 419, Oregon Laws 2001:

(1) "Local microenterprise support organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or another locally operated nonprofit entity that provides services to disadvantaged entrepreneurs.

(2) "Low income" means income adjusted for family size that does not exceed:

(a) For metropolitan areas, 80 percent of median income; or

(b) For nonmetropolitan areas, the greater of 80 percent of the area median income or 80 percent of the statewide nonmetropolitan area median income.

(3) "Microenterprise" has the meaning given that term under 15 U.S.C. 6901, as amended and in effect on June 18, 2001.

(4) "Microentrepreneur" means an individual conducting a microenterprise.

(5) "Microlending" means the practice of lending moneys to microenterprises or microentrepreneurs.

(6) "Statewide microenterprise support organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or another nonprofit entity that serves as an intermediary between the Economic and Community Development Department and local microenterprise support organizations.

(7) "Training and technical assistance" means services and support offered to microenterprises and microentrepreneurs. "Training and technical assistance" includes, but is not limited to, services to enhance business development, planning, marketing, management skills and access to financial services.

(8) "Very low income" means income adjusted for family size that does not exceed 150 percent of the poverty level determined under 42 U.S.C. 9902, as amended and in effect on June 18, 2001. [2001 c.419 §2]

Note: 285B.178 to 285B.183 and 285B.186 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

285B.179 Policy. (1) The Legislative Assembly finds that:

(a) There is a need to develop and expand businesses in economically distressed communities in both rural and urban areas;

(b) There is a need to assist Oregonians who are unemployed, underemployed or in low income jobs;

(c) Microenterprises can provide a means for unemployed, underemployed or low income individuals to find and sustain productive work;

(d) Microenterprises, including self-employment, can enable people with disabilities to use their management skills to create and provide products and services, to acquire new skills in money management and business development and to develop pride and self-esteem;

(e) Microenterprises can provide opportunities for economically distressed communities to thrive, one microentrepreneur at a time;

(f) Microenterprises, including self-employment and start-up businesses, are important elements of the Oregon economy and play a vital role in job creation;

(g) There is a lack of access to capital and training and technical assistance for low income and very low income microentrepreneurs;

(h) Many low income and very low income microentrepreneurs need microlending services and training and technical assistance to start, operate or expand their businesses;

(i) Local microenterprise support organizations have demonstrated cost-effective delivery methods for providing microlending services and training and technical assistance; and

(j) Local and state charitable foundation support, federal program funding and private sector support can be leveraged by a statewide program for development of microenterprises.

(2) The purposes of ORS 285B.178 to 285B.183 and section 4, chapter 419, Oregon Laws 2001, are to:

(a) Ensure that microenterprises in Oregon are able to realize their full potential to create jobs, enhance entrepreneurial skills, expand entrepreneurial activity and increase the capacity of low income and very low income households to become self-sufficient;

(b) Enhance the development of a statewide infrastructure for microenterprise support; and

(c) Enable the Economic and Community Development Department to engage in contractual relationships with statewide microenterprise support organizations that have the capacity to administer grants to local microenterprise support organizations, subject to ORS 285B.178 to 285B.183 and section 4, chapter 419, Oregon Laws 2001, and to leverage additional funds from sources other than moneys appropriated from the General Fund. [2001 c.419 §3]

Note: See note under 285B.178.

285B.180 [Formerly 285.555; repealed by 1999 c.509 §61]

285B.183 Biennial report. The Economic and Community Development Department shall submit a biennial report to the Governor and the Legislative Assembly outlining the actions that the department has taken related to microenterprise development pursuant to ORS 285A.045 and 285A.050. [2001 c.419 §5]

Note: See note under 285B.178.

Note: Sections 4 and 6, chapter 419, Oregon Laws 2001, provide:

Sec. 4. (1) The Economic and Community Development Department shall convene a work group on microenterprise development.

(2) The work group established under this section shall consist of representatives from:

(a) The Department of Human Services;

(b) The Employment Department;

(c) The Economic and Community Development Department;

(d) The Housing and Community Services Department;

(e) The State Department of Agriculture;

(f) The Advocate for Minority, Women and Emerging Small Business in the Office of the Governor;

(g) The Department of Community Colleges and Workforce Development;

(h) The Oregon State University Extension Service;

(i) Other entities whose work relates to microenterprise activity in Oregon; and

(j) Statewide microenterprise support organizations.

(3) The work group established under this section shall meet regularly to coordinate the work of state agencies and other entities related to microenterprise activity and to develop a coherent framework for state agency efforts related to microenterprise activity. [2001 c.419 §4]

Sec. 6. Section 4 of this 2001 Act is repealed on January 2, 2004. [2001 c.419 §6]

285B.186 Short title. ORS 285B.178 to 285B.183 and section 4, chapter 419, Oregon Laws 2001, shall be known and may be cited as the Microenterprise Development Act. [2001 c.419 §1]

Note: See note under 285B.178.

CREDIT ENHANCEMENT FUND

285B.200 Definitions for ORS 285B.200 to 285B.218. As used in ORS 285B.200 to 285B.218:

(1) “Department” means the Economic and Community Development Department.

(2) “Eligible project costs” includes productive equipment and machinery, working capital for operations and export transactions and such other costs as the department, by rule, may provide.

(3) “Emerging small business” has the meaning given that term in ORS 200.005.

(4) “Financial institution” includes institutions listed in ORS 706.008 and such other institutions defined by rule of the Economic and Community Development Department as financial institutions for purposes of ORS 285B.200 to 285B.218.

(5) “Qualified business” means any existing or proposed business entity with an average annual employment not exceeding 200 employees that, except when located within a distressed area, as defined by the Economic and Community Development Department, sells goods or services in markets for which national or international competition exists or that owns, occupies, operates or has entered into an agreement to own, occupy or operate real property containing a brownfield, as defined in ORS 285A.185. The term includes professional services companies

providing services to traded sector industries and other entities within and outside of this state.

(6) “Value-added agricultural products” means agricultural products that have been processed, transformed or refined to the point where they may be distributed to a final consumer without further processing, transformation or refining. The term also includes agricultural products that are processed, transformed or refined for distribution to other than final consumers when such processing, transformation or refining represents a substantial increment in value as determined by the Economic and Community Development Department in consultation with the State Department of Agriculture. [Formerly 285.466; 1999 c.247 §4]

Note: 285B.200 to 285B.218 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285B by legislative action. See Preface to Oregon Revised Statutes for further explanation.

285B.203 Legislative findings; purpose. (1) The Legislative Assembly finds that:

(a) Small and medium sized businesses in general, and firms that produce value-added agricultural products in particular, are adversely affected by the current credit crisis.

(b) Small companies have historically had a difficult time obtaining credit, especially on terms that allow them to grow and to create jobs.

(c) The limited availability of credit for export transactions limits the ability of small and medium sized businesses in Oregon to compete in international markets.

(d) The challenge for the public economic sector is to design programs, in conjunction with lending institutions in the private economic sector, that fill the gaps in credit availability and export finance.

(e) Without substantial financial assistance to promote redevelopment, properties containing brownfields, as defined in ORS 285A.185, often remain abandoned or underutilized because of the uncertainty concerning environmental contamination at the sites and the cost of reducing or eliminating the contamination.

(2) The Legislative Assembly declares that it is the purpose of the Credit Enhancement Fund established under ORS 285B.215 (1) and (2) to:

(a) Create incentives and assistance to increase the flow of private capital to the value-added agriculture industries.

(b) Promote industrial modernization and technology adoption.

(c) Encourage the retention and creation of family wage jobs.

(d) Encourage the export of goods and services by Oregon businesses in international markets.

(e) Encourage and promote the redevelopment of brownfields, as defined in ORS 285A.185, by providing assistance to perform environmental action, as defined in ORS 285A.188, on brownfield sites. [Formerly 285.468; 2001 c.96 §4]

Note: See note under 285B.200.

285B.206 Duties of department under ORS 285B.200 to 285B.218; rules. (1) The Economic and Community Development Department shall develop a program under which the department, under contracts with financial institutions, shall provide loan guarantees, insurance, coinsurance in conjunction with other providers of loan guarantee programs or other forms of credit guarantees for qualified businesses for eligible project costs.

(2) In administering the program created by ORS 285B.200 to 285B.218, the department shall consult and cooperate with financial institutions in this state. The program shall be administered so that administrative procedures and application procedures are as responsive to the needs of qualified businesses and financial institutions as practicable, consistent with prudent investment and lending practices and criteria.

(3) The department shall prescribe by rule the loan or credit guarantee application procedure for a financial institution on behalf of a qualified business.

(4) When the department approves a loan or credit guarantee, the department shall enter into a loan or credit guarantee agreement with the financial institution. The agreement shall specify:

(a) The fee to be charged to the financial institution;

(b) The evidence of debt assurance of, and security for, the loan or credit guarantee;

(c) A loan guarantee or credit guarantee which does not exceed 15 years; and

(d) Such other terms and conditions considered necessary or desirable by the department.

(5) The department may adopt procedures for loan or credit guarantees whereby a qualified business may apply directly to the department for a preliminary guarantee commitment. Such preliminary guarantee commitments may be issued by the department subject to the qualified business securing a commitment for financing from a financial

institution. The procedures adopted by the department shall specify the process by which a financial institution may obtain a final loan or credit guarantee. [Formerly 285.474]

Note: See note under 285B.200.

285B.209 Fees and terms for loan and credit guarantees for program under ORS 285B.206 and under ORS 285B.200 to 285B.218. (1) When making loan or credit guarantees under the program established under ORS 285B.206, the Economic and Community Development Department shall establish fees and other terms for loan or credit guarantees that are calculated to reasonably assure that businesses with access to other forms of private capital will find it economical not to participate in the program.

(2) The department, with due regard for the possibility of losses and administrative costs, shall set fees and other terms at levels sufficient to reasonably assure that the program is self-financing.

(3) When making loan or credit guarantees under the program established under ORS 285B.200 to 285B.218, the department shall establish fees and other terms for loan or credit guarantees that are calculated to reasonably assure that qualified businesses with access to other forms of private capital will find it economical not to participate in the program.

(4) With due regard for the possibility of losses and administrative costs, the department shall set fees and other terms at levels sufficient to reasonably assure that the program is self-financing.

(5) For a preliminary guarantee commitment issued under ORS 285B.206 (5), the department may charge the qualified business an application fee. The fee shall be in addition to any other fees charged by the department under this section and may not exceed $250 for each application. [Formerly 285.476]

Note: See note under 285B.200.

285B.212 Commission to advise and make recommendations to department concerning specified programs. The Economic and Community Development Department shall consider the advice and recommendations of the Oregon Economic and Community Development Commission in developing and implementing the programs provided for in ORS 285B.126 to 285B.147, 285B.150 and 285B.200 to 285B.218. [Formerly 285.478]

Note: See note under 285B.200.

285B.215 Credit Enhancement Fund; sources; uses. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Credit Enhancement Fund. All moneys in the fund are continuously appropriated to the Economic and Community Development Department for the following purposes:

(a) Payment of claims pursuant to contracts for loan or credit guarantees under ORS 285B.200 to 285B.218.

(b) Payment of administrative costs of the department for actual and necessary administrative expenses incurred by the department in administering the fund and establishing and maintaining the program established under ORS 285B.200 to 285B.218.

(c) Repayment of transfers of funds required or authorized by law.

(d) Purchase or buyout of superior or prior liens, mortgages or security interests.

(2) Moneys in the Credit Enhancement Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly, including moneys derived from the Administrative Services Economic Development Fund.

(b) Proceeds from collateral assigned to the department.

(c) Interest earned on moneys in the fund.

(d) Transfers of moneys to the fund.

(e) Fees assessed for guarantees, as determined by the department.

(f) Moneys from gifts.

(g) Moneys from any grant made to the fund by any federal agency.

(h) Proceeds of insurance provided by the Export-Import Bank of the United States or by any other provider of insurance for export transactions.

(3) In each biennium, not less than 20 percent of all moneys available for loan guarantees from the Credit Enhancement Fund is reserved for loan guarantees to emerging small businesses. [Formerly 285.471]

Note: See note under 285B.200.

285B.218 Pledge to assure repayment of loans or other credit. (1) The Economic and Community Development Department is authorized to pledge up to $75 million to assure the repayment of loan guarantees or other extensions of credit made to or on behalf of qualified businesses for eligible projects costs.

(2) If the balances in the Credit Enhancement Fund are insufficient to cover any claims by financial institutions that arise from loan and credit guarantees made under ORS 285B.200 to 285B.218, the Oregon Department of Administrative Services is directed to transfer in the fiscal year as often as appropriate any funds from the Administrative Services Economic Development Fund to cover such principal, interest and claims, subject to the condition that no such transfer shall be made prior to the satisfaction of the allocation under ORS 391.130 to the Regional Light Rail Extension Construction Fund and the allocation to the Department of Environmental Quality for the debt services described in section 1, chapter 537, Oregon Laws 1993. [Formerly 285.481]

Note: See note under 285B.200.

REGIONAL ECONOMIC DEVELOPMENT

285B.230 Definitions for ORS 285B.230 to 285B.269. As used in ORS 285B.230 to 285B.269, unless the context requires otherwise:

(1) “Region” means groups of counties designated by the Economic and Community Development Department or recognized in a regional partnership as provided in ORS 285B.236 (3).

(2) “Regional board” means a board comprised of individuals described in ORS 285B.242 (1) and jointly appointed by the county governing bodies of each county in the region to develop, fund, implement and monitor the achievement of the regional investment plan.

(3) “Regional investment plan” is a long-term economic and community development plan, updated each biennium, that focuses on the economic and community development priorities of each region, including but not limited to:

(a) Supporting communities and populations that have been left out of Oregon’s economic expansion and diversification;

(b) Helping companies that are starting up or are already doing business in Oregon to compete globally;

(c) Ensuring that economic strategies reinforce Oregon’s long-term prosperity and livability; and

(d) Coordinating efforts of economic and community development, education, workforce development, natural resource management and other civic activities.

(4) “Regional partnership” means a group of regional and economic development partners, including but not limited to cities, counties, ports, Indian tribes, special districts, nonprofit organizations and private organizations, that join together as a regional partnership in a memorandum of understanding between the members of the partnership and the directors of the Department of Transportation, the Economic and Community Development Department, the Housing and Community Services Department, the Department of Land Conservation and Development and the Department of Environmental Quality to provide a forum for coordination of economic and community development planning and investments so that strategies and processes for economic and community development are leveraged to the greatest extent possible to meet agreed-upon priority issues, challenges and goals. [Formerly 285.630; 1999 c.509 §47]

285B.233 Legislative finding; purpose. (1) The Legislative Assembly finds that regional investment plans are essential to the state’s economic and community development goals and that to be effective regional investment plans must have the coordinated support of available resources.

(2) The Legislative Assembly declares that the purpose of ORS 285B.230 to 285B.269 is:

(a) To encourage the development of regional investment plans that address the economic and community development priorities of each region of the state;

(b) To identify and coordinate regional economic and community development priorities;

(c) To ensure that economic and community development plans reinforce the long-term prosperity and livability of Oregon;

(d) To effectively utilize available resources through a regional investment program; and

(e) To coordinate private and public resources to support economic and community development. [Formerly

285.633; 1999 c.509 §48]

285B.236 Guidelines for regional investment plans. (1) The Economic and Community Development Department, by rule, shall adopt guidelines for submission of regional investment plans and distribution of funds.

(2) The guidelines shall provide that the regional investment plans are approved in accordance with criteria reflecting the economic and community benefits to the state. Each regional investment plan must at a minimum set forth in measurable terms the extent to which the plan will accomplish the economic and community development priorities of the region.

(3) The department, in collaboration with counties, shall establish regions, based on information and advice received from county governing bodies and on historical, cultural and economic links among counties. A region shall consist of at least two contiguous counties. For any area in which a regional partnership is established, the department may accept the regional boundaries designated by the partnership.

(4) The department shall require each region to examine its economic and community development needs. [Formerly 285.635; 1999 c.509 §49]

285B.239 Regional investment plan content. Regional investment plans shall serve as a basis for state financial assistance to projects or activities to meet regional economic and community development priorities. Each group of counties that forms a region shall submit a regional investment plan that at a minimum shall include the following elements:

(1) An identification of short-term and long-term regional economic and community development priorities;

(2) An analysis of the unique or significant resources that provide the foundation for the regional investment plan;

(3) An analysis of barriers to implementation of the regional investment plan and an identification of the means to overcome those barriers;

(4) A long-term plan to implement the regional investment plan, including necessary actions by:

(a) Local governments;

(b) The private sector;

(c) State government; and

(d) Federal government;

(5) A two-year implementation plan with a prioritized list of projects or activities to be undertaken or funded by the state from lottery proceeds and other sources. For a region that has a recognized regional partnership under ORS 285B.236, the prioritized list of projects or activities may include investment of all or part of the moneys received by the region from the Regional Investment Fund or the Rural Investment Fund to provide moneys for the administration or financing of long-term or future economic and community development projects or activities;

(6) A plan for involvement of disadvantaged and minority groups in the region;

(7) Performance measurements for meeting the objective set forth in ORS 285B.236 (2). Each region shall develop an evaluation plan, as part of its regional investment plan, for measuring and monitoring regional investment plan performance. The evaluation plan shall include regional benchmarks for monitoring achievement of the regional investment plans and priorities. When regional benchmarks are established, interim indicators of performance shall be determined after negotiation between the regional board and the Oregon Economic and Community Development Commission. The regional board shall periodically submit performance reports to the county governing bodies in the region, the Oregon Economic and Community Development Commission, the Governor and the Legislative Assembly; and

(8) An overall strategy management and project or activity implementation plan that demonstrates that a region has the capacity to allocate resources and insures that such resources are effectively used. [Formerly 285.637; 1999 c.509 §50; 2001 c.552 §2]

285B.242 Adoption of regional investment plan; regional boards; hearing; review; approval. (1) The governing body of each county of this state shall be responsible for the submission of a regional investment plan as provided in ORS 285B.239. The governing body of a county shall designate a regional board to develop the regional investment plan. The regional board shall consist of individuals who represent various local interests including cities, counties, ports, special districts and Indian tribes and significant representation from the private economic sector. The regional board shall include members who are representatives of rural interests, including local government.

(2) The regional board shall be responsible for developing the regional investment plan for the region.

(3) The regional board shall hold a public hearing in each county in the region prior to a vote by the governing

bodies of the counties to recommend to the Governor the regional investment plan described in ORS 285B.239.

(4) In developing the list provided for in ORS 285B.239 (5), a regional board shall consult with industries, cities, ports, special districts, regional workforce committees and federally recognized Oregon Indian tribes located in the region.

(5) A region shall submit the regional investment plan to the Economic and Community Development Department for review by the Oregon Economic and Community Development Commission. The department shall work with regions to refine regional investment plans and ensure compliance with the requirements of ORS 285B.230 to 285B.269. The Oregon Economic and Community Development Commission shall make recommendations on approval of the plan to the Governor for final approval or shall return the plan to the regional board for further modification.

(6) The Economic and Community Development Department shall be responsible for identifying common issues among regions, developing statewide strategies and organizing opportunities for regions to address them.

(7) After a regional investment plan is developed by a regional board, adopted by the governing bodies of the counties and approved by the Governor, the regional board, in each biennium, shall update the plan and recommend a two-year implementation plan. The implementation plan shall be adopted by the governing bodies of the counties after input from the cities, ports, special districts, Indian tribes, private economic sector and other parties in the region, shall be reviewed by the Oregon Economic and Community Development Commission and must be approved by the Governor before taking effect.

(8) The Governor may delegate responsibility for review and approval of a regional investment plan to a regional partnership. [Formerly 285.640; 1999 c.509 §51]

285B.245 Governor to adopt investment plan; modification; coordination with other economic development efforts. (1) After considering the recommendations submitted, the Governor may adopt a proposed regional investment plan or return the plan to the affected counties for modification.

(2) The Economic and Community Development Department shall coordinate adopted regional investment plans with existing state and local economic development efforts to support a state strategy for economic development. Regions using regional investment funds for tourism or industrial marketing projects must, as a condition for receiving the funds, demonstrate that the projects complement and are consistent with existing statewide marketing campaigns. The department shall work with regions to ensure coordination among statewide marketing efforts and regional tourism and industrial marketing projects funded through the regional investment program established under ORS 285B.230 to 285B.269.

(3) The department shall discourage competition among regions for existing Oregon businesses and economic activity. [Formerly 285.643; 1999 c.509 §52]

285B.248 All counties to be included in region. In carrying out the provisions of ORS 285B.230 to 285B.269, the Economic and Community Development Department shall work to ensure that all counties are included in a region with an adopted regional investment plan and that each regional investment plan is approved for implementation. [Formerly 285.645; 1999 c.509 §53]

285B.251 [Formerly 285.647; repealed by 1999 c.509 §61]

285B.254 Rural Investment Fund. (1) There is created a Rural Investment Fund, separate and distinct from the General Fund, to consist of all moneys credited thereto, including moneys from the Administrative Services Economic Development Fund, and all interest earned on the Rural Investment Fund. The Rural Investment Fund is created to provide a flexible funding source for financing those locally determined programs and projects that may not be eligible for financing through other state and federal funding sources. The moneys in the fund are continuously appropriated to the Economic and Community Development Department to be used to promote economic and community development in rural communities.

(2) The department may use moneys in the Rural Investment Fund to pay for the administrative expenses of operating the economic development programs under ORS 285B.257.

(3) After consulting with regional boards and representatives of rural communities, the department, by rule, shall adopt standards, objectives and criteria for the use and distribution of moneys in the Rural Investment Fund. [Formerly 285.648; 1999 c.509 §54]

285B.257 Rural action plans; distribution of Rural Investment Fund to implement plans; biennial reports; prohibited uses of fund; rules. (1) Moneys in the Rural Investment Fund shall be distributed to regional boards designated under ORS 285B.242 for economic development programs and projects designed to benefit rural communities.

(2) Each regional board shall update the regional investment plan prepared under ORS 285B.239 to include a rural action plan consistent with the purpose and objectives of the Rural Investment Fund. A rural action plan must be reviewed by the Oregon Economic and Community Development Commission and approved by the Governor before any moneys from the Rural Investment Fund may be distributed for implementing any program or project described in the rural action plan. Moneys from the Rural Investment Fund shall not be used to retire any debt or pay for expenditures made or expenses incurred prior to the approval of a rural action plan.

(3) In each biennium, a regional board may dedicate a portion of the moneys distributed to the board from the Rural Investment Fund for technical assistance and staff support for updating the rural action plan and for developing programs and projects under the rural action plan. The regional board shall determine the amount of moneys dedicated to such purposes. Notwithstanding subsection (2) of this section, the Economic and Community Development Department may distribute moneys from the Rural Investment Fund for technical assistance and staff support prior to approval of the rural action plan.

(4) In each biennium, each regional board shall submit a report on the expenditure of moneys received under this section and shall indicate the success of the programs and projects financed with moneys from the Rural Investment Fund. The success of programs and projects shall be defined by specific performance measurements developed by the regional board. The report required by this subsection shall be made part of the biennial report submitted to the Governor and the Legislative Assembly under ORS 285B.263.

(5) Moneys from the Rural Investment Fund shall not be used to substitute for local government expenditures for existing and continuing public services. The Economic and Community Development Department shall adopt rules to carry out the provisions of this subsection. [Formerly 285.649; 1999 c.509 §55]

285B.260 Regional Investment Fund. (1) There is created a Regional Investment Fund, separate and distinct from the General Fund, to consist of all moneys credited thereto, including moneys from the Administrative Services Economic Development Fund, and all interest earned on the Regional Investment Fund. The fund is continuously appropriated to the Economic and Community Development Department to be used for grants to implement ORS 171.845, 280.518 and 285B.230 to 285B.269.

(2) The department may use moneys in the Regional Investment Fund to pay for the administrative expenses of operating the regional investment program under ORS 285B.230 to 285B.269.

(3) The fund shall not be used to retire any debt or to reimburse any person or municipality for expenditures made or expenses incurred prior to the adoption of a regional investment plan. [Formerly 285.650; 1999 c.509 §56]

285B.263 Expenditure of Regional Investment Fund; distribution. (1) In each biennium, the Economic and Community Development Department shall expend moneys from the Regional Investment Fund for:

(a) Technical assistance and staff support for preparation and update of regional investment plans;

(b) Projects or activities implementing an approved regional investment plan and implementing priorities described in the plan; and

(c) Personnel necessary to administer the plans and projects or activities.

(2) In each biennium, the Oregon Economic and Community Development Commission, by rule and in agreement with the Association of Oregon Counties, League of Oregon Cities and Oregon Public Ports Association, may provide funds, either centrally or to regional boards or both, for multiregion projects or activities that implement the approved regional investment plans of two or more regions with common economic and community development priorities. Funding for multiregion projects or activities under this subsection shall be awarded, at the discretion of the commission, according to the quality of the defined projects or activities.

(3) In each biennium, a regional board may dedicate a portion of regional investment funds for technical assistance and staff support for regional investment plan development and refinement and development and administration of regional partnerships. The portion of funds so dedicated shall be determined by the commission. The commission shall provide regional boards with these funds prior to approval of regional investment plans.

(4) In each biennium, a regional board may dedicate a portion of regional investment funds to provide grants or loans to individual private businesses for fixed asset acquisition. Such funds must be used to make grants and loans that are consistent with the regional investment plan and that support the regional priorities included in the regional

investment plan. The terms and conditions of grants or loans to be made under this subsection must be contained in the regional investment plan at the time it is submitted for state review.

(5) After a regional investment plan is adopted, the department in each calendar quarter shall provide regional investment funds, less any moneys used for technical assistance and staff support for regional investment plan development, to the region. Moneys received under this subsection shall be used for development of projects or activities based upon an evaluation by the regional board of the merit and readiness of the projects or activities. Projects and activities that receive such financial assistance must be consistent with the priorities of the approved regional investment plan.

(6) In each biennium, each regional board shall submit a report to the Governor and the Legislative Assembly that describes the expenditure of moneys received under this section and indicates the success, as defined by specified performance measurements, of the funded projects or activities in achieving the regional economic and community development priorities described in ORS 285B.236 (2). Future grants to a regional board may be based on the performance of the board. [Formerly 285.651; 1999 c.509 §57; 2001 c.552 §3]

285B.266 Strategic Reserve Fund; sources; uses. (1) There is created a Strategic Reserve Fund, separate and distinct from the General Fund, to consist of all moneys credited thereto, including moneys from the Administrative Services Economic Development Fund, and all interest earned on the Strategic Reserve Fund. The fund is continuously appropriated to the Economic and Community Development Department to be used to implement statewide strategies for economic development.

(2) The fund shall not be used to retire any debt or, except upon approval of the Joint Ways and Means Committee or, if the Legislative Assembly is not in session, the Emergency Board, to pay administrative expenses of the department. Expenses that are project related shall not be considered to be administrative expenses of the department.

(3) The department is directed to place particular emphasis on investments that assist communities, businesses or industries in cost-effective projects that assist the creation, expansion and preservation of the principal traded sector industries of Oregon and encourage diversification and preservation of regional economies. The fund shall be used to assist economic and community development projects of public entities, industry groups or businesses with significant long-term, regional or statewide economic impacts, to provide interim financing mechanisms to augment existing public or private sector programs or to analyze statewide, long-term economic issues and opportunities. [Formerly 285.653; 1999 c.509 §19]

285B.269 Short title. ORS 285B.230 to 285B.269 shall be known as the Regional Economic Development Act. [Formerly 285.655]

INDUSTRY DEVELOPMENT PROJECTS

285B.280 Definitions for ORS 285B.280 to 285B.286. As used in ORS 285B.280 to 285B.286, unless the context requires otherwise:

(1) “Flexible networks” means groups of three or more private sector firms working cooperatively to manufacture, sell or market products, develop technologies or create or disseminate information.

(2) “High performance manufacturing practices” means methods for organizing work which devolve greater decision-making responsibility onto front-line workers, including but not limited to employee involvement, total quality control, just-in-time production and other related innovations.

(3) “Key industries” means traded sector industries that make a major contribution to the economy of Oregon, including but not limited to, forest products, agricultural products, high technology, primary and fabricated metals, fisheries, interstate and international tourism, film and video production, graphic communications, biotechnology, software, environmental services, plastics and aerospace.

(4) “Network brokers” means persons who are trained to assist private sector firms to form flexible networks and make other similar efforts to provide for joint manufacturing, marketing, technology development, information dissemination and other activities.

(5) “Traded sector” means industries in which member firms sell their goods or services into markets for which national or international competition exists. [Formerly 285.765]

285B.283 Policy. (1) The Legislative Assembly declares that it is the policy of the State of Oregon, working with private firms, industry associations and others, to encourage cooperative sector-based strategies to promote industrial

competitiveness.

(2) The Legislative Assembly declares that it is also the policy of this state that programs to develop particular sectors of this state's economy, to the maximum extent feasible, include firms of all sizes. To promote that policy, the Economic and Community Development Department shall undertake such efforts as are necessary to assure representative participation by small firms under ORS 285B.280 to 285B.286.

(3) The Legislative Assembly further declares that it is the policy of this state to emphasize industry development in those sectors of the economy in which Oregon firms face national and international competition. [Formerly 285.767]

285B.286 Industry development activities. For traded sector industries, the Economic and Community Development Department shall undertake industry development activities which may include, but are not limited to, all of the following:

(1) Focus groups and other meetings and related studies to identify traded sector industry members and issues of common concern within an industry.

(2) State technical and financial support for formation of industry associations, publication of association directories and related efforts to create or expand the activities of industry associations.

(3) Helping establish research consortia.

(4) Joint training and education programs and curricula related to the specific needs of traded sector industries.

(5) Cooperative market development activities.

(6) Analysis of the need, feasibility and cost for establishing product certification and testing facilities and services. [Formerly 285.770; 1999 c.509 §20]

285B.289 [Formerly 285.773; repealed by 1999 c.509 §61]

285B.292 [Formerly 285.775; repealed by 1999 c.509 §61]

285B.295 [Formerly 285.777; repealed by 1999 c.509 §61]

285B.298 [Formerly 285.780; repealed by 1999 c.509 §61]

STATE REVENUE BONDS FOR INDUSTRIAL, COMMERCIAL, SOLID WASTE DISPOSAL, RESEARCH AND DEVELOPMENT USES

285B.320 Policy. The Legislative Assembly finds that by use of the powers and procedures described in ORS 285B.320 to 285B.377 for the assembling and financing of lands for industrial, solid waste disposal, commercial and research and development uses and for the construction and financing of facilities for such uses, financed through the issuance of bonds secured solely by the properties, lease payments, loan payments, rentals or other financing payments thus made available, the state may be able to reduce substantially in various counties the occurrence of economic conditions requiring more expensive remedial action. It is the purpose of ORS 285B.320 to 285B.377 to authorize the exercise of powers granted by ORS 285B.320 to 285B.377 by this state in addition to and not in lieu of any other powers it may possess. [Formerly 285.310; 1999 c.509 §29; 2001 c.680 §2]

285B.323 Definitions for ORS 285B.320 to 285B.377. As used in ORS 285B.320 to 285B.377, unless the context requires otherwise:

(1) "Bond" means any evidence of indebtedness, including but not limited to any bond, note, obligation, loan agreement, financing agreement, contracts for leasing, rental or financing of real or personal property, including contracts for rental, long term leases under an optional contract for purchase, financing agreements with vendors, financial institutions or others or for purchase of any property secured by revenues or from other financing sources as provided in ORS 285B.320 to 285B.377. A bond, as defined in this subsection and issued under ORS 285B.320 to 285B.377, shall be considered a revenue bond for purposes of ORS 286.031.

(2) "Economic development project" includes any properties, real or personal, used or useful in connection with a revenue producing enterprise or any solid waste disposal facilities and related vehicles, rolling stock or equipment. "Economic development project" shall not include any facility or facilities designed primarily for the generation, transmission, sale or distribution of electrical energy.

(3) "Eligible project" means an economic development project found by the Oregon Economic and Community

Development Commission to meet standards of the commission adopted under ORS 285A.110. The commission may treat as a single eligible project for bonding purposes any number of economic development projects determined to be eligible projects. [Formerly 285.315; 1999 c.509 §30; 2001 c.680 §3]

285B.326 Determination of eligibility of projects for financing; fees. (1) Upon determining an economic development project an "eligible project," the Oregon Economic and Community Development Commission shall forward the application to the State Treasurer, who shall determine whether to issue the bonds.

(2) The commission shall collect the fees set forth in subsection (3) of this section from an applicant that seeks to have an economic development project declared eligible for financing. The fee may be collected even though the project has not been determined to be eligible for financing. Moneys collected under this subsection are continuously appropriated to the commission for the purpose of administration or funding of any program it is authorized to operate. Participation fees received on bonds issued pursuant to ORS 285B.377 may be paid to local development groups for administration expenses related to investigating proposed economic development projects and assisting the commission in processing applications pursuant to ORS 285B.377.

(3) The fees described in subsection (2) of this section are as follows:

(a) $250 for an application of not to exceed $500,000.

(b) $500 for an application of more than $500,000.

(c) A closing fee of not to exceed one-half of one percent of the total bond issue for the project, as determined by the commission.

(d) A one-time participation fee, not to exceed one-half of one percent of the total bond issue or an annual participation fee not to exceed one one-sixteenth of one percent of the outstanding principal of the bond issue as determined by the commission.

(e) For bonds issued under ORS 285B.374 and 285B.377, insurance assessments in amounts and payable at such times as are required by rules adopted pursuant to ORS 285A.110. [Formerly 285.320; 1999 c.509 §31]

285B.329 Review by Oregon Economic and Community Development Commission; exception. (1) The state, acting through the State Treasurer, shall not undertake to finance any economic development project pursuant to ORS 285B.320 to 285B.377 before the Oregon Economic and Community Development Commission has reviewed the project pursuant to standards adopted under ORS 285A.110.

(2) The commission is not required to make the determination and findings described in ORS 285A.055 (1) and (2) if the economic development project involves a solid waste disposal facility and related vehicles, rolling stock or equipment when the project does not require any private activity volume cap under ORS 286.605 to 286.645. [Formerly 285.325; 1999 c.509 §32; 2001 c.680 §4]

285B.332 Request by county governing body. (1) The undertaking of any eligible project 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 is encouraged to forward appropriate prospective eligible projects to the Oregon Economic and Community Development Commission for processing pursuant to ORS 285B.326.

(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) If the governing body is requesting the undertaking of an eligible project under ORS 285B.386, it may impose additional reasonable requirements on the applicant. [Formerly 285.330; 1999 c.509 §33]

285B.335 Powers of State Treasurer. In addition to any other powers granted by law or by charter, in relation to an eligible project, the state, acting through the State Treasurer or a designee thereof, may:

(1) Enter into agreements to finance the costs of an eligible project by loaning or otherwise making available the proceeds of bonds authorized by ORS 285B.374 and 285B.377 to any person, firm or public or private corporation or federal or state governmental subdivision or agency under such terms and with such security as the state may approve;

(2) Lease and sublease eligible projects to any person, firm or public or private corporation or federal or state governmental subdivision or agency in such manner that rents to be charged for the use of such projects shall be established, and revised from time to time as necessary, so as to produce income and revenue sufficient to provide for the prompt payment of principal of and interest on all bonds issued under this section when due, and the lease or

financing agreement shall also provide that the lessee, borrower or financing party shall be required to pay all expenses of the operation and maintenance of the project including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all taxes and special assessments levied upon or with respect to the leased premises and payable during the term of the lease, during which term ad valorem taxes in the same amount and to the same extent as though the lessee were the owner of all real and personal property comprising the project;

(3) Pledge and assign to the holders of such bonds or a trustee therefor all or any part of the revenues of one or more eligible projects owned or to be acquired by the state, and define and segregate such revenues or provide for the payment thereof to a trustee;

(4) Mortgage or otherwise encumber eligible projects in favor of the holders of such bonds or in favor of any escrow agent, vendor, lender, other financing party or trustee therefor. However, in creating any such mortgages or encumbrances the state can not obligate itself except with respect to the project;

(5) Make all contracts, execute and deliver all instruments, and do all things necessary or convenient in the exercise of the powers granted by this section, or in the performance of its covenants or duties, or in order to secure the payment of its bonds; including a contract entered into prior to the construction, acquisition and installation of the eligible project authorizing the lessee, borrower or other financing party, subject to such terms and conditions as the state shall find necessary or desirable and proper, to provide for the construction, acquisition and installation of the buildings, improvements and equipment to be included in the project by any means available to the lessee, borrower or other financing party, and in the manner determined by the lessee, borrower or other financing party, and without advertisement for bids as may be required for the construction, acquisition or installation of other public facilities;

(6) Enter into and perform such contracts and agreements with political subdivisions and state agencies as the respective governing bodies of the same may consider proper and feasible for or concerning the planning, construction, installation, lease, or other acquisition, and the financing of such facilities, which contracts and agreements may establish a board, commission or such other body as may be deemed proper for the supervision and general management of the facilities of the eligible project;

(7) Accept from any authorized agency of the state or federal government loans or grants for the planning, construction, acquisition, leasing, or other provision of any eligible project, and enter into agreements with such agency respecting such loans or grants; and

(8) Acquire, own, sell, assign or otherwise hold legal or equitable title to or an interest in eligible projects or hold federal tax ownership of eligible projects. [Formerly 285.335; 1999 c.509 §34; 2001 c.680 §5]

285B.338 Powers of Oregon Economic and Community Development Commission. In carrying out its duties under ORS 285B.320 to 285B.377, the Oregon Economic and Community Development Commission, acting for and in behalf of the state as its duly authorized agency, may:

(1) Acquire, construct and hold in whole or in part any lands, buildings, easements, water and air rights, improvements to lands and buildings and capital equipment to be located permanently or used exclusively on such lands or in such buildings, which are deemed necessary in connection with an eligible project to be situated within the state, and construct, reconstruct, improve, better and extend such projects, and enter into contracts therefor; and

(2) Sell and convey all properties acquired in connection with eligible projects, including without limitation the sale and conveyance thereof subject to any mortgage and the sale and conveyance thereof under an option granted to the lessee of the eligible project, for such price, and at such time as the state may determine. However, no sale or conveyance of such properties shall ever be made in such manner as to impair the rights of interests of the holder, or holders, or any bonds issued under the authority of ORS 285B.320 to 285B.377. [Formerly 285.340; 1999 c.509 §35]

285B.341 Limitation on state power. Except as provided in ORS 285B.335 and 285B.338, the state shall not have power to operate any eligible project as a business or in any manner whatsoever, and except as provided in ORS 285B.335, 285B.338, 285B.374 and 285B.377, nothing in ORS 285B.320 to 285B.377 authorizes the state to expend any funds on any eligible project, other than the revenues of such projects, or the proceeds of revenue bonds issued hereunder, or other funds granted to the state for the purposes of an eligible project. For the purpose of exercising the powers and authority granted under ORS 285B.335 or 285B.338, the state and the Oregon Economic and Community Development Commission are not subject to the requirements of ORS chapter 279. [Formerly 285.345; 2001 c.680 §6]

285B.344 Authority to issue bonds. (1) If the State Treasurer determines that bonds should be issued:

(a) The State Treasurer may authorize and issue in the name of the State of Oregon bonds secured by revenues

from eligible economic development projects or from other financing sources, and where applicable, secured as provided in ORS 285B.374 and 285B.377, to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension of projects. The bonds shall be identified by project and issued in the manner prescribed by ORS 286.010, 286.020 and 286.105 to 286.135, and refunding bonds may be issued to refinance such bonds.

(b) The State Treasurer shall designate the underwriter, vendor, lender or other financing party, if any, and enter into appropriate agreements with each to carry out the provisions of ORS 285B.320 to 285B.377. The Economic and Community Development Department, with the approval of the State Treasurer, shall designate the trustee and enter into appropriate agreements with the trustee to carry out the provisions of ORS 285B.320 to 285B.377. The department may appoint bond counsel as authorized by ORS 288.523, or the State Treasurer may enter into an agreement with bond counsel if the services provided under the agreement comply with the provisions of ORS 288.523 and the appointment is approved by the Attorney General as required by ORS 288.523. The department may not make an appointment or enter into an agreement under this paragraph unless the State Treasurer has reviewed and approved the terms and conditions of the appointment or agreement. ORS 279.712 does not apply to any appointment or agreement described in this paragraph.

(2) Any escrow agent, bond registrar, paying agent or trustee, if any, designated by the State Treasurer to carry out all or part of the powers specified in ORS 285B.335 must agree to furnish financial statements and audit reports for each bond issue. [Formerly 285.350; 1999 c.509 §36; 2001 c.536 §1]

285B.347 Issuance of bonds; determining factors. In determining whether to issue bonds under ORS 285B.320 to 285B.377, the State Treasurer shall consider:

(1) The market for the types of bonds proposed for issuance.

(2) The terms and conditions of the proposed issue.

(3) Such other relevant factors as the State Treasurer considers necessary to protect the financial integrity of the state. [Formerly 285.355; 1999 c.509 §37]

285B.350 Method of issuing bonds. Bonds authorized under ORS 285B.320 to 285B.377 shall be issued in accordance with the provisions of ORS 288.515 to 288.550. [Formerly 285.360]

285B.353 Administration expenses. The administrative expenses of the State Treasurer shall be charged against bond proceeds or project revenues. [Formerly 285.365]

285B.356 Refunding bonds. The State Treasurer shall have the power, whenever the treasurer deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured. The refunding bonds may be exchanged for bonds to be refunded and the proceeds applied to the purchase, redemption or payment of such bonds. [Formerly 285.370]

285B.359 Validity of bonds. The validity of bonds issued under ORS 285B.320 to 285B.377 shall not be dependent on nor be affected by the validity or regularity of any proceeding relating to the acquisition, purchase, construction, installation, reconstruction, improvement, betterment or extension of the eligible project for which the bonds are issued. The official action authorizing such bonds may provide that the bonds shall contain a recital that they are issued pursuant to ORS 285B.320 to 285B.377 and such recital shall be conclusive evidence of their validity and of the regularity of their issuance. [Formerly 285.375]

285B.362 Covenants in bonds. The official action authorizing the issuance of bonds under ORS 285B.320 to 285B.377 to finance or refinance in whole or in part, the acquisition, construction, installation, reconstruction, improvement, betterment or extension of any eligible project may contain covenants, notwithstanding that such covenants may limit the exercises of powers conferred by ORS 285B.320 to 285B.377 in the following respects and in such other respects as the state, acting through the State Treasurer, or the designee of the treasurer may decide:

(1) The rents to be charged for the use of properties acquired, constructed, installed, reconstructed, improved, bettered or extended under the authority of ORS 285B.320 to 285B.377;

(2) The use and disposition of the revenues of such projects;

(3) The creation and maintenance of sinking funds and the regulation, use and disposition thereof;

(4) The creation and maintenance of funds to provide for maintaining the eligible project and replacement of

properties depreciated, damaged, destroyed or condemned;

(5) The purpose or purposes to which the proceeds of sale of bonds may be applied and the use and disposition of such proceeds;

(6) The nature of mortgages or other encumbrances on the eligible project made in favor of the holder or holders of such bonds or in favor of any escrow agent, vendor, lender, other financing party or trustee therefor;

(7) The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of any bonds may bring any suit or action on such bonds or on any coupons appurtenant thereto;

(8) The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of the eligible project;

(9) The insurance to be carried upon the eligible project and the use and disposition of insurance moneys;

(10) The keeping of books of account and the inspection and audit thereof;

(11) The terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;

(12) The rights, liabilities, powers and duties arising upon the breach by the municipality or redevelopment agency of any covenants, conditions or obligations;

(13) The appointing of and vesting in a trustee or trustees of the right to enforce any covenants made to secure or to pay the bonds; the powers and duties of such trustee or trustees, and the limitation of their liabilities;

(14) The terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under ORS 285B.320 to 285B.377;

(15) A procedure by which the terms of any official action authorizing bonds or of any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which may consent thereto, and the manner in which such consent may be given; and

(16) The subordination of the security of any bonds issued under ORS 285B.320 to 285B.377 and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the state, to other bonds or obligations of the state issued to finance the eligible project or that may be outstanding when the bonds thus subordinated are issued and delivered. [Formerly 285.380; 1999 c.509 §38]

285B.365 Limitations of bonds; recitals. (1) Revenue bonds issued under ORS 285B.320 to 285B.377:

(a) Shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, except as provided in this section and ORS 285B.374 and 285B.377, nor shall the state be subject to any liability thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing power of the state to pay any such bonds or the interest thereon, nor to enforce payment thereof against any property of the state except those projects or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purposes of ORS 285B.320 to 285B.377.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those eligible projects, or portions thereof, mortgaged or otherwise encumbered, under the provisions and for the purposes of ORS 285B.320 to 285B.377 and except as provided in ORS 285B.374 and 285B.377.

(2) Each bond issued under ORS 285B.320 to 285B.377 shall recite in substance that the bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof and as provided in ORS 285B.374 and 285B.377. No such bond shall constitute a debt of the state or a lending of the credit of the state within the meaning of any constitutional or statutory limitation. However, nothing in ORS 285B.320 to 285B.377 is intended to impair the rights of holders of bonds to enforce covenants made for the security thereof as provided in ORS 285B.368. [Formerly 285.385]

285B.368 Powers and rights of bondholders. Subject to any contractual limitation binding upon the holders of any issue of bonds, or any escrow agent, vendor, lender, other financing party or trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or any trustee therefor, for the equal benefit and protection of all bondholders similarly situated, may:

(1) By action or proceeding for legal or equitable remedies, enforce their rights against the state and any of its officers, agents and employees, and may require and compel the state or any such officers, agents or employees to perform and carry out its and their duties and obligations under ORS 285B.320 to 285B.377 and its and their covenants and agreements with bondholders;

(2) By action require the state to account as if it was the trustee of an express trust;

(3) By action enjoin any acts or things which may be unlawful or in violation of the right of the bondholders;

(4) Bring action upon the bonds;

(5) Foreclose any mortgage or lien given under the authority of ORS 285B.320 to 285B.377 and cause the property standing as security to be sold under any proceedings permitted by law or equity; and

(6) Exercise any right or remedy conferred by ORS 285B.320 to 285B.377 without exhausting and without regard to any other right or remedy conferred by ORS 285B.320 to 285B.377 or any other law of this state, none of which rights and remedies is intended to be exclusive of any other, and each is cumulative and in addition to every other right and remedy. [Formerly 285.390; 1999 c.509 §39]

285B.371 Loans to eligible projects when state holds no interest. The state, acting through the State Treasurer and the Oregon Economic and Community Development Commission, or either of them, may loan the proceeds of the bonds authorized by ORS 285B.320 to 285B.377 for eligible projects without the necessity of the state having any ownership or leasehold interest in the eligible projects. Loans made pursuant to this section shall be secured, if at all, to the extent deemed necessary or desirable by the State Treasurer and the Oregon Economic and Community Development Commission. [Formerly 285.393; 1999 c.509 §40]

285B.374 Oregon Economic and Community Development Fund; uses; sources; Economic Development Insurance Account. (1) There is created within the State Treasury a revolving trust fund known as the Oregon Economic and Community Development Fund, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. Moneys in this fund shall be used in accordance with agreements made by the state, acting through the State Treasurer or the State Treasurer's designee, for the benefit of the holders of bonds issued under ORS 285B.377, but only to pay:

(a) Principal of, interest and redemption premium, if any, on bonds issued under ORS 285B.377;

(b) Insurance premiums for bonds issued under ORS 285B.377; and

(c) Repayment of any transfers authorized by subsection (4) of this section.

(2) The following moneys shall be credited to the Oregon Economic and Community Development Fund:

(a) Reserve funds established for bonds issued under ORS 285B.377.

(b) Such moneys as may be appropriated to the fund by the Legislative Assembly.

(c) Payments made in respect of eligible projects under loan agreements, financing agreements, notes, obligations, indentures, leases or subleases that are dedicated to payments of bond principal, interest and redemption premium, if any.

(d) Earnings from investment of moneys in the fund.

(e) Any grant made to the fund by any federal agency.

(f) Any other moneys required to be placed in the fund pursuant to any agreement authorized by ORS 271.510, 271.520, 285B.092, 285B.320 to 285B.326, 285B.335, 285B.341, 285B.344, 285B.350, 285B.365, 285B.371 to 285B.377 and 777.250.

(3) There is created a trust account within the Oregon Economic and Community Development Fund to be known as the Economic Development Insurance Account. Fees authorized under ORS 285B.326 (3)(e) and other moneys required to be placed in the account pursuant to any agreement authorized by ORS 271.510, 271.520, 285B.092, 285B.320 to 285B.326, 285B.335, 285B.341, 285B.344, 285B.350, 285B.365, 285B.371 to 285B.377 and 777.250 and such other assets as may be required pursuant to ORS 285B.377 (4) and earnings in the account shall be credited to the Economic Development Insurance Account. Fees authorized under ORS 285B.326 (3)(d) shall be credited to the Economic Development Insurance Account, unless otherwise required as repayment for transfers provided for in subsection (4)(b) of this section. Moneys in the Economic Development Insurance Account shall be used only to replenish reserves established in the Oregon Economic and Community Development Fund or to pay principal and interest due on bonds authorized under ORS 285B.377 and to pay insurance premiums for such bonds, in accordance with rules adopted by the state, acting through the State Treasurer or the State Treasurer's designee.

(4) If, at any time, there are insufficient moneys in the Oregon Economic and Community Development Fund available for timely payment of the bonds authorized by ORS 285B.377, then the conditions precedent to a transfer of moneys under ORS 293.210 from the Oregon Business Development Fund to the Oregon Economic and Community Development Fund shall be deemed to be met for:

(a) A transfer of any liquid assets in the Oregon Business Development Fund which are not then required to meet obligations against that fund; and

(b) A maximum transfer of $3 million from any other state funds having excess money, but only under terms for

repayment which are approved by the State Treasurer. [Formerly 285.395; 1999 c.509 §41]

285B.377 Issuance of bonds secured by Oregon Economic and Community Development Fund. (1) In addition to bonds authorized by ORS 285B.320 to 285B.377, the state may issue bonds to finance eligible projects which are secured in part by the assets of the Oregon Economic and Community Development Fund, as provided in this section.

(2) The aggregate principal amount of bonds issued pursuant to this section which are outstanding at any time shall not exceed $20 million.

(3) Bonds issued pursuant to this section shall be secured in the manner provided in rules adopted by the Oregon Economic and Community Development Commission and approved by the State Treasurer.

(4) The commission may require participants to agree to such arrangements as it and the State Treasurer deem necessary to secure the payment of the principal of, and interest on, the bonds, and redemption premium, if any. Such arrangements may include, but are not limited to, establishment of a debt service reserve, creation of a self-insurance program, the purchase of insurance or other similar devises ensuring the payment of the principal of, and interest on, the bonds issued pursuant to this section.

(5) Within 30 days following the closing of each fiscal quarter, the commission shall report on its operations to the Governor, State Treasurer and the Legislative Assembly. The report shall include a summary of the activities of the commission relating to bonds issued under this section.

(6) Notwithstanding the provisions of ORS 285B.365, the state may pledge to the payment of bonds authorized by this section any funds or revenues specifically set forth in this section, as well as any other funds or revenues which may be used for such purposes under any other provision of state law.

(7) Except to the extent they are inconsistent with the provisions of this section or the rules adopted under ORS 271.510, 271.520, 285B.092, 285B.320 to 285B.326, 285B.335, 285B.341, 285B.344, 285B.350, 285B.365, 285B.371 to 285B.377 and 777.250, the provisions of ORS 285B.320 to 285B.377 apply to the bonds issued under ORS 271.510, 271.520, 285B.092, 285B.320 to 285B.326, 285B.335, 285B.341, 285B.344, 285B.350, 285B.365, 285B.371 to 285B.377 and 777.250 and the loans made pursuant to this section. [Formerly 285.397; 1999 c.509 §42]

285B.380 Definitions for ORS 285B.383 to 285B.392 and 307.110. As used in ORS 285B.383, 285B.386, 285B.389, 285B.392 and 307.110, unless the context requires otherwise, “eligible project” has the meaning given that term in ORS 285B.323. [Formerly 285.398]

285B.383 Determination of projects for financing; first-source hiring agreements; invested cost of project. (1) If an eligible project directly benefits a traded sector industry, as defined in ORS 285B.280 (3), and if the total cost of the eligible project exceeds $100 million, the State of Oregon, acting through the Oregon Economic and Community Development Commission, may determine that the real and personal property constituting the eligible project is eligible for the tax exemption provided in ORS 307.123, and the State of Oregon, acting through the State Treasurer, may authorize and issue revenue bonds in accordance with ORS 285B.320 to 285B.377 to finance the costs of the eligible project.

(2) Nothing in this section authorizes the Oregon Economic and Community Development Commission to determine that an existing eligible project is eligible for the tax exemption provided in ORS 307.123.

(3) 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.

(4) 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.

(5) 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 285B.386 (4)(b), in addition to the requirements set out in ORS 285B.323 (3), the invested cost of all real and personal property to be included in the eligible project shall be established by the Oregon Economic and Community Development Commission when it determines that the project is an eligible project. [Formerly 285.399; 1999 c.509 §26]

285B.386 Request by county governing body; approval of tax exemption; community services fee. (1) The undertaking of any eligible project 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 is encouraged to forward appropriate prospective eligible projects to the Economic and Community 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 shall not request an eligible project to be determined to be eligible for a tax exemption under ORS 307.123 unless, after a public hearing:

(a) The county and, if the proposed eligible project will be located within a city, the city have approved the special provisions related to the property tax exemption.

(b) As consideration for the county requesting determination that the eligible project is eligible for a property tax exemption under ORS 307.123, the business firm that will be benefited by the eligible project enters into an agreement with the county for payment to the county of an annual fee for community services support in an amount equal to 25 percent of the property taxes exempted in each assessment year, but not exceeding $2 million in any year. The fee shall be paid annually during the tax exemption period. For purposes of this paragraph, the property tax exempted in a year shall be calculated as the effective tax rate after any constitutional limits on the taxable portion of the value of the project multiplied by the assessed value of the exempt portion of the project.

(c) The applicant has reached agreement with the county on any other requirements related to the project. The agreement shall include provisions for the date of payment of the fee required under paragraph (b) of this subsection, for refunding or crediting overpayments, for interest on late payments or underpayments and for the manner in which an appeal of the assessed value of the property included in the project will affect the payment of the fee.

(5) The fee collected under subsection (4)(b) of this section shall be distributed by the county based on an agreement entered into at the time of application between the county and the city, if any, in which the eligible project is located. [Formerly 285.400]

285B.389 Application fees; amount; disposition of fees. (1) The Oregon Economic and Community Development Commission shall collect the fees set forth in subsection (2) of this section from an applicant that seeks to have the real and personal property constituting the eligible project declared eligible for the tax exemption provided in ORS 307.123. The fee may be collected even though the project has not been determined to be eligible for the tax exemption.

(2) The fees described in subsection (1) of this section are as follows:

(a) $10,000 upon application to the commission; and

(b) $50,000 when the eligible project is determined by the commission to be eligible for the tax exemption provided in ORS 307.123. The commission shall pay 50 percent of this fee to the Department of Revenue for the purpose of administration of ORS 307.123.

(3) The fees collected under subsection (2) of this section shall be deposited in the Financial Programs Account created by ORS 285A.212. [Formerly 285.401; 1999 c.509 §21]

Note: 285A.212 was repealed by section 61, chapter 509, Oregon Laws 1999. The text of 285B.389 was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of 285B.389 for the repeal of 285A.212 has not been made.

285B.392 Confidentiality of project information. Notwithstanding ORS 192.410 to 192.505, the identity of an applicant for an eligible project designation under ORS 285B.383, the application form submitted to the county governing body and the Oregon Economic and Community Development Commission and the negotiations conducted between the applicant and the county shall be confidential, until the county governing body gives notice of its intent to take official action on the application. [Formerly 285.402]

INFRASTRUCTURE PROJECTS

(Generally)

285B.410 Definitions for ORS 285B.410 to 285B.479. As used in ORS 285B.410 to 285B.479, unless the context requires otherwise:

(1) “Community facilities” means municipal facilities that assist the economic and community development of the municipality, as specified in rules adopted by the Economic and Community Development Department, whether operated by the municipality or by a person under a management contract or an operating agreement with the

municipality.

(2) “Direct project management costs” means new expenses incurred by a municipality solely to support, plan for and manage an infrastructure project, funded in whole or in part through financial assistance under ORS 285B.410 to 285B.479, during the planning and construction phases of the project.

(3) “Infrastructure project” means:

(a) A project for the construction of sewage treatment works, solid waste disposal sites, water supply works, roads, public transportation, railroad industrial spurs or sidings, telecommunications infrastructure or other facilities that comprise the physical foundation for industrial and commercial activity. The costs of property acquisition directly related to the infrastructure project and acquisition of easements or rights of way necessary to accomplish construction of the infrastructure project are eligible for assistance under ORS 285B.410 to 285B.479. The costs of activities related to performing an environmental action on a brownfield are eligible for assistance under ORS 285B.416 (2) and 285B.455 (5). Purchases of off-site property for project-related purposes such as wetland mitigation or other uses not directly related to the infrastructure are not eligible for assistance. As used in this paragraph, “brownfield” and “environmental action” have the meanings given those terms respectively in ORS 285A.185 and 285A.188.

(b) A project, in consultation with the Department of Transportation and other affected agencies, for the acquisition, reconstruction or rehabilitation of an abandoned railroad line or railroad line that has been designated by the owner and operator thereof as subject to abandonment within a three-year period pursuant to federal law and regulations governing abandonment of common carrier railroad lines. The project may include operation or maintenance costs if the project also includes acquisition, reconstruction or rehabilitation.

(c) A safe drinking water project, in consultation with the Water Resources Department, the Department of Human Services or the Department of Land Conservation and Development, for improving a drinking water system for the purpose of achieving or maintaining compliance with applicable state or federal drinking water quality regulations.

(d) A project for the acquisition, construction or development of community facilities, including the acquisition of land, the construction, acquisition, renovation or reconstruction of buildings, structures and other real property and the acquisition or construction of related equipment and fixtures.

(e) A project, as specified by rule of the Economic and Community Development Department, resulting from an emergency as defined in ORS 401.025.

(4) “Municipality” means a city, a county, the Port of Portland created by ORS 778.010, a county service district organized under ORS chapter 451, a tribal council of an Indian tribe in this state or a district as defined in ORS 198.010.

(5) “Nonurban infrastructure projects” includes all those projects which do not meet the definition of urban infrastructure projects.

(6) “Public transportation” includes public depots, public parking, public docks, public wharves, railroads and airport facilities.

(7) “Roads” includes:

(a) Ways described as streets, highways, throughways or alleys;

(b) Road related structures that are in the right of way such as tunnels, culverts or similar structures; and

(c) Structures that provide for continuity of the right of way such as bridges.

(8) “Sewage treatment works” includes all facilities necessary for collecting, pumping, treating and disposing of sanitary or storm sewage.

(9) “Solid waste disposal site” has the meaning given to the term “disposal site” by ORS 459.005.

(10) “Telecommunications infrastructure” means real or personal property, structures or equipment constructed, used or configured for the electronic transmission or receipt of voice, data, text, images or video between sites and facilities.

(11) “Urban infrastructure projects” includes all those projects located in whole or in part within the acknowledged Portland Metropolitan Area Regional Urban Growth Boundary, and the acknowledged urban growth boundaries of the cities of Eugene, Springfield, Salem, Keizer or Medford or projects that will principally benefit these areas. The Director of the Economic and Community Development Department is authorized to resolve situations left in question by this definition.

(12) “Water supply works” includes all facilities necessary for tapping natural sources of domestic and industrial water, treating and protecting the quality of the water and transmitting it to the point of sale to any public or private agency for domestic, municipal and industrial water supply service. [Formerly 285.700; 1999 c.509 §43; 2001 c.96 §5; 2001 c.633 §1; 2001 c.883 §27]

285B.413 Legislative findings. (1) The Legislative Assembly finds that:

(a) The improvement, expansion and new construction of the state's sewage treatment works, water supply works, telecommunications infrastructure, roads and public transportation provide the basic framework for continuing and expanding economic activity in this state, thereby providing jobs and economic opportunity for the people of Oregon.

(b) It is essential to maintain usable and developable industrial and commercial lands in Oregon.

(2) Since municipalities in this state often suffer from a lack of available financing and technical capacity for such projects, it is the purpose of ORS 285B.410 to 285B.479 to provide financial or other assistance in order that they may construct, improve and repair those facilities that are essential for supporting continuing and expanded economic activity. It is the intent of the Legislative Assembly, by providing that assistance, to stimulate industrial growth and commercial enterprise and to promote employment opportunities in Oregon.

(3) The money in the Special Public Works Fund shall be used primarily to provide loans to municipalities for infrastructure projects. Grants shall be given only when loans are not feasible due to the economic need of the applicant municipality and special circumstances of the project. The Director of the Economic and Community Development Department is authorized to determine the level of grant or loan funding, if any, on a case-by-case basis. [Formerly 285.703; 2001 c.883 §27a]

285B.416 Allowable project costs. (1) For purposes of ORS 285B.410 to 285B.479, the total project costs of an infrastructure project may include costs for preliminary planning or legal, fiscal and economic investigations, reports and studies to determine the economic and engineering feasibility of the project. These costs may be paid for with a loan or grant from the Special Public Works Fund, by technical assistance grants or loans awarded to eligible municipalities, or by a municipality itself.

(2) The engineering and architectural reports, studies, surveys, designs, plans, working drawings and specifications, and the direct project management costs necessary in the construction of the infrastructure project shall be eligible for financial or other assistance under ORS 285B.410 to 285B.479. Proposals for technical assistance grants shall be processed under ORS 285B.419, 285B.428 (2)(a), 285B.437 (2) and 285B.440 (2) in the same manner as other project proposals. [Formerly 285.705; 2001 c.883 §28]

285B.419 Criteria for project priority; administration by department; rules. (1) The Economic and Community Development Department shall adopt rules and policies for the administration of the Special Public Works Fund. Insofar as practicable, the department's rules shall provide that infrastructure projects that meet the following criteria receive priority for assistance:

(a) Provide for the establishment or enlargement of economically viable industries, with reasonable long term growth prospects, including opportunities for innovative new industries or for continuance of existing basic industries.

(b) Result in a net benefit to the state in the long term and not require continuing state subsidies.

(c) Utilize existing public and private assets, including infrastructure, human resources and plant and equipment.

(d) Improve the conditions of the economically disadvantaged and increase the number of jobs that increase average incomes.

(e) Support the development of businesses owned by women and members of minority groups.

(f) Harness Oregon's comparative advantage with emphasis on the growth and development of existing, in-state businesses, especially small businesses.

(g) Direct assistance to projects that assist businesses selling goods and services in markets for which national or international competition exists and prohibit assistance to infrastructure projects that primarily focus on relocating business or economic activity from one part of the state to another.

(h) Result in the economic revitalization of communities.

(i) Are funded and otherwise supported to the maximum extent possible by private resources.

(j) Result in business growth or expansion which would not occur in Oregon without an investment from the Special Public Works Fund.

(2)(a) The Economic and Community Development Department shall manage the Special Public Works Fund and any expenditures from its accounts and transfers between its accounts so that the fund value shall be equal to at least 50 percent of lottery revenues actually transferred to the fund plus interest on such amounts compounded annually at five percent.

(b) If necessary to ensure repayment of bonds issued under ORS 285B.410 to 285B.479, the Economic and Community Development Department is authorized to reduce the value of the fund to less than the limit provided in paragraph (a) of this subsection if the department:

(A) Finds that without such a reduction in fund value, bonds secured by the fund are likely to be in default; and

(B) Imposes a moratorium on grants until the requirements of paragraph (a) of this subsection are met.

(3)(a) Not more than 100 percent of the total cost of any infrastructure project shall be financed from the Special Public Works Fund.

(b) For purposes of a project described in ORS 285B.410 (3)(e), the total cost described in paragraph (a) of this subsection is the total local matching funds requirement for the federal disaster relief assistance committed to the project.

(4) The department may commit moneys in the Special Public Works Fund or reserve future income to the fund for disbursal in future years under ORS 285B.440 (4). The department shall commit or reserve moneys under this subsection only after:

(a) Allowing for contingencies;

(b) Finding that there will be sufficient unobligated net income to the fund to make such future payments. Such a finding shall be based on financial plans which are consistent with the financial requirements of subsections (2) and (4) of this section; and

(c) Providing in any contract for such commitment that the liability of the state to make such annual payments shall be contingent on the availability of moneys in the Special Public Works Fund.

(5) In assisting local governments with infrastructure projects, the department shall cooperate to the maximum extent possible with other state agencies financing infrastructure projects, including but not limited to the Department of Environmental Quality, the Water Resources Department and the Department of Transportation.

(6) The department shall notify the Housing and Community Services Department of any proposed Special Public Works Fund project with a related workforce increase at the time the department receives the completed application for the project. [Formerly 285.707; 1999 c.509 §22; 2001 c.633 §2; 2001 c.883 §29]

(Community Facilities Projects)

285B.422 Funding of community facilities projects; criteria for project funding; application of other laws. (1) The Economic and Community Development Department may provide financial or other assistance to municipalities for infrastructure projects that are community facilities projects as described in ORS 285B.410.

(2) Before providing financial assistance for a community facilities project, the Economic and Community Development Department must find that:

(a) The municipality has demonstrated that the community facilities project will provide long term benefits to the municipality;

(b) The community facilities project will benefit a broad cross-section of the municipality;

(c) There is a substantial local commitment to the community facilities to be financed; and

(d) There is a need for the proposed community facilities project, and the municipality's financial resources are adequate to provide the working capital needed to ensure success of the project.

(3)(a) As provided in this subsection and ORS 285B.455 (5), but notwithstanding any other provision of ORS 285B.410 to 285B.479, community facilities projects are not eligible for grants made from the Special Public Works Fund.

(b) Grants from the Special Public Works Fund may be made for a community facilities project that is an essential community facilities project, as determined in accordance with rules adopted by the department after consultation with the League of Oregon Cities, the Association of Oregon Counties, the Oregon Public Ports Association and Special Districts Association of Oregon. Loans or grants from the Special Public Works Fund and loans from the proceeds of revenue bonds issued under ORS 285B.467 may be used to pay issuance costs and for the funding of any debt service reserve for any revenue bonds issued under ORS 285B.467 to finance community facilities.

(c) The department shall determine the maximum amount of a grant to a municipality from the Special Public Works Fund for an essential community facilities project. However, a grant may not exceed 85 percent of the total project costs.

(4) ORS 285B.413 (1) and (2), 285B.419 (1), 285B.434 (2), (3), (4) and (5), 285B.443 (1)(b), 285B.464 and 285B.467 (2) and (8) do not apply to a municipality applying for financial assistance for a community facilities project. [1997 c.800 §12; 1999 c.509 §44; 2001 c.883 §30]

Note: 285B.422 and 285B.425 were added to and made a part of 285B.410 to 285B.479 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

285B.425 Community Facilities Account; purpose; sources; use. (1) There is established within the Special Public Works Fund an account to be known as the Community Facilities Account. All moneys in the Community Facilities Account are continuously appropriated to the Economic and Community Development Department for the purpose of providing assistance to municipalities for community facilities projects.

(2) The Community Facilities Account shall consist of:

(a) Moneys appropriated to the Community Facilities Account by the Legislative Assembly.

(b) Moneys transferred to the Community Facilities Account from the federal government, other state agencies or local governments.

(c) Repayment of financial assistance provided to municipalities.

(d) Earnings on moneys in the Community Facilities Account.

(e) Any gifts or donations made to the State of Oregon for deposit in the Community Facilities Account.

(3) Moneys in the Community Facilities Account shall be used to provide financial or other assistance to municipalities for community facilities projects by means of loans, grants, the purchase of the bonds or other obligations of municipalities or the guaranty of all or any portion of the obligations of a municipality that are issued to finance a community facilities project, or by other means. [1997 c.800 §13; 2001 c.883 §30a]

Note: See note under 285B.422.

(Financial Assistance for Projects)

285B.428 Application for funds. (1) Any municipality may file an application with the Economic and Community Development Department to obtain financial or other assistance from the Special Public Works Fund. The application shall be filed in such manner and contain or be accompanied by such information as the department may require.

(2) In addition to other requirements prescribed by the department, an application filed under this section shall:

(a) Describe the nature and purposes of the proposed infrastructure project, including the need for the project and the reasons why the project is in the public interest.

(b) Set forth or be accompanied by a feasibility study of the proposed infrastructure project and an estimate of the costs of construction.

(c) State whether any moneys other than those in the Special Public Works Fund are proposed to be used for the infrastructure project and whether any other moneys are available or have been sought for the project.

(d) Provide, if assistance is to be used for telecommunications infrastructure, a resolution, adopted by the governing body of the municipality after a public hearing, that includes findings and states that the proposed telecommunications infrastructure project is necessary and would not otherwise be provided by a for-profit entity within a reasonable time and for a reasonable cost. [Formerly 285.710; 2001 c.883 §30b]

285B.431 Review of feasibility study. Upon receipt of an application filed as provided in ORS 285B.428, the Economic and Community Development Department shall determine whether the feasibility study set forth in or accompanying the application is satisfactory, and if the department determines that it is not satisfactory it may:

(1) Reject the application;

(2) Require the municipality to submit additional information as may be necessary; or

(3) Make, with the agreement of the municipality, such revisions of the feasibility study as it considers necessary to make the plans for the proposed project satisfactory. [Formerly 285.713]

285B.434 Application approval. The Economic and Community Development Department shall not approve assistance from the Special Public Works Fund for an infrastructure project proposed in an application filed under ORS 285B.428 unless, after investigation, the department finds that:

(1) The proposed infrastructure project is feasible, and the municipality has certified to the department that there will be adequate funds available to repay any loans made to the municipality under ORS 285B.410 to 285B.479;

(2) The proposed infrastructure project is situated in an area in which economic development is prevented or substantially restricted by a lack of adequate sewage treatment works, solid waste disposal sites, water supply works, telecommunications infrastructure, roads, public transportation or other facilities that comprise the physical foundation for industrial and commercial activity;

(3) The proposed infrastructure project is situated in a city or county with a comprehensive land use plan that

allows industrial and commercial development of a type and scale that is sufficient to repay the costs of the project;

(4) A high probability exists for industrial or commercial development, or both, of the properties served by the infrastructure project;

(5) The municipality has provided as part of the security for repayment of loans or bonds made available through ORS 285B.410 to 285B.479, provisions for payments from any owners of property specially benefited by the infrastructure project which are sufficient when considered with other security to assure repayment of bonds and loans made available through ORS 285B.410 to 285B.479;

(6) Moneys in the appropriate accounts of the Special Public Works Fund are or will be available for the infrastructure project;

(7) The municipality is willing and able to enter into a contract with the department for repayment as provided in ORS 285B.437 (1)(a) to (d); and

(8) The proposed infrastructure project is consistent with rules adopted under ORS 285B.419. [Formerly 285.715; 2001 c.883 §30c]

285B.437 Contract with municipality. (1) If the Economic and Community Development Department approves assistance from the Special Public Works Fund for an infrastructure project, the department, on behalf of the state, and the municipality may enter into a contract, which shall set forth, among other matters:

(a) An estimate of the reasonable cost of the infrastructure project.

(b) An agreement by the municipality to proceed expeditiously with, and complete, the project in accordance with plans reviewed and approved by the department.

(c) A statement that the liability of the state under the contract is contingent upon the availability of moneys in the Special Public Works Fund for use in the infrastructure project.

(d) Such other provisions as the department considers necessary to insure expenditure of the moneys for the purposes set forth in the approved application.

(2) When the department approves financial assistance under ORS 285B.410 to 285B.479 for an infrastructure project, the department shall pay moneys for the project from the Special Public Works Fund in accordance with the terms of the contract.

(3) The department shall determine and approve a maximum amount of a loan for an infrastructure project under ORS 285B.410 to 285B.479 based upon a reasonable and prudent expectation of the municipality's ability to repay any amount borrowed. [Formerly 285.717; 2001 c.883 §30d]

285B.438 Matching funds for disaster relief. (1) For the purposes of a project described in ORS 285B.410 (3)(e), the Economic and Community Development Department may lend or grant moneys in the Special Public Works Fund to provide local matching funds to a municipality for infrastructure projects to which available federal disaster relief assistance is committed.

(2) ORS 285B.413 (1) and (2), 285B.419 (1), 285B.434 (2), (3), (4), (5), (7) and (8), 285B.464 and 285B.467 (2) and (8) do not apply to the application of a municipality seeking local matching funds for a project eligible under ORS 285B.410 (3)(e). [2001 c.633 §4]

285B.440 Maximum amounts of grants; standards. (1) The maximum amount of any grant to a municipality made from the Special Public Works Fund under ORS 285B.419 shall not exceed $1 million.

(2) No grant to a municipality shall be made for a project in an amount that exceeds 85 percent of total project costs.

(3) The Economic and Community Development Department shall develop standards for determining the maximum proportion of any project which can be funded by grants. Such standards shall at a minimum provide grants equaling a larger percentage of total project costs for projects with greatest economic need.

(4) A grant contract under ORS 285B.437 (1)(a) to (d) and this section may provide for grants on behalf of the municipality on an annual basis in the form of partial repayment to bondholders of amounts owed them. In such cases, the contract shall provide that moneys are or will be available in the Special Public Works Fund for such annual payments. [Formerly 285.720; 2001 c.883 §31a]

285B.443 Conditions for loans or purchase of municipal bonds. (1) Any contract under ORS 285B.437 (1)(a) to (d) that includes provisions for a loan of state moneys to a municipality or the purchase of a bond of a municipality by the state shall include a plan for repayment by the municipality of moneys borrowed from the Special Public Works

Fund for an infrastructure project and interest on those moneys at a rate specified in the contract. The repayment plan:

(a) Shall provide for such evidence of debt assurance of, and security for, repayment by the municipality as is considered necessary by the Economic and Community Development Department.

(b) Shall set forth the allocation of special assessments or contractual responsibility among the owners of benefited properties for repayment to the municipality of the amount of the loan.

(c) Shall provide for repayment during a period which shall not exceed the usable life of the proposed project or 25 years, whichever is less.

(2) Notwithstanding any other provision of law, or any restriction on indebtedness contained in a charter, a municipality may borrow from the Special Public Works Fund by entering into a loan contract with the Economic and Community Development Department. The contract may be payable:

(a) From the revenues of any infrastructure project, including special assessment revenues;

(b) From amounts withheld under ORS 285B.449 (1);

(c) From the general fund of the municipality;

(d) From any combination of paragraph (a), (b) or (c) of this subsection; or

(e) From any other sources.

(3) The loan contracts under subsection (2) of this section shall be authorized by an ordinance, order or resolution adopted with not less than 14 days' prior notice. Notice shall be published at least once in a newspaper of general circulation within the municipality. [Formerly 285.723; 2001 c.883 §31]

285B.446 Guaranty of municipal obligations; status of guaranty. (1) The Economic and Community Development Department may enter into contracts to guaranty all or any portion of the obligations of a municipality which are issued to finance an infrastructure project and are not sold to the State of Oregon.

(2) Notwithstanding subsection (1) of this section, guaranty contracts shall be payable solely from money in the Special Public Works Fund, and shall not constitute a debt or obligation of the State of Oregon. The department may, on behalf of the state, establish a special account in the fund, and commit to deposit into the account, specified portions of existing and future allocations to the fund. Such commitments shall be made by rule of the department and shall constitute covenants of the state for the benefit of the owners of obligations guaranteed by the state pursuant to this section. [Formerly 285.725]

285B.449 Effect of failure to comply or default. (1) If a municipality fails to comply with a contract entered into under ORS 285B.410 to 285B.479, the Economic and Community Development Department may seek appropriate legal remedies to secure any repayment due the Special Public Works Fund. If any municipality defaults on payments due to the Special Public Works Fund under ORS 285B.410 to 285B.479, the State of Oregon may withhold any amounts otherwise due to the municipality to apply to the indebtedness. The department may waive this right to withhold.

(2) Moneys withheld under subsection (1) of this section shall be deposited in the Special Public Works Fund and shall be used to repay any account in the fund from which funds were expended to pay obligations upon which the municipality defaulted. [Formerly 285.727]

285B.452 Other forms of financial assistance. In addition to making loans to municipalities for infrastructure projects and purchasing debt obligations issued to finance an infrastructure project, the Economic and Community Development Department may provide any other form of financial or other assistance that the department may consider appropriate to assist municipalities with infrastructure projects including the direct purchase by the department of goods or services related to an infrastructure project. [Formerly 285.730; 2001 c.883 §31b]

285B.455 Special Public Works Fund; uses. (1) There is created the Special Public Works Fund, separate and distinct from the General Fund. All moneys credited to the Special Public Works Fund are appropriated continuously and shall be used for the purposes outlined in ORS 285A.075 (9) and 285B.410 to 285B.479. There shall be credited to the Special Public Works Fund, money appropriated to the fund by the Legislative Assembly, earnings on the fund, repayment of financial assistance and bond proceeds as authorized under ORS 285B.410 to 285B.479.

(2) Moneys in the Special Public Works Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820 and the earnings from such investments shall be credited to the account in the Special Public Works Fund designated by the Economic and Community Development Department.

(3) The Economic and Community Development Department shall be the agency for the State of Oregon for the

administration of the Special Public Works Fund.

(4) The department may establish such other accounts within the Special Public Works Fund for the payment of project costs, reserves, debt service payments, credit enhancement, administration and operation expenses or any other purpose necessary to carry out ORS 285B.410 to 285B.479.

(5) Out of moneys in the Special Public Works Fund, the department may:

(a) Make technical assistance grants and loans to municipalities of less than 5,000 residents. A technical assistance grant shall not exceed $10,000. A technical assistance loan shall not exceed $20,000. No more than $400,000 or one percent of the value of the fund, whichever is less, shall be expended on technical assistance grants and loans in any biennium.

(b) Make grants to municipalities to provide local matching funds for the purposes of a project described in ORS 285B.410 (3)(e) in an amount that does not exceed $2.5 million in any biennium. [Formerly 285.733; 2001 c.633 §5; 2001 c.883 §32]

285B.458 Funding of distressed area and nonurban infrastructure projects. Not less than 60 percent of the funds disbursed from the Special Public Works Fund shall be used to provide assistance to distressed area and nonurban infrastructure projects. [Formerly 285.735; 2001 c.883 §32a]

285B.461 Limit on use of moneys in fund for administrative expenses. (1) Out of the moneys in the Special Public Works Fund the Economic and Community Development Department may expend funds for the purposes of administering ORS 285B.410 to 285B.479. Administrative expenses of the department that are paid from the Special Public Works Fund may not exceed four percent of the total assets of the fund reduced by the bonded debt liabilities in any one year.

(2) As used in this section, “administrative expenses” includes the department’s costs for:

(a) Investigating, approving and monitoring municipalities that apply for assistance for infrastructure projects and servicing and collecting outstanding loans and grants made to municipalities; and

(b) Contracting for planning and technical assistance and other support services for municipalities. [Formerly 285.737; 2001 c.883 §33]

285B.464 Certain administrative expenses chargeable to Special Public Works Fund. Notwithstanding any other provision of ORS 285B.410 to 285B.479, the costs of administering infrastructure and community development projects that are related to the purpose of the community development block grant program may be charged to the Special Public Works Fund and used as a match for federal funds available for the administration of community development block grant funds. [Formerly 285.753]

Note: 285B.464 was added to and made a part of ORS chapter 285B by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

(Revenue Bond Financing)

285B.467 Standards for eligibility for revenue bond financing. (1) The Economic and Community Development Department shall adopt by rule standards by which to determine the eligibility for revenue bond financing under ORS 285B.467 to 285B.479 of infrastructure projects that have qualified under ORS 285B.419 to 285B.437 and 285B.449.

(2) In adopting rules establishing guidelines or criteria for awarding loans or grants for drinking water projects, the department shall coordinate the department’s rulemaking process with the Water Resources Department and the Department of Human Services in order to assure that rules adopted under this subsection are consistent with rules adopted under ORS 431.120 and 541.845. The rules adopted under this subsection shall:

(a) Require the installation of meters on all new service connections to any distribution lines funded under ORS 285B.410, 285B.461, 285B.560 to 285B.599, 431.120, 541.700, 541.705, 541.755, 541.765, 541.830, 541.845 and this section; and

(b) Require a plan, to be adopted by the municipality, for installation of meters on all service connections throughout the drinking water system.

(3) Upon determining an infrastructure project eligible for revenue bond financing under ORS 285B.467 to 285B.479, the department shall forward the application to the State Treasurer, who shall determine whether to issue revenue bonds.

(4) Notwithstanding ORS 285B.410 (3)(a) and 285B.416 (1), when an infrastructure project is determined to be eligible for revenue bond financing under ORS 285B.467 to 285B.479, direct project management costs and the costs for preliminary planning or legal, fiscal and economic investigations, reports and studies to determine the economic and engineering feasibility of the project are included within the total project costs of the project and may be paid from bond proceeds.

(5) Administrative expenses of the department in processing applications and investigating proposed infrastructure projects and bond sales shall not be derived from bond proceeds.

(6) The department may pledge all or any portion of the existing or future assets and receipts of the Special Public Works Fund to pay debt service on bonds issued pursuant to ORS 285B.410 to 285B.479. Such pledge shall take effect immediately, without delivery of the pledged funds to third parties, and the lien of the pledge shall be superior to all other liens of any nature.

(7) The department is authorized to establish separate accounts within the fund for separate bond issues.

(8) As used in this section, “service connection” does not include fire hydrants, fire sprinkler system connections, line blow-offs and drains, stand-by emergency interties, valve controlled drinking fountains and other similar intermittently used connections. [Formerly 285.740; 2001 c.883 §34]

285B.470 Powers of department over revenue bond financing. In addition to any other powers granted by law in relation to an infrastructure project, the Economic and Community Development Department, acting through the State Treasurer or designee may:

(1) Make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted by this section, or in the performance of its covenants or duties, or in order to secure the payment of its bonds;

(2) Enter into and perform such contracts and agreements with municipalities as the department may consider proper and feasible for or concerning the planning, construction, installation, lease or other acquisition, and the financing of infrastructure projects; and

(3) Enter into covenants for the benefit of bond owners regarding the use and expenditure of moneys in the Special Public Works Fund. [Formerly 285.743]

285B.473 Issuance of revenue bonds. If the State Treasurer determines that revenue bonds should be issued:

(1) The State Treasurer may authorize and issue in the name of the State of Oregon revenue bonds secured by moneys paid to the Special Public Works Fund pledged therefor to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension of infrastructure projects. The bonds shall be issued in the manner prescribed by ORS chapter 286, and refunding bonds may be issued to refinance such revenue bonds.

(2) The State Treasurer shall designate the underwriter and enter into appropriate agreements with the underwriter to carry out the provisions of ORS 285B.467 to 285B.479. The Economic and Community Development Department, with the approval of the State Treasurer, shall designate the trustee and enter into appropriate agreements with the trustee to carry out the provisions of ORS 285B.467 to 285B.479. The department may appoint bond counsel as authorized by ORS 288.523, or the State Treasurer may enter into an agreement with bond counsel if the services provided under the agreement comply with the provisions of ORS 288.523 and the appointment is approved by the Attorney General as required by ORS 288.523. The department may not make an appointment or enter into an agreement under this subsection unless the State Treasurer has reviewed and approved the terms and conditions of the appointment or agreement. ORS 279.712 does not apply to any appointment or agreement described in this subsection. [Formerly 285.745; 2001 c.536 §2]

285B.476 Application of law to revenue bonds. (1) ORS 285B.350 to 285B.362 and 285B.368 apply to revenue bonds issued under ORS 285B.467 to 285B.479.

(2) The proceeds of revenue bonds issued and sold under ORS 285B.467 to 285B.479 shall be deposited in the Special Public Works Fund and used for the payment of a loan to a municipality for an infrastructure project and costs of issuing the revenue bonds.

(3) A loan made with money derived from the sale of revenue bonds under this section shall be made as other loans under ORS 285B.419 to 285B.437, 285B.443 and 285B.449 are made, except that the loan contract shall set forth a schedule of payments which shall not exceed the usable life of the contracted infrastructure project. [Formerly 285.747]

285B.479 Terms of revenue bonds. (1) Revenue bonds issued under ORS 285B.467 to 285B.479:

(a) Shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, except as provided in this section, nor shall the state be subject to any liability thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing power of the state to pay any such bonds or the interest thereon, nor to enforce payment thereof against any property of the state except those moneys pledged therefor in the Special Public Works Fund, under the provisions of ORS 285B.467 to 285B.479.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those moneys paid to the Special Public Works Fund.

(2) A bond shall not constitute a debt of the state or a lending of the credit of the state within the meaning of any constitutional or statutory limitation. [Formerly 285.750; 2001 c.883 §35]

285B.482 Infrastructure and water bonds as parity bonds; consolidation of bond proceeds; loans and consolidated funds as security for infrastructure and water bonds; limitation on use of moneys in specified funds. (1) Notwithstanding any other law relating to revenue bonds issued and sold under ORS 285B.467 to 285B.479 or ORS 285B.572, 285B.575 and 285B.578, such revenue bonds may be issued and sold as parity bonds.

(2) Proceeds of revenue bonds issued and sold under ORS 285B.467 to 285B.479 or ORS 285B.572, 285B.575 and 285B.578, together with the investment earnings thereon, may be consolidated into one or more funds or accounts and may be pledged to the holders of revenue bonds issued to finance either water projects or infrastructure projects or to the holders of revenue bonds issued to finance both water projects and infrastructure projects.

(3) Any loan to a municipality made pursuant to ORS 285B.467 to 285B.479, 285B.560 to 285B.569 or 285B.572 to 285B.599, including loans funded in whole or in part with the proceeds of revenue bonds and loans funded with moneys in the Water Fund or the Special Public Works Fund, may be pledged to the holders of revenue bonds issued to finance either water projects or infrastructure projects or to the holders of revenue bonds issued to finance both water projects and infrastructure projects.

(4) Funds or accounts established by the Economic and Community Development Department or the State Treasurer in connection with the issuance of revenue bonds under ORS 285B.467 to 285B.479 or ORS 285B.572, 285B.575 and 285B.578 and moneys held in the funds and accounts, together with the investment earnings thereon, may be consolidated into one or more funds or accounts and may be pledged to the holders of revenue bonds issued to finance either water projects or infrastructure projects or to the holders of revenue bonds issued to finance both water projects and infrastructure projects.

(5) Notwithstanding subsections (1) to (4) of this section, moneys held in the Water Fund shall not be used to finance or refinance the cost of an infrastructure project unless the infrastructure project also qualifies as a water project, and moneys held in the Special Public Works Fund shall not be used to finance or refinance the cost of a water project unless the water project also qualifies as an infrastructure project. [1997 c.800 §14]

Note: 285B.482 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Advanced Telecommunications Facilities)

285B.486 Definitions for ORS 285B.486 and 285B.488. (1) As used in this section and ORS 285B.488:

(a) “Advanced telecommunications facilities” means high-speed, dedicated or switched broadband telecommunications infrastructure or equipment that enables users to send or receive high quality voice, data or video telecommunications using any technology.

(b) “Last mile connection” means a communications channel from the feed from a connecting bypassing intercity telecommunications carrier through a telecommunications switching center, or an individual message distribution point, to a user terminal.

(c) “Local exchange carrier” means a person that holds a certificate of authority issued by the Public Utility Commission under ORS 759.020 to provide intrastate telecommunications service or local exchange telecommunications service within this state.

(d) “Telecommunications carrier” means a provider of telecommunications services, but does not include an aggregator, as defined in 47 U.S.C. 226.

(2) A telecommunications carrier seeking a tax credit under ORS 315.511 for the installation of advanced telecommunications facilities, prior to incurring any costs associated with the installation, shall apply to the Economic and Community Development Department for certification of the facilities as advanced telecommunications facilities.

(3) The application for certification shall be in the form and shall contain the information required by the department pursuant to rules adopted by the department for the administration of the tax credit certification under this section, including but not limited to:

(a) A complete description of the installation project and the customers to be served by the project;

(b) The expected costs for completing the project;

(c) The expected start date and the expected date on which the advanced telecommunications facilities are to be placed in service;

(d) The geographic area or areas in which the advanced telecommunications facilities are to be installed; and

(e) A description of how the facilities will be integrated into the operations of the intrastate telecommunications services provided by the telecommunications carrier.

(4) The application for certification shall be accompanied by technical documentation demonstrating that the facilities will meet or exceed applicable minimum performance standards established by the department under ORS 285B.488.

(5) The department may approve or deny an application for certification or may request changes to the application before issuing certification. Denial of an application may be appealed to the department in the manner of a contested case under ORS 183.310 to 183.550.

(6) The department shall approve an application and certify the facilities as advanced telecommunications facilities if the facilities:

(a) Are to be located in an area in which current minimum bandwidth service is not available to a majority of customers;

(b) Improve access to advanced telecommunications services for a majority of all customers in unserved or underserved service areas; and

(c) Meet the minimum performance standards to comply with ORS 285B.488.

(7) Upon approval of an application, the department shall send to the applicant a written certification of the facilities as advanced telecommunications facilities. The certification shall state the date by which the facilities must be placed in service and the cost of the facilities that are being certified.

(8) Notwithstanding subsection (6) of this section, the department may not approve an application and certify a facility if the cost of the facility plus the certified costs of all other facilities that have been certified during the year exceeds $10 million.

(9) The department may establish by rule the amount of fees charged to applicants seeking certification of facilities as advanced telecommunications facilities. Revenues from the fees shall be used to offset the costs incurred by the department in administering the tax credit certification under this section. [2001 c.957 §10]

285B.488 Performance standards for advanced telecommunications facilities; rules. (1) The Economic and Community Development Department shall adopt rules setting minimum performance standards that facilities must meet to be certified as advanced telecommunications facilities. The rules must establish minimum performance standards in the following areas:

(a) Enhancement of individual and business access to advanced telecommunications services at an economically reasonable cost;

(b) Development and transition to a fully competitive telecommunications marketplace;

(c) Provision of bidirectional bandwidth capabilities to customers;

(d) Accessibility to competitive local exchange carriers;

(e) Improvement in access by public and private educational institutions, rural health clinics and libraries to advanced telecommunications services;

(f) Improvement in telecommunications connections between communities in this state;

(g) Improvement in last mile connections within this state; and

(h) Improvement in access by Oregon health care providers to interactive video and other health care applications requiring advanced telecommunications services.

(2) In order for facilities to be certified under ORS 285B.486, the facilities must meet or exceed the minimum performance standards in at least one of the areas set forth in subsection (1) of this section. [2001 c.957 §11]

Note: Sections 12 and 13, chapter 957, Oregon Laws 2001, provide:

Sec. 12. The Economic and Community Development Department may issue certifications under section 10 of this 2001 Act [285B.486] on or after January 1, 2002, and before December 31, 2005. [2001 c.957 §12]

Sec. 13. The Oregon Economic and Community Development Commission shall report to the Seventy-third Legislative Assembly on the effectiveness of the tax credit provided under section 15 of this 2001 Act [315.511] in improving advanced telecommunications capability in underserved areas of this state and in achieving the other purposes for which the credit was established. The commission shall report to the Seventy-third Legislative Assembly on or before March 15, 2005. [2001 c.957 §13]

INFRASTRUCTURE PROJECTS FOR SOUTHERN OREGON

285B.500 Policy; legislative findings. (1) The Legislative Assembly finds that:

(a) It is a matter of statewide importance to increase the infrastructure capacity of Coos, Jackson and Josephine Counties and the rest of southern Oregon.

(b) The absence of such infrastructure capacity, the lack of inexpensive industrial fuel and inadequate transportation facilities restrict national and international trade and otherwise hinder the economic development of the region.

(c) State financial assistance to specified local projects in southern Oregon will sustain and increase jobs, foster national and international trade, allow industrial and commercial expansion and eliminate other negative effects caused by infrastructure that is inadequate to support a vibrant and expanding economy.

(d) It is desirable to make a present commitment of lottery revenues that are expected to be received in the 1999-2001 and 2001-2003 biennia. A clear and prompt financial commitment from the State of Oregon will allow the project sponsors, in reliance on that commitment, to make prompt commitments to pay their share. Prompt commitment by the project sponsors will enhance the likelihood that other private or federal funds will be received for the projects.

(2) The Legislative Assembly declares that the purpose of ORS 285B.500 to 285B.512 and section 9, chapter 644, Oregon Laws 1997, is to obligate the State of Oregon to pay the amounts specified in ORS 285B.500 to 285B.512 and section 9, chapter 644, Oregon Laws 1997, from future lottery revenues. The obligation of the state to pay the amounts specified in section 9, chapter 644, Oregon Laws, 1997, and in grant agreements authorized by ORS 285B.506 is limited to, and conditioned solely on, the availability of unobligated net lottery proceeds and any other moneys lawfully credited to the Oregon Unified International Trade Fund. Neither the faith and credit nor any of the taxing power of the State of Oregon are pledged or otherwise committed by ORS 285B.500 to 285B.515 and 777.277 to 777.289 and section 9, chapter 644, Oregon Laws 1997, and the commitments of the State of Oregon under ORS 285B.500 to 285B.515 and 777.277 to 777.289 and section 9, chapter 644, Oregon Laws 1997, and any grant agreement shall not constitute a debt or liability of the state within the meaning of section 7, Article XI of the Oregon Constitution. [1997 c.644 §7]

Note: 285B.500 to 285B.515 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285B by legislative action. See Preface to Oregon Revised Statutes for further explanation.

285B.503 Oregon Unified International Trade Fund; purposes; sources. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Oregon Unified International Trade Fund. The moneys in the fund are continuously appropriated to the Economic and Community Development Department for:

(a) Paying all or a portion of the costs of:

(A) A project for the extension and improvement of Jackson County Airport runway.

(B) A project for the extension of a natural gas pipeline to the Coos Bay and North Bend area from a location near Roseburg.

(C) A project for improvements to the Klamath Falls International Airport maintained by the City of Klamath Falls.

(b) Transfer to the Oregon Port Revolving Fund created by ORS 285A.708.

(2) A separate account within the Oregon Unified International Trade Fund shall be established for each project listed in subsection (1) of this section.

(3) The Oregon Unified International Trade Fund shall consist of moneys allocated to the fund under section 9, chapter 644, Oregon Laws 1997, and such other moneys as may be appropriated to the fund by the Legislative

Assembly, including interest on such moneys. [1997 c.644 §8]

Note: See note under 285B.500.

Note: Section 9, chapter 644, Oregon Laws 1997, provides:

Sec. 9. (1) Commencing with the fifth fiscal quarter of the 1999-2001 biennium and continuing each quarter through the end of the 2001-2003 biennium, the state shall allocate and deposit in the Oregon Unified International Trade Fund not less than $1.25 million each fiscal quarter until $15 million has been deposited into that fund. The deposits shall be made from the first available unobligated net lottery proceeds.

(2) The moneys deposited in the Oregon Unified International Trade Fund under subsection (1) of this section shall be allocated as follows:

(a) To the account for the Jackson County Airport runway project, 53.3 percent.

(b) To the account for the Coos County pipeline project, 26.7 percent.

(c) To the account for the Klamath Falls International Airport improvement project, 13.3 percent.

(d) To the Oregon Community Development Fund created by chapter 620, Oregon Laws 1997 [285A.227], 6.7 percent.

(3) Any earnings on amounts in an account listed in subsection (2) of this section shall be credited to that account. All moneys on deposit from time to time in any account, including investment earnings thereon, and all amounts required by this section to be deposited in any account shall be allocated and are hereby appropriated continuously to the Economic and Community Development Department and shall be transferred by the department to the project sponsor pursuant to a grant agreement under section 10 of this Act [285B.506] for costs of the appropriate project. [1997 c.644 §9]

Note: Section 2, chapter 702, Oregon Laws 1999, provides:

Sec. 2. (1) Pursuant to sections 1 to 9, chapter 44, Oregon Laws 1999 [286.560 to 286.580 and 348.716], lottery bonds may be issued for the purpose of providing grant moneys to Coos County to be applied by Coos County to the payment of a portion of the costs of designing, acquiring and constructing a natural gas pipeline extending from the existing natural gas pipeline near Roseburg to the Coos Bay and North Bend area, including but not limited to the costs of acquiring all rights of way and interests in real property, machinery, equipment and structures needed for the pipeline.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) The economy of Coos County has been depressed in recent years as a result of unfavorable developments in the timber and fishing industries.

(b) The economy of Coos County will benefit from the construction of a natural gas pipeline extending from the existing natural gas pipeline near Roseburg to the Coos Bay and North Bend area because the pipeline will enable Coos County to attract significant industries to locate in the area, thereby increasing opportunities for employment and additional economic activities that will be generated as a result of such industries.

(c) The construction of such a pipeline will therefore promote economic development within this state, and thus the use of net proceeds derived from the operation of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to finance a portion of the costs of such a pipeline is an authorized use of state lottery funds under section 4, Article XV of the Oregon Constitution, and ORS 461.510.

(3) The aggregate principal amount of lottery bonds issued pursuant to subsection (1) of this section shall not exceed the sum of $20 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. No lottery bonds authorized by this section shall be issued until the date upon which the presiding officer of the Board of County Commissioners of Coos County certifies in writing to the Director of the Economic and Community Development Department and the State Treasurer that the conditions set forth in subsection (5) of this section have been satisfied.

(4) Subject to subsection (3) of this section, the lottery bonds authorized by this section shall be issued in the amounts requested by the presiding officer of the Board of County Commissioners of Coos County and as soon as reasonably practicable after the presiding officer requests issuance of the lottery bonds. All requests for the issuance of lottery bonds authorized by this section shall be in writing and sent to the Director of the Economic and Community Development Department and the State Treasurer.

(5) The lottery bonds authorized by this section may not be issued until the electors of Coos County, in accordance with applicable law, authorize Coos County to issue general obligation bonds in an amount which, when added to the

maximum amount of the grant to Coos County under this section and any other funds available to Coos County for such purposes, will be sufficient to pay the estimated costs of designing, acquiring and constructing the pipeline.

(6) The net proceeds from the sale of the lottery bonds authorized by this section shall be deposited in the Oregon Unified International Trade Fund. The moneys so deposited in the Oregon Unified International Trade Fund, including investment earnings thereon, are continuously appropriated to the Economic and Community Development Department for the purpose of making a grant to Coos County in accordance with subsection (7) of this section in an amount not to exceed $20 million.

(7) Prior to the issuance of the lottery bonds authorized by this section, the Economic and Community Development Department shall enter into a grant agreement with Coos County. The grant agreement shall:

(a) Provide that, promptly after issuance of lottery bonds authorized by this section and receipt of the net proceeds thereof, the Economic and Community Development Department shall pay to Coos County the net proceeds of the lottery bonds so issued;

(b) Limit aggregate payments to Coos County under the grant agreement to $20 million;

(c) Provide that Coos County hold the moneys received under the grant agreement, and the investment earnings thereon, until necessary to pay a portion of the costs of designing, acquiring and constructing the pipeline described in subsection (1) of this section;

(d) Authorize Coos County to expend the moneys received under the grant agreement from time to time for the purpose of paying a portion of the costs of designing, acquiring and constructing the pipeline described in subsection (1) of this section;

(e) Set forth procedures under which Coos County will account to the Economic and Community Development Department for the purpose of documenting that the moneys received under the grant agreement and investment earnings thereon have been expended by Coos County for the purpose authorized by this section; and

(f) Contain all additional terms, conditions and provisions that the Economic and Community Development Department considers necessary or desirable to carry out the purposes of this section. [1999 c.702 §2]

285B.506 Grant agreements; maximum grant amount; terms of agreement; assignment of right to receive grant moneys; agreement not to constitute state debt. (1) After July 25, 1997, the Director of the Economic and Community Development Department shall enter into a grant agreement with the primary sponsor of a project listed in ORS 285B.503 that commits the State of Oregon to make the deposits specified in section 9, chapter 644, Oregon Laws 1997, and commits the Economic and Community Development Department to pay those deposits, plus earnings, to the primary sponsor as soon as funds are available in the appropriate account of the Oregon Unified International Trade Fund and are required by the primary sponsor for payment of project costs. Notwithstanding any other law, the commitment of the State of Oregon and the department under this section shall be conditioned solely on receipt by this state of unobligated net lottery proceeds sufficient to make the deposits specified in section 9, chapter 644, Oregon Laws 1997.

(2) The total amount paid to the primary sponsor under the grant agreement shall not exceed the amount deposited in the appropriate account for the sponsor’s project in the Oregon Unified International Trade Fund, plus any interest earnings on the amounts in the account. The grant agreement shall:

(a) Pledge the unobligated net lottery proceeds to pay the amounts due to the primary sponsor under the grant agreement;

(b) Specify the administrative procedures for making payments to the primary sponsor;

(c) Provide for notification to the director if the primary sponsor determines that it is unable to undertake the project;

(d) Allow assignment of the right to receive amounts payable under the grant agreement to third parties;

(e) Obligate the primary sponsor to remit any unexpended grant funds and any earnings thereon to the State of Oregon after the sponsor’s project is complete and all its costs have been paid; and

(f) Contain other terms and conditions that are necessary or appropriate, as determined by the Director of the Economic and Community Development Department, to implement ORS 285B.500 to 285B.512 and section 9, chapter 644, Oregon Laws 1997, to protect the interests and investments of the State of Oregon in the projects specified in ORS 285B.503.

(3) The grant agreement, when executed by the director and accepted by the primary sponsor shall be a valid, binding and irrevocable contractual obligation of the State of Oregon in accordance with its terms. However, amounts due under the grant agreement shall be payable solely from the unobligated net lottery proceeds required by section 9, chapter 644, Oregon Laws 1997, to be deposited in the appropriate account in the Oregon Unified International Trade

Fund.

(4) The primary sponsor may pledge or assign its right to receive amounts due under the grant agreement as security for any contractual obligation the primary sponsor undertakes to pay or finance costs of the project. Any pledge or assignment authorized by ORS 285B.500 to 285B.515 and 777.277 to 777.289 and section 9, chapter 644, Oregon Laws 1997, shall be valid and binding upon the primary sponsor, the Economic and Community Development Department, the State of Oregon and all other persons from the date it is made. The unobligated net lottery proceeds so pledged shall be immediately subject to the lien of the pledge without physical delivery, filing or other act, and the lien of the pledge shall be superior to all other claims and liens of any kind whatsoever. Upon notice from the primary sponsor that it has pledged the unobligated net lottery proceeds or assigned the right to receive amounts due under the grant agreement, the department shall fully cooperate with the primary sponsor and the pledgee or assignee to give effect to the pledge or assignment, including but not limited to acknowledging in writing to the primary sponsor and the pledgee or assignee the existence and validity of the pledge or assignment and agreeing that amounts due under the grant agreement shall be paid to the pledgee or assignee or into the custodial accounts established for the benefit of the pledgee or assignee.

(5) The grant agreement shall not contain provisions or be construed or enforced in any manner that may cause the grant agreement to constitute a debt or liability of the state that violates section 7, Article XI of the Oregon Constitution. [1997 c.644 §10]

Note: See note under 285B.500.

285B.509 Agreements between primary sponsor and United States. The primary sponsors of projects listed in ORS 285B.503 are authorized to enter into agreements with agencies of the United States for the project and, notwithstanding any other provision of law, may each agree to be bound by any requirement imposed by an Act of the United States Congress as a condition of federal participation in the project. [1997 c.644 §11]

Note: See note under 285B.500.

285B.512 End of lottery allocations upon certification by Director of Economic and Community Development Department. (1) The deposit of unobligated net lottery proceeds to an account in the Oregon Unified International Trade Fund shall cease if and when the Director of the Economic and Community Development Department certifies in writing that deposits are no longer required because:

(a) Sufficient funds are on hand in the account to pay all amounts required to be paid under the grant agreement;

(b) All amounts required to be paid under the grant agreement have been paid; or

(c) The primary sponsor has notified the director pursuant to the grant agreement that the primary sponsor is unable to undertake the project.

(2) Upon receipt of the director's written certification pursuant to subsection (1) of this section, the State Treasurer shall thereafter credit any amounts remaining in the account that are not required to pay amounts due under the grant agreement, and any lottery revenues that otherwise would have been deposited in the account under section 9, chapter 644, Oregon Laws 1997, to the Administrative Services Economic Development Fund. In addition, any unexpended grant funds and earnings which are remitted to the State of Oregon pursuant to the grant agreement shall be credited to the Administrative Services Economic Development Fund. [1997 c.644 §12]

Note: See note under 285B.500.

285B.515 "Primary sponsor" defined for ORS 285B.500 to 285B.512. As used in ORS 285B.500 to 285B.512 and section 9, chapter 644, Oregon Laws 1997, "primary sponsor" or "project sponsor" means a city, county, agency or person who acts as a financial contributor to a project listed in ORS 285B.503, as determined by the Economic and Community Development Department in a grant agreement under ORS 285B.506. [1997 c.644 §13]

Note: See note under 285B.500.

LOTTERY BONDS FOR INFRASTRUCTURE PROJECTS

285B.530 Definitions for ORS 285B.530 to 285B.548. As used in ORS 285B.530 to 285B.548, unless the context

requires otherwise:

(1) “Infrastructure lottery bonds” means the bonds authorized to be issued under ORS 285B.533 for the purpose of financing infrastructure projects.

(2) “Infrastructure projects” includes:

(a) A water project defined in ORS 285B.560; and

(b) Payment of any state financial obligations to the federal government under the Safe Drinking Water Act. [1997 c.800 §16; 1999 c.44 §24]

Note: 285B.530 to 285B.548 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285B by legislative action. See Preface to Oregon Revised Statutes for further explanation.

285B.533 Issuance of infrastructure lottery bonds; amount; use of bond proceeds. (1) Infrastructure lottery bonds shall be issued under ORS 286.560 to 286.580 and 348.716 only at the request of the Director of the Economic and Community Development Department. Infrastructure lottery bonds may be issued in an amount sufficient to provide no more than $6 million of net proceeds to pay costs of infrastructure projects, plus the amounts required to pay bond-related costs.

(2) The net proceeds from the sale of the infrastructure lottery bonds shall be allocated to the Economic and Community Development Department for the State of Oregon’s match of federal moneys under the Safe Drinking Water Act.

(3) The net proceeds from the sale of the infrastructure lottery bonds that are available to pay costs of infrastructure projects shall be credited to the Water Fund created by ORS 285B.563. All such net proceeds are appropriated continuously to the Economic and Community Development Department only for payment of costs of infrastructure projects described in subsection (2) of this section and for payment of bond-related costs that are allocable to infrastructure lottery bonds.

(4) The Economic and Community Development Department and any municipality receiving proceeds of infrastructure lottery bonds shall, if so directed by the Oregon Department of Administrative Services, take any action specified by the Oregon Department of Administrative Services that is necessary to maintain the excludability of lottery bond interest from gross income under the United States Internal Revenue Code. [1997 c.800 §17; 1999 c.44 §25]

Note: See note under 285B.530.

285B.536 [1997 c.800 §18; repealed by 1999 c.44 §29]

285B.539 [1997 c.800 §19; repealed by 1999 c.44 §29]

285B.542 [1997 c.800 §20; repealed by 1999 c.44 §29]

285B.545 [1997 c.800 §21; repealed by 1999 c.44 §29]

285B.548 Amount of infrastructure lottery bonds. (1) Notwithstanding ORS 286.505 to 286.545, infrastructure lottery bonds may be issued during the 1997-1999 biennium in an aggregate principal amount that produces net proceeds for infrastructure projects that shall not exceed $6 million, plus an amount that the State Treasurer estimates will be required to pay bond-related costs.

(2) In future biennial periods, the amount of infrastructure lottery bonds that may be issued shall be authorized under ORS 286.505 to 286.545. [1997 c.800 §22]

Note: See note under 285B.530.

285B.551 Issuance of additional lottery bonds; amount; use of bond proceeds; Economic Infrastructure Project Fund. (1) Pursuant to ORS 286.560 to 286.580, lottery bonds may be issued:

(a) To provide financial and other assistance, including but not limited to loans and grants, to municipalities, ports and other persons and entities in accordance with the laws governing use of moneys in the Special Public Works Fund created by ORS 285B.455, the Water Fund created by ORS 285B.563, the Safe Drinking Water Revolving Loan Fund

created by ORS 285A.213, the Oregon Port Revolving Fund created by ORS 285A.708, the Brownfields Redevelopment Fund created by ORS 285A.188 and the Marine Navigation Improvement Fund created by ORS 777.267.

(b) To fund Oregon's share of the costs of the Columbia River channel deepening project.

(c) To fund Oregon's share of the costs of studies and ecosystem restoration projects in the lower Columbia River estuary designed to improve habitat for listed endangered or threatened species of Columbia River anadromous salmonids.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) The financial and other assistance to municipalities, ports and other persons and entities will assist in the construction, improvement and expansion of infrastructure, community and port facilities and other facilities that comprise the physical foundation for industrial and commercial activity and provide the basic framework for continued and expanded economic opportunities and quality communities throughout Oregon.

(b) The Columbia River channel deepening project is necessary to allow newer, larger steamships access to Oregon and Washington deep draft ports. A deeper shipping channel will allow the Columbia River to continue as a world leader in agricultural exports and as a key trade corridor for farms and businesses throughout Oregon and the region.

(c) Such financial and other assistance to municipalities, ports and other persons and entities and the deepening of the Columbia River channel will therefore promote economic development within this state, and thus the use of net proceeds derived from the operation of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to provide such financial and other assistance to municipalities, ports and other persons and entities and to pay a portion of the costs of deepening the Columbia River channel is an authorized use of state lottery funds under section 4, Article XV of the Oregon Constitution, and ORS 461.510.

(d) The current lower Columbia River estuary habitat for listed endangered or threatened species of Columbia River anadromous salmonids could be improved through ecosystem restoration projects. The use of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to pay for studying how the estuary could be improved and to pay for ecosystem restoration projects are authorized uses of state lottery funds.

(3) The aggregate principal amount of lottery bonds issued pursuant to subsection (1)(a) of this section for financial and other assistance to municipalities, ports and other persons and entities may not exceed the sum of $177 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. The aggregate principal amount of lottery bonds issued pursuant to subsection (1)(b) of this section for the Columbia River channel deepening project may not exceed the sum of $17.7 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. Lottery bonds issued pursuant to this section shall be issued only at the request of the Director of the Economic and Community Development Department. The director may not request the issuance of lottery bonds pursuant to subsection (1)(b) of this section until a final environmental impact statement has been issued and a record of decisions has been submitted to Congress by the United States Army Corps of Engineers, Congress has authorized the Columbia River channel deepening project, and the Washington sponsors' shares of the costs of the Columbia River channel deepening project have been committed.

(4) The net proceeds of lottery bonds issued pursuant to subsection (1)(a) and (b) of this section shall be deposited in the Economic Infrastructure Project Fund, which is hereby established in the State Treasury separate and distinct from the General Fund. All moneys in the Economic Infrastructure Project Fund are continuously appropriated to the Economic and Community Development Department for any purpose for which moneys in the Special Public Works Fund created by ORS 285B.455 may be used, any purpose for which moneys in the Water Fund created by ORS 285B.563 may be used, any purpose for which moneys in the Safe Drinking Water Revolving Loan Fund created by ORS 285A.213 may be used, any purpose for which moneys in the Oregon Port Revolving Fund created by ORS 285A.708 may be used, any purpose for which moneys in the Brownfields Redevelopment Fund created by ORS 285A.188 may be used and any purpose for which moneys in the Marine Navigation Improvement Fund created by ORS 777.267 may be used. The Director of the Economic and Community Development Department shall allocate the moneys deposited in the Economic Infrastructure Project Fund for the purposes described in this subsection in accordance with the policies developed by the Oregon Economic and Community Development Commission in accordance with ORS 285A.045. However, the director shall transfer from the Economic Infrastructure Project Fund and deposit into the Channel Deepening Account of the Marine Navigation Improvement Fund the proceeds of any lottery bonds sold to finance a portion of the costs of the Columbia River channel deepening project. Upon determining the relative allocation of moneys deposited in the Economic Infrastructure Project Fund among the purposes described in this subsection, the director shall transfer from the Economic Infrastructure Project Fund, and deposit into each of the other funds described in this subsection, the amounts so allocated. Notwithstanding any other

provision of law governing the funds described in this subsection, the funds described in this subsection may be credited with moneys transferred from the Economic Infrastructure Project Fund by the director in accordance with this subsection.

(5) The aggregate principal amount of lottery bonds issued pursuant to subsection (1)(c) of this section for the costs of studies and ecosystem restoration projects in the lower Columbia River estuary may not exceed the sum of $750,000 and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. The net proceeds of lottery bonds issued pursuant to subsection (1)(c) of this section shall be deposited in the Oregon Community Development Fund created by ORS 285A.227 and may be used only for the nonfederal cost share portion of United States Army Corps of Engineers Columbia River estuary projects authorized by Congress prior to August 9, 2001. The director may not request the issuance of lottery bonds pursuant to subsection (1)(c) of this section until Congress and Washington have authorized their respective shares of the costs of the studies and ecosystem restoration projects in the lower Columbia River estuary.

(6) The proceeds of lottery bonds issued pursuant to this section may be used only for the purposes set forth in subsections (4) and (5) of this section and for bond-related costs. [1999 c.702 §1; 2001 c.96 §6; 2001 c.942 §1]

Note: 285B.551 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: Sections 6 and 8 (2) and (3), chapter 702, Oregon Laws 1999, provide:

Sec. 6. (1) Pursuant to sections 1 to 9, chapter 44, Oregon Laws 1999 [286.560 to 286.580 and 348.716], lottery bonds may be issued to fund projects for the development and improvement of systems, facilities and equipment of the Oregon Garden in Silverton.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) The activities of the Oregon Garden promote Oregon's horticultural industry and its products;

(b) The promotion of horticultural products expands markets, which in turn creates jobs and stimulates economic development of the industry; and

(c) The Oregon Garden will attract tourists from throughout the nation and world and thereby generate substantial economic activity for Marion County.

(3) The aggregate principal amount of lottery bonds issued pursuant to this section shall not exceed the sum of $1 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. Lottery bonds issued pursuant to this section shall be issued only at the request of the Director of the Economic and Community Development Department.

(4) The net proceeds of lottery bonds issued pursuant to this section shall be deposited in the Economic Infrastructure Project Fund established under section 1 of this 1999 Act [285B.551].

(5) The proceeds of lottery bonds issued pursuant to this section shall be used only for the purposes set forth in subsection (1) of this section and for bond-related costs. [1999 c.702 §6]

Sec. 8. (2) The Economic and Community Development Department shall pay amounts required for debt service on lottery bonds issued during the 1999-2001 biennium under ORS 285B.551 and sections 2 and 6, chapter 702, Oregon Laws 1999, from moneys allocated to the department from the Administrative Services Economic Development Fund.

(3) The Economic and Community Development Department shall pay amounts required for debt service payable during the 2001-2003 biennium and all remaining debt service on lottery bonds issued during the 1999-2001 biennium and the 2001-2003 biennium under ORS 285B.551 and sections 2 and 6, chapter 702, Oregon Laws 1999, from moneys allocated to the Economic and Community Development Department from the Administrative Services Economic Development Fund. [1999 c.702 §8(2); 2001 c.942 §2(2),(3)]

SAFE DRINKING WATER PROJECTS

(Generally)

285B.560 Definitions for ORS 285B.560 to 285B.599. As used in ORS 285B.560 to 285B.599:

(1) "Department" means the Economic and Community Development Department.

(2) "Direct project management costs" means new expenses incurred by a municipality solely to support, plan for

and manage an infrastructure project, funded in whole or in part through financial assistance under ORS 285B.560 to 285B.599, during the planning and construction phases of the project.

(3) “Fund” means the Water Fund.

(4) “Municipality” has the meaning given that term in ORS 285B.410.

(5) “Safe drinking water project” means a project for constructing or improving a drinking water system or a water development project, as defined in ORS 541.700 (6)(a), (b) and (d) to (f), that is owned and operated by a municipality.

(6) “Waste water system improvement project” means a project for constructing or improving a system for waste water collection or treatment, including storm drainage systems.

(7) “Water project” means a safe drinking water project or a waste water system improvement project. [Formerly 285.755; 2001 c.883 §36]

285B.563 Water Fund; uses; sources; maintenance of fund value; rules; coordination with other agencies on safe drinking water projects. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Water Fund. All moneys in the fund are continuously appropriated to the Economic and Community Development Department to provide financing for water projects, as described in ORS 285B.560 to 285B.599, including the direct project management costs and for the purpose specified in ORS 285A.075 (9).

(2)(a) Moneys in the Water Fund may be obligated to water projects.

(b) Moneys shall be used primarily to make loans to municipalities. The department may make a loan only if:

(A) The municipality applying for the loan certifies to the department that adequate funds will be available to repay the loan; and

(B) The department determines that the amount of the loan applied for is based on a reasonable and prudent expectation of the municipality’s ability to repay the loan.

(c) The department may award a grant only if a loan is not feasible due to:

(A) Financial hardship to the municipality, as determined by the department, based on consideration of anticipated water service charges or anticipated waste water service charges that exceed the statewide average for such charges, the per capita income of the municipality and such other factors as the department by rule may establish; and

(B) Special circumstances of the water project.

(d) The department may determine the amount of grant or loan funding on a case-by-case basis.

(3) The moneys in the fund may also be used to assist the department in selling revenue bonds on behalf of municipalities in order to carry out the purposes of ORS 285B.560 to 285B.599.

(4) With the approval of the State Treasurer, moneys in the Water Fund may be invested as provided by ORS 293.701 to 293.820. The earnings from such investments and other program income shall be credited to the Water Fund.

(5) The Water Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly.

(b) Moneys transferred to the fund by the Economic and Community Development Department from the Special Public Works Fund created by ORS 285B.455.

(c) Moneys transferred to the fund by the Water Resources Commission from the Water Development Fund created by Article XI-I(1) of the Oregon Constitution.

(d) Moneys from any federal, state or other grants.

(e) Proceeds of revenue bonds issued under ORS 285B.575.

(f) Earnings on the fund.

(6) The department shall administer the fund.

(7) The department shall adopt rules and policies for the administration of the fund. The department shall coordinate its rulemaking regarding safe drinking water projects with the Water Resources Department and the Department of Human Services. The rules adopted under this subsection for safe drinking water projects shall:

(a) Require the installation of meters on all new service connections to any distribution lines funded with moneys from the fund or from the proceeds of revenue bonds issued under ORS 285B.572 to 285B.578.

(b) Require a plan, to be adopted by a municipality receiving financial assistance from the fund, for installation of meters on all service connections throughout the drinking water system not later than two years after the completion of a safe drinking water project.

(8)(a) The Economic and Community Development Department shall manage the Water Fund and any expenditures from accounts in the fund and transfers between accounts so that the fund value shall be equal to at least

50 percent of lottery revenues actually transferred to the fund plus interest on such amounts compounded annually at five percent.

(b) If necessary to ensure repayment of bonds issued under ORS 285B.560 to 285B.599, the department may reduce the value of the fund to less than the limit established in paragraph (a) of this subsection when the department:

(A) Finds that without such a reduction in fund value, bonds secured by the fund are likely to be in default; and

(B) Imposes a moratorium on grants until the requirements of paragraph (a) of this subsection are satisfied.

(9)(a) The department may charge administrative costs to the fund, but not to moneys segregated in the account created by subsection (11) of this section, to pay for administrative expenses incurred by the department.

(b) As used in this section, “administrative expenses” includes:

(A) The direct and administrative costs of processing applications, investigating water projects, monitoring recipients of financing for water projects and servicing and collecting outstanding financial awards made for water projects; and

(B) The costs of contracting for planning and technical assistance services and other support services for municipalities.

(c) To the extent permitted by federal law, administrative expenses of the department as limited in this subsection that are paid from the fund shall not exceed four percent of the total assets of the fund reduced by the bonded debt liabilities in any one year. Administrative expenses of the department as limited in this subsection may be paid from bond proceeds.

(10) The department may establish other accounts within the Water Fund for the payment of water projects costs, reserves, debt service payments, credit enhancements, costs of issuing revenue bonds, administrative and operating expenses or any other purpose necessary to carry out ORS 285B.560 to 285B.599.

(11) There is created within the Water Fund a separate and distinct account for the proceeds from the sale of water development general obligation bonds issued for safe drinking water projects and credited to the special account under this section. Any investment earnings thereon shall be segregated in and continuously appropriated to a special, separately accounted for subaccount of this account. Moneys credited to this account shall be maintained separate and distinct from moneys credited to subaccounts created under subsection (10) of this section. Notwithstanding ORS 285B.566 or subsection (4) of this section, all repayments of moneys loaned from the account created by this subsection, including interest on such moneys, shall be credited to the Water Development Administration and Bond Sinking Fund created by ORS 541.830. [Formerly 285.757; 1999 c.509 §45; 2001 c.883 §37]

285B.566 Use of receipts from projects. All payments, receipts and interest from financial awards made for water projects shall be retained and accumulated in the Water Fund and used to finance water projects including payments to holders of revenue bonds issued under ORS 285B.575. [Formerly 285.760]

285B.569 When constitutional restrictions apply to use of certain funds. If moneys are transferred to the Water Fund from the sources described in ORS 285B.563 (5)(b) to (e), all constitutional restrictions, statutes and rules regulating the use of the moneys transferred from these funds shall apply to the use of those moneys in the Water Fund. [Formerly 285.763]

(Revenue Bond Financing of Safe Drinking Water Projects)

285B.572 Standards for eligibility of water projects; determination to issue bonds; rules. (1) The Economic and Community Development Department shall adopt by rule standards to determine the eligibility of a water project for revenue bond financing under ORS 285B.560 to 285B.599.

(2) Upon determining that a water project is eligible for revenue bond financing, the department shall forward a description of the project to the State Treasurer. The State Treasurer shall determine whether to issue revenue bonds. [Formerly 285.950]

285B.575 Issuance of revenue bonds. If the State Treasurer determines that revenue bonds shall be issued:

(1) The State Treasurer may authorize and issue in the name of the State of Oregon revenue bonds secured by moneys paid to the Water Fund and pledged to finance or refinance in whole or in part the cost of a water project. The revenue bonds issued under this section shall be issued in the manner prescribed by ORS chapter 286, and refunding bonds may be issued to refinance the revenue bonds.

(2) The State Treasurer shall designate and enter into agreements with the underwriter to carry out the provisions of

ORS 285B.560 to 285B.599. The Economic and Community Development Department, with the approval of the State Treasurer, shall designate the trustee and enter into appropriate agreements with the trustee to carry out the provisions of ORS 285B.560 to 285B.599. The department may appoint bond counsel as authorized by ORS 288.523, or the State Treasurer may enter into an agreement with bond counsel if the services provided under the agreement comply with the provisions of ORS 288.523 and the appointment is approved by the Attorney General as required by ORS 288.523. The department may not make an appointment or enter into an agreement under this subsection unless the State Treasurer has reviewed and approved the terms and conditions of the appointment or agreement. ORS 279.712 does not apply to any appointment or agreement described in this subsection. [Formerly 285.952; 2001 c.536 §3]

285B.578 Nature of revenue bonds. (1) Revenue bonds issued under ORS 285B.575:

(a) Shall not be payable from nor charged upon any fund other than the revenue pledged to the payment of the revenue bonds, except as provided in this section, nor shall the state be subject to any liability on the bonds. No holder of revenue bonds shall ever have the right to compel any exercise of the taxing power of the state to pay any such bonds or the interest on the bonds, nor to enforce payment of the bonds against any property of the state except those moneys pledged in the Water Fund, under the provisions of ORS 285B.560 to 285B.599.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those moneys paid to the Water Fund.

(2) A revenue bond issued under ORS 285B.575 shall not constitute a debt of the state or a lending of the credit of the state within the meaning of any constitutional or statutory limitation. [Formerly 285.954; 2001 c.883 §38]

285B.581 Repayment plans for loan; authority of municipalities. (1) Any loan of moneys to a municipality by the state shall include a plan for repayment by the municipality of moneys borrowed from the Water Fund for a water project and interest on those moneys at a rate expressly specified. The repayment plan:

(a) Shall provide for such evidence of debt assurance of, and security for, repayment by the municipality as is considered necessary by the Economic and Community Development Department.

(b) May set forth the allocation of special assessments or contractual responsibilities among the owners of benefited properties for repayment to the municipality of the amount of the loan.

(c) Shall provide for repayment during a period that shall not exceed the usable life of the proposed project or 25 years, whichever is less.

(2) Notwithstanding any other provision of law or any restriction on indebtedness contained in a charter, a municipality may borrow from the fund by entering into a loan contract with the Economic and Community Development Department. Moneys borrowed from the fund shall be repaid:

(a) From the revenues of any water project, including special assessment revenues;

(b) From amounts withheld under ORS 285B.599;

(c) From the general fund of the municipality;

(d) From any combination of the provisions of paragraphs (a) to (c) of this subsection; or

(e) From any other sources.

(3) A loan contract under subsection (2) of this section may provide that a portion of the proceeds of the loan be applied to fund a reserve fund to secure the repayment of the loan or secure the repayment of revenue bonds issued to fund the loan.

(4) A loan contract under subsection (2) of this section shall be authorized by an ordinance, order or resolution that is adopted with prior notice of at least 14 days. Notice shall be published at least once in a newspaper of general circulation within the municipality. [Formerly 285.956; 2001 c.883 §39]

285B.584 Authority of department. In addition to any other powers granted by law in relation to a water project, the Economic and Community Development Department, acting through the State Treasurer or the State Treasurer's designee, may:

(1) Make all contracts, execute all instruments and do all things necessary or convenient for the exercise of the powers granted by this section, or for the performance of its covenants or duties, or in order to secure the payment of its bonds;

(2) Enter into and perform such contracts and agreements with municipalities as the department may consider proper and feasible for or concerning the planning, construction, installation, lease or other acquisition, and the financing of water projects; and

(3) Enter into covenants for the benefit of bond owners regarding the use and expenditure of moneys in the Water

Fund. [Formerly 285.958]

285B.587 Deposit and use of bond proceeds. (1) Proceeds of revenue bonds issued and sold under ORS 285B.572 to 285B.578 that are to be used to fund loans to municipalities for water projects shall be deposited in the Water Fund.

(2) Proceeds of revenue bonds issued and sold under ORS 285B.572 to 285B.578 that are to be used to pay the costs of issuing the revenue bonds or that are to be applied to fund a reserve fund for the revenue bonds shall be deposited either in the Water Fund or in a trust account or fund held by any trustee for the revenue bonds. Moneys on deposit in the Water Fund may be transferred to any trustee for the revenue bonds to be applied to the payment of the costs of issuing the revenue bonds or to be applied to fund a reserve fund for the revenue bonds. [Formerly 285.960]

285B.590 Other forms of financial assistance. In addition to making loans to municipalities for water projects, the Economic and Community Development Department may provide any other form of financial or other assistance that the department may consider appropriate to assist municipalities with water projects, including direct purchase by the department of goods and services related to a water project. [Formerly 285.962; 2001 c.883 §39a]

285B.593 Technical assistance grants and loans; eligibility; purpose; amount. Out of the moneys in the Water Fund, the Economic and Community Development Department may make technical assistance grants and loans to municipalities with fewer than 5,000 residents. Technical assistance grants and loans shall be for the purpose of completing preliminary planning, legal, fiscal and economic investigations, reports and studies to determine the economic and engineering feasibility of water projects. A technical assistance grant shall not exceed $10,000. A technical assistance loan shall not exceed $20,000. [Formerly 285.964]

285B.596 Funding of distressed area and nonurban water projects. Not less than 60 percent of the moneys appropriated to the Water Fund shall be used to provide assistance to distressed area and nonurban water projects. [Formerly 285.966; 2001 c.883 §39b]

285B.599 Repayment to Water Fund. (1) If a municipality fails to comply with a contract entered into under ORS 285B.581, the Economic and Community Development Department may seek appropriate legal remedies to secure any repayment due the Water Fund. If any municipality defaults on payments due the fund, the State of Oregon may withhold any amounts otherwise due the municipality to apply to the indebtedness. The department may waive the right to withhold moneys under this subsection.

(2) Moneys withheld under subsection (1) of this section shall be deposited in the fund and shall be used to repay any account in the fund from which funds were expended to pay obligations upon which the municipality defaulted. [Formerly 285.968]

ENTERPRISE ZONES

(Generally)

285B.650 Definitions for ORS 285B.650 to 285B.728. As used in ORS 285B.650 to 285B.728, unless the context requires otherwise:

(1) “Business firm” means a person operating or conducting one or more trades or businesses but does not include any governmental agency, municipal corporation or nonprofit corporation.

(2) “Electronic commerce” means engaging in commercial or retail transactions predominantly over the Internet or a computer network, utilizing the Internet as a platform for transacting business or facilitating the use of the Internet by other persons for business transactions, and may be further defined by the Economic and Community Development Department by rule.

(3) “Eligible business firm” means a firm engaged in an activity described under ORS 285B.707 which may file an application for precertification under ORS 285B.719.

(4) “Employee” means a person who works more than 32 hours per week, but does not include persons with temporary or seasonal jobs or persons hired solely to construct qualified property.

(5) “Enterprise zone” means one of the 30 areas designated or terminated and redesignated by order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, one of the 17 areas designated by the

Director of the Economic and Community Development Department under ORS 285B.653, areas designated under ORS 285B.677 and areas designated under ORS 285B.689.

(6) “First-source hiring agreement” means an agreement between a precertified business firm and a publicly funded job training provider whereby the job training provider refers qualified candidates to the firm for new jobs and job openings in the firm.

(7) “Modification” means modernization, renovation or remodeling of an existing building or structure.

(8) “Nonurban enterprise zone” means an enterprise zone located outside a regional or metropolitan urban growth boundary.

(9) “Precertified business firm” means an eligible business firm whose application for precertification has been approved under ORS 285B.719 and which may apply for a property tax exemption under ORS 285B.722.

(10) “Publicly funded job training provider” includes but is not limited to community colleges, service providers under the federal Workforce Investment Act Title I-B (29 U.S.C. 2801 et seq.), and other similar programs.

(11) “Qualified business firm” means a business firm described in ORS 285B.704 whose application for a property tax exemption has been approved under ORS 285B.722.

(12) “Qualified property” means property described under ORS 285B.713.

(13) “Sponsor” means the city or county that applied for and received approval of an enterprise zone under ORS 284.150 and 284.160 (1987 Replacement Part), under ORS 285B.656 and 285B.659, under ORS 285B.677 or 285B.686 or under ORS 285B.689.

(14) “Urban enterprise zone” means an enterprise zone in a metropolitan statistical area, as defined by the most recent federal decennial census, located inside a regional or metropolitan urban growth boundary. [Formerly 285.560; 1999 c.460 §1; 2001 c.684 §20; 2001 c.957 §1]

Note: Section 22, chapter 1015, Oregon Laws 1989, and sections 31 to 33, chapter 835, Oregon Laws 1997, provide:

Sec. 22. ORS 285B.650, 285B.665, 285B.668, 285B.671, 285B.674, 285B.677, 285B.680, 285B.686, 285B.692, 285B.695, 285B.698, 285B.704, 285B.707, 285B.710, 285B.713, 285B.716, 285B.719, 285B.722, 285B.728 and 285B.731 are repealed on June 30, 2009. [1989 c.1015 §22; 1995 c.747 §5]

Sec. 31. ORS 285B.653, 285B.656, 285B.659, 285B.662, 285B.683, 285B.689, 285B.701 and 285B.725 and section 2 of this 1999 Act [285B.723] are repealed on June 30, 2009. [1997 c.835 §31; 1999 c.1104 §9]

Sec. 32. Notwithstanding ORS 285B.686, all enterprise zones terminate on the date on which the statutes listed in section 31 of this Act and in section 22, chapter 1015, Oregon Laws 1989, are repealed. [1997 c.835 §32]

Sec. 33. Notwithstanding the repeal of the statutes listed in section 31 of this Act and in section 22, chapter 1015, Oregon Laws 1989, and notwithstanding the termination of an enterprise zone under section 32 of this Act, precertified or qualified business firms in an enterprise zone on the date of repeal or termination shall receive the tax exemptions provided under ORS 285B.686 (2) or 285B.719 (5) and (6). [1997 c.835 §33]

285B.653 Nonurban enterprise zones; designation. (1) The Director of the Economic and Community Development Department may approve the designation of up to 17 areas as nonurban enterprise zones as provided in ORS 285B.656 and 285B.659.

(2) Areas designated as enterprise zones under this section shall be in addition to the 30 areas designated or redesignated as enterprise zones by order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, and areas designated under ORS 285B.677 and 285B.689 and shall terminate in accordance with ORS 285B.686 (3). [Formerly 285.562; 1999 c.460 §2]

Note: Sections 4 and 5, chapter 460, Oregon Laws 1999, provide:

Sec. 4. (1) As used in this section, “eastern Oregon” has the meaning given that term in ORS 321.405 but also includes Hood River County.

(2) Of the 10 additional enterprise zones provided for in the amendments to ORS 285B.653 by section 2 of this 1999 Act and initially designated after the effective date of this 1999 Act [October 23, 1999], at least four of the enterprise zones must be located in eastern Oregon.

(3) The designation of any enterprise zone provided for in the amendments to ORS 285B.653 by section 2 of this 1999 Act is not effective unless made on or before January 1, 2004.

(4) When requesting a change to the boundary of an enterprise zone under ORS 285B.680, the zone sponsor and any other city or county that seeks to become a sponsor as part of the boundary change proceeding may request a

waiver of the distance limit imposed under ORS 285B.683 (1)(c). The Director of the Economic and Community Development Department shall grant the waiver and order the change to the enterprise zone boundary, if:

(a) The proposed boundary change satisfies all other requirements for a boundary change; and

(b) The director makes a determination, consistent with rules adopted by the Economic and Community Development Department, that designation of a separate enterprise zone is not a practical option under the particular circumstances, that the overall distances involved can be effectively administered and that the waiver will further the goals and purposes of applicable state policies. [1999 c.460 §4]

Sec. 5. Section 4 of this 1999 Act is repealed on January 1, 2008. [1999 c.460 §5]

Note: See note under 285B.650.

285B.656 Application for designation of enterprise zones; contents of application. (1) Any city or county may apply to the Director of the Economic and Community Development Department for designation of an area within that city or county as an enterprise zone. With the prior consent of the governing body of the city, a county may apply to the Economic and Community Development Department on behalf of a city for designation of any area within that city as an enterprise zone.

(2) One or more cities and counties may apply to the director for designation of an area situated partly within each city and partly in unincorporated territory within the counties as an enterprise zone.

(3) Any area proposed for designation as an enterprise zone must consist of a total area of not more than 12 square miles in size with 12 miles or less as the greatest distance between any two points within the zone. The area of the zone shall be calculated by excluding that portion of the zone which lies below the ordinary high water mark of a navigable body of water, and any road, railroad, electric transmission line or pipeline rights of way that connect otherwise unconnected areas of an enterprise zone. Such areas shall not be more than five miles apart.

(4) An application for designation of an enterprise zone shall be in the form and contain such information as the department, by rule, may require. However, the application shall:

(a) Be submitted on behalf of one or more local government units as described in subsections (1) and (2) of this section by action of the governing body of each applicant;

(b) Contain a description of the area sought to be designated as an enterprise zone;

(c) Contain information sufficient to allow the department to determine if the criteria established in ORS 285B.662 are met;

(d) State that the applicant will give priority to the use in the proposed enterprise zone of any economic development or job training funds received from the federal government; and

(e) Declare that the applicant will comply with ORS 285B.671.

(5) When applying for designation of an enterprise zone within its boundaries under this section, the applicant may include in the application proposals to enhance the level or efficiency of local public services within the proposed enterprise zone including, but not limited to, fire-fighting and police services.

(6) When applying for designation of an enterprise zone within its boundaries under this section, the applicant may include in the application proposals for local incentives and local regulatory flexibility to precertified or qualified business firms.

(7) In the case of joint applications by more than one local government unit, each city or county joining in the application may include proposals for enhanced local public services, local incentives or local regulatory flexibility to be effective within the boundaries of that local government unit.

(8) Proposals under subsection (5), (6) or (7) of this section for enhanced local public services, local incentives or local regulatory flexibility included in the application by a city or county for an enterprise zone are binding upon the city or county if an enterprise zone is designated wholly or partly within its boundaries.

(9) Notwithstanding ORS 285B.716 (1), when applying for designation of an enterprise zone, an applicant may choose to exempt qualified property owned or leased and operated by a business firm as a hotel, motel or destination resort, for any business firm that is precertified in the proposed zone after its designation, if the exemption is requested by resolution of each city or county sponsoring the application. [Formerly 285.563]

Note: See note under 285B.650.

285B.659 Review of applications by department; approval; reapplication upon denial. (1) The Economic and Community Development Department shall review each application for designation of an enterprise zone, and shall

secure any additional information that the department considers necessary for the purpose of determining whether the area described in the application qualifies for designation as an enterprise zone.

(2) The department shall complete review of the application within 60 days of the last date designated for receipt of an application. After review of the applications, the department shall forward those qualified applications to the Director of the Economic and Community Development Department. The director shall determine which applications have the greatest potential for accomplishing the purposes of ORS 285B.650 to 285B.728.

(3) As authorized under ORS 285B.653 or 285B.689, the director may approve the designation of one or more enterprise zones. The determination by the director as to the areas designated enterprise zones shall be final.

(4) If an application for enterprise zone designation is denied, the governing body of the cities or counties submitting the application shall be informed of that fact together with the reasons for the denial. Cities or counties may reapply to the department for designation of an area as an enterprise zone. [Formerly 285.564]

Note: See note under 285B.650.

285B.662 Requirements for area designated as enterprise zone. A proposed enterprise zone must be located in a local area in which:

(1) Fifty percent or more of the households have incomes below 80 percent of the median income of this state, as defined by the most recent federal decennial census;

(2) The unemployment rate is at least 2.0 percentage points greater than the comparable unemployment rate for this entire state, as defined by the most recently available data published or officially provided and verified by the United States Government, the Employment Department of this state, the Portland State University Center for Population Research and Census or special studies conducted under a contract with a regional academic institution; or

(3) The Economic and Community Development Department determines on a case-by-case basis using evidence provided by the cities or counties applying for designation of the proposed enterprise zone that there exists a level of economic hardship at least as severe as that described in subsection (1) or (2) of this section. Such evidence shall be based on the most recently available data from official sources and may include, but is not limited to, a contemporary decline of the population in the proposed enterprise zone, the percentage of persons in the proposed enterprise zone below the poverty level relative to the percentage of the entire population of this state below the poverty level or the unemployment rate for the county or counties in which the proposed enterprise zone is located. [Formerly 285.565]

Note: See note under 285B.650.

285B.665 Legislative findings. The Legislative Assembly finds and declares that the health, safety and welfare of the people of this state are dependent upon the continued encouragement, development, growth and expansion of employment, business, industry and commerce throughout all regions of the state, but especially in those communities at the center of or outside major metropolitan areas for which geography may act as an economic hindrance. The Legislative Assembly further declares that there are areas in the state that need the particular attention of government to help attract private business investment into these areas and to help resident businesses to reinvest and grow and that many local governments wish to have tax incentives and other assistance available to stimulate sound business investments that support and improve the quality of life. Therefore, it is declared to be the purpose of ORS 285B.650 to 285B.728 to stimulate and protect economic success in such areas of the state by providing tax incentives for employment, business, industry and commerce and by providing adequate levels of complementary assistance to community strategies for such interrelated goals as environmental protection, growth management and efficient infrastructure. [Formerly 285.573; 1999 c.460 §6]

Note: See note under 285B.650.

285B.668 Duties of department; rules. In addition to any other powers granted by law, for the purpose of administering ORS 285B.650 to 285B.728, the Economic and Community Development Department shall:

(1) Adopt any rules the department considers necessary to administer ORS 285B.650 to 285B.728.

(2) Assist a sponsor of an enterprise zone in its efforts to retain, expand, start or recruit eligible business firms.

(3) Assist an eligible business firm doing business within an enterprise zone to obtain the benefits of applicable incentive or inducement programs authorized by Oregon law.

(4) Take action necessary to participate in the federal enterprise zone program under ORS 285B.677.

(5) Process sponsor requests for boundary amendments under ORS 285B.680.

(6) Take action necessary to terminate or designate zones under ORS 285B.686 or 285B.689.

(7) Assist in implementing first-source hiring agreements by publicly funded job training providers with precertified and qualified business firms. [Formerly 285.575]

Note: See note under 285B.650.

285B.671 Duties of zone sponsor. (1) The sponsor of an enterprise zone shall:

(a) Appoint a local zone manager. Upon appointment of the local zone manager, the sponsor shall provide written notice thereof to the Economic and Community Development Department, the county assessor and the Department of Revenue.

(b) Provide enhanced local public services, local incentives and local regulatory flexibility included in the application for designation of the enterprise zone or in the resolution under ORS 285B.680 (6) to precertified or qualified business firms.

(c) Process applications from eligible business firms for precertification under ORS 285B.719.

(d) Assist the county assessor in reviewing tax exemption applications under ORS 285B.722.

(e) Prepare, implement and annually update a plan for marketing the enterprise zone including strategies for retention, expansion, start-up and recruitment of eligible business firms.

(f) Manage the enterprise zone in accordance with ORS 285B.650 to 285B.728.

(g) Identify property available for sale or lease to eligible business firms under ORS 285B.674.

(h) Prepare indices of street addresses, tax lot numbers or other information to facilitate the identification of land inside of an urban enterprise zone.

(2) A sponsor of an enterprise zone may require that an application for precertification be accompanied by a filing fee of $200 or up to one-tenth of one percent of the value of the proposed investment in qualified property at the time of the precertification.

(3) If more than one city or county sponsors an enterprise zone, they shall act jointly in performing the duties imposed on a sponsor under ORS 285B.650 to 285B.728.

(4) Notwithstanding ORS 285B.719 (3), the sponsor of an urban enterprise zone may require an eligible business firm seeking precertification under ORS 285B.719 within that zone to satisfy other conditions for precertification that the zone sponsor may impose that are reasonably related to the public purpose of providing opportunities for groups of persons, as defined by the zone sponsor, to obtain employment, including but not limited to provisions for training and procedures for monitoring and verifying compliance with the conditions. Such conditions may be imposed only pursuant to a policy adopted by the zone sponsor that establishes standards for the imposition of the conditions. Conditions imposed by a zone sponsor under this subsection shall be in addition to, and not in lieu of, conditions and requirements imposed under ORS 285B.650 to 285B.728 and shall not affect the duties of the Department of Revenue under ORS 285B.692 or of the county assessor under ORS 285B.695.

(5) A sponsor of an enterprise zone that imposes conditions for precertification on eligible business firms under subsection (4) of this section shall submit a written report every four years to the Legislative Assembly concerning the application and effects of such conditions on the eligible businesses within the enterprise zone. A report required by this subsection shall first be submitted to the Seventieth Legislative Assembly. [Formerly 285.577]

Note: See note under 285B.650.

285B.672 Designation for electronic commerce. (1) A sponsor of an existing enterprise zone may seek to have the zone designated for electronic commerce under this section.

(2) The sponsor shall file an application to have the zone designated for electronic commerce with the Economic and Community Development Department. The application shall be in the form and contain the information that the department by rule may require.

(3) The application shall be accompanied by a copy of a resolution, adopted by the governing body of the sponsor, requesting that the zone be designated for electronic commerce.

(4) The department shall review applications for electronic commerce designation and shall approve no more than four zones for electronic commerce designation. In approving zones for electronic commerce designation, the department shall strive to approve zones for electronic commerce designation in different geographic areas of this state. [2001 c.957 §2]

285B.673 Alternative designation of city for electronic commerce. (1) Notwithstanding ORS 285B.672 and 285B.675, a city shall be designated for electronic commerce if the city:

(a) By resolution of the governing body of the city, declares itself a city designated for electronic commerce;

(b) As of January 1, 2002, has a population of more than 1,500 but less than 2,000;

(c) Is located less than 25 miles from a city with a population of more than 500,000; and

(d) Is located less than 10 miles from a city with a high concentration of high technology firms and with a population that, as of January 1, 2002, does not exceed 85,000.

(2) Only one city may be designated for electronic commerce under this section, and that designation shall be made without consideration of the numeric or geographic limitations imposed by ORS 285B.672.

(3)(a) A city does not need to be a sponsor of an enterprise zone to be designated for electronic commerce under this section.

(b) The governing body of a city designated for electronic commerce under this section does not have to comply with the requirements of ORS 285B.650 to 285B.728, except that the governing body must take all actions under ORS 285B.650 to 285B.728 with respect to business firms that are required of a sponsor of a nonurban enterprise zone.

(c) A business firm that is located in a city designated for electronic commerce under this section and that seeks an exemption under ORS 285B.698 must take all actions required of a qualified business firm under ORS 285B.650 to 285B.728, except that the business firm does not need to be located within an enterprise zone.

(4) For the purpose of determining the boundaries of a city designated for electronic commerce, “city” includes:

(a) Territory that is annexed into the city, as of the date of the annexation;

(b) Land within the urban growth boundary of the city; and

(c) Territory that is added to the urban growth boundary described in paragraph (b) of this subsection, as of the date the urban growth boundary is extended to such territory. [2001 c.957 §2b]

285B.674 Availability of public property. Subject to the requirements of the Oregon Constitution and any applicable law, the State of Oregon and municipal corporations that own any real property within an enterprise zone that is zoned for use by eligible businesses and that is not used or designated for some public purpose shall make that real property available for lease or purchase by precertified or qualified business firms. Real property shall be leased or sold under this section only upon the condition that an eligible business firm promptly develop the real property for a use which has been precertified under ORS 285B.719. [Formerly 285.580]

Note: See note under 285B.650.

285B.675 Availability of tax exemption for business firm engaged in electronic commerce. Qualified property owned or leased and operated by a qualified business firm engaged in electronic commerce may not receive an exemption under ORS 285B.698 unless the electronic commerce operations of the firm are located in an enterprise zone that has been approved for electronic commerce designation under ORS 285B.672. [2001 c.957 §5]

285B.677 Department as agency for state participation in federal enterprise zone program. (1) As used in this section, “federal enterprise zone” means any discrete area wholly or partially within this state that is designated as an empowerment zone, an enterprise community, a renewal community or some similar designation for purposes of improving the economic and community development of the area.

(2) The Economic and Community Development Department shall be the lead agency for state participation in a federal enterprise zone program. The Director of the Economic and Community Development Department may take action necessary for such participation to the extent allowed by state law.

(3) 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 or county within whose jurisdiction some or all of the federal enterprise zone is located, without regard to any limitation contained in ORS 285B.656 (3) or 285B.662.

(4) 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 any limitation contained in ORS 285B.680 (2). A change in the boundary of an existing state enterprise zone under this subsection shall not change the termination date of the enterprise zone under ORS 285B.686 (3).

(5) A request by a city or county under subsection (3) or (4) 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 or county; and

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

(6) The termination under federal law of a federal enterprise zone shall 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. [Formerly 285.583; 1999 c.460 §7]

Note: See note under 285B.650.

285B.680 Change of zone boundaries. (1) The sponsor of an enterprise zone may submit a request to the Economic and Community Development Department to change the boundary of the enterprise zone. A request shall include:

(a) A resolution of the governing body of the sponsor requesting the change;

(b) A map clearly indicating the existing boundary and the proposed change thereto;

(c) A legal description of each area to be withdrawn from or added to the existing enterprise zone; and

(d) Other information required by the department.

(2) The amended enterprise zone shall:

(a) Add land zoned for use by eligible business firms:

(A) Which has or will have infrastructure facilities available; or

(B) Where road access exists or will be provided, water is or will be available on-site, sewage disposal is or will be provided on-site and necessary utility services are or will be provided;

(b) Continue to include any precertified or qualified business firms within the enterprise zone;

(c) Add residential areas only if the level of economic hardship therein is at least as severe as the original enterprise zone;

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

(e) Consist of a total area of not more than 12 square miles in size. The area of the zone shall be calculated by excluding that portion of the zone which lies below the ordinary high water mark of a navigable body of water, and any road, railroad, electric transmission line or pipeline rights of way that connect otherwise unconnected areas of an enterprise zone. Such areas shall not be more than five miles apart; and

(f) Have 12 miles or less as the greatest distance between any two points within a zone amended under this section.

(3) A request under subsection (1) of this section may include a proposal to:

(a) Remove residential areas or land not zoned or available for use by eligible business firms; or

(b) Change the name of the enterprise zone.

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

(5) A request to modify the boundary of a nonurban enterprise zone to include land located outside an urban growth boundary shall satisfy the requirements of subsections (1) and (2) of this section and shall include such other criteria as the department may adopt by rule.

(6) If an area to be added to an enterprise zone is under the jurisdiction of a city or county that is not a sponsor of the enterprise zone, the governing body of that city or county shall submit a resolution requesting the change and that it become a sponsor. The resolution may include a binding proposal for enhanced local public services, local incentives or local regulatory flexibility to be effective within the portion of the enterprise zone to be under the jurisdiction of that city or county.

(7) The department shall review the request for a boundary change. If the request is incomplete or does not satisfy the requirements of this section, the department shall seek additional information as necessary or shall return the request to the sponsor. If the request is returned, the sponsor may submit a revised request at any time. If the request is complete and does satisfy the requirements of this section, the Director of the Economic and Community Development Department shall order a change in the boundary of an enterprise zone based on the request of the sponsor and specify the effective date of the boundary change, which shall not be earlier than the receipt of a completed request.

(8) A change in the boundary of an enterprise zone under this section shall not change the termination date of the enterprise zone under ORS 285B.686 (3). [Formerly 285.585]

Note: See note under 285B.650.

285B.683 Change in boundaries of nonurban enterprise zone. (1) Notwithstanding ORS 285B.656 (3) and 285B.680 (2)(e) and (f), a nonurban enterprise zone may be designated under ORS 285B.659 or 285B.689 or have its zone boundary changed under ORS 285B.680 so that:

(a) A separate area of the zone may be as far as 15 miles from another area of the zone, when the separate area is entirely contained within a sparsely populated county;

(b) The zone may have 20 or fewer miles as the greatest distance between any two points within the zone, when only a portion of the zone is contained within a sparsely populated county; or

(c) The zone may have 25 or fewer miles as the greatest distance between any two points within the zone, when the zone is entirely contained within a sparsely populated county or within two or more sparsely populated counties.

(2) If the population density of a county increases to more than 100 persons per square mile, any existing enterprise zone located wholly or partly within that county that was designated or that had its zone boundary changed under subsection (1) of this section shall continue to exist with that zone boundary until terminated or until a subsequent boundary change under ORS 285B.680. However, any subsequent boundary change under ORS 285B.680 shall not add an area to the zone that:

(a) Is a separate area farther than five miles from the nearest point on the existing boundary;

(b) Increases the distance between the two points in the zone that are the farthest apart; or

(c) Creates a new line of distance to the farthermost opposite point in the zone that is longer than the greatest distance between any two existing points in the zone.

(3) Subsection (2) of this section does not limit the maximum distance within an enterprise zone to less than what is otherwise specifically allowed under subsection (1) of this section or ORS 285B.677 or 285B.680.

(4) Nothing in this section allows an enterprise zone to be more than 12 square miles in total area except as provided under ORS 285B.677.

(5) As used in this section, “sparsely populated county” means a county with a density of 100 or fewer persons per square mile, based on the most recently available population figure for the county from the Portland State University Center for Population Research and Census. [1997 c.835 §2]

Note: See note under 285B.650.

285B.686 Zone termination. (1) Enterprise zones designated under ORS 284.110 to 284.260 (1987 Replacement Part) by order of the Governor before October 3, 1989, are declared valid and shall continue to exist until terminated under this section.

(2) When the termination of an enterprise zone occurs under this section:

(a) The termination of the enterprise zone shall not affect the continuation of a qualified business firm’s property tax exemption for which the firm qualified before the effective date of the termination of the enterprise zone.

(b) Notwithstanding ORS 285B.698 (5)(e) and 285B.719 (6), a business firm that is currently precertified or qualified in the enterprise zone shall be allowed until 10 years after the effective date of the termination of the enterprise zone to apply for precertification under ORS 285B.719 and subsequently for property tax exemptions under ORS 285B.722 for any qualified property that is located inside the former enterprise zone boundaries at the time of termination and entirely outside of the boundaries of any current enterprise zone. Construction, modification or installment of qualified property must commence prior to the end of an exemption of the precertified or qualified business firm under ORS 285B.698 or 285B.710 and be completed in accordance with ORS 285B.719 (5)(b) and (c). The precertified or qualified business firm must comply with the requirements under ORS 285B.692 to 285B.728 in effect at the time of the termination of the enterprise zone.

(c) Disqualification under ORS 285B.728 of an entire property tax exemption after the date of the termination of the enterprise zone shall prohibit and terminate all precertifications and qualifying property tax exemptions that would not otherwise be allowed except for paragraph (b) of this subsection. Such termination shall not result in repayment of property taxes exempted before the tax year in which the disqualification takes effect.

(3) An enterprise zone previously designated by order of the Governor or designated by the Director of the Economic and Community Development Department under ORS 285B.653, 285B.677 or 285B.689 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 enterprise zone was originally designated by order of the Governor or the director.

(4) An enterprise zone shall terminate prior to the time specified in subsection (3) of this section only as provided in subsection (5) or (6) of this section.

(5) The governing body of the sponsor may submit a resolution requesting termination of the enterprise zone to the

Economic and Community 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 shall order termination of the enterprise zone and shall specify the effective date of such termination.

(6) If a sponsor is unable or unwilling to carry out its responsibilities under ORS 285B.671, the director shall order termination of the enterprise zone and shall specify the effective date of such termination. However, in the case of failure to provide enhanced local public services, local incentives or local regulatory flexibility included in the application for designation as an enterprise zone or in the resolution under ORS 285B.680 (6), termination is not required if the sponsor provides new enhanced local public services, local incentives or local regulatory flexibility that have similar value, as determined by the department, to precertified or qualified business firms. 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 285B.698 or 285B.710, without causing termination under this section. [Formerly 285.587]

Note: See note under 285B.650.

285B.689 Designation of new zones after termination. (1) Within a reasonable period of time prior to the termination of enterprise zones under ORS 285B.686 (3), the Director of the Economic and Community Development Department shall competitively designate the same number of enterprise zones effective immediately after termination of the previous enterprise zones. The determination by the director as to the areas designated as enterprise zones shall be final.

(2) When an enterprise zone is terminated under ORS 285B.686 (5) or (6), the director may competitively designate a new enterprise zone. The sponsor of the enterprise zone terminated under ORS 285B.686 (5) or (6) is not eligible to apply for a new enterprise zone, except for a county government when the terminated zone was also jointly sponsored by one or more cities.

(3) Sponsors of existing enterprise zones are eligible to reapply for designation under subsection (1) of this section.

(4) Any city or county may apply to the director for designation of an enterprise zone in accordance with the criteria set forth in ORS 285B.656 and 285B.662. In addition, the Economic and Community Development Department by rule shall determine the minimum level of economic hardship in any area to be included within an enterprise zone, any other criteria necessary to evaluate the need for the enterprise zone and the potential for accomplishing the purposes of ORS 285B.650 to 285B.728.

(5) All enterprise zones designated under this section shall terminate in accordance with ORS 285B.686 (3).

(6) When the director designates enterprise zones under this section, there is no limit on the relative number of urban or nonurban enterprise zones designated.

(7) The director may determine when to accept applications for any enterprise zone that terminates under subsection (2) of this section or is not designated under subsection (1) of this section for lack of qualified applicants. [Formerly 285.588]

Note: See note under 285B.650.

(Tax Exemptions)

Note: Sections 3c and 4a, chapter 1104, Oregon Laws 1999, provide:

Sec. 3c. (1) If an eligible business firm completes an investment of $25 million or more in the enterprise zone in qualified property confined entirely within an established operating division of the firm that would be an eligible business firm if it were separately incorporated, the firm may elect to have the division treated as a separate eligible business firm for purposes of applicable requirements under ORS 285B.692 to 285B.728. The election described in this subsection may only be made with respect to an application for the exemption of qualified property under ORS 285B.722 that was filed on or before January 1, 1999.

(2) For purposes of ORS 285B.704 (2) or (3), if the eligible business firm makes a total investment in the enterprise zone of $50 million or more in qualified property that initially qualifies for not more than three consecutive years, the governing body of the sponsor may also provide for one or more of the following as documented in the resolution under ORS 285B.704:

(a) That, notwithstanding ORS 285B.701 (3) or 285B.719 (1), this subsection and the application for precertification includes qualified property in the zone, for which construction, modification or installation commenced

prior to the application, if the firm is precertified prior to use or occupancy of the qualified property;

(b) That the exemption shall be granted without regard to the cost of any portion of the investment that initially qualifies in any single year; or

(c) That the firm is not bound by any election under subsection (1) of this section or ORS 285B.707 (5) in effect at the time at which the zone terminated, in the case of a precertification and exemption that is otherwise allowed under ORS 285B.686 (2). [1999 c.1104 §3c]

Sec. 4a. Section 3c of this 1999 Act is repealed on December 31, 2005. [1999 c.1104 §4a]

285B.692 Duties of Department of Revenue; rules. In addition to any other powers granted by law, for the purposes of ORS 285B.692 to 285B.728, the Department of Revenue shall:

(1) Adopt any rules the Department of Revenue considers necessary to implement ORS 285B.692, 285B.695, 285B.698, 285B.713, 285B.719, 285B.722, 285B.725 and 285B.728.

(2) Assist the Economic and Community Development Department, county assessors and the sponsors of enterprise zones in their efforts to precertify or qualify eligible business firms.

(3) Assist an eligible business firm doing business within an enterprise zone to obtain the benefits of applicable tax incentive or inducement programs administered or supervised by the Department of Revenue.

(4) Issue and print forms and worksheets to be used by eligible business firms applying for precertification or by precertified business firms applying for a property tax exemption under ORS 285B.719 or 285B.722.

(5) Submit a written report to the Economic and Community Development Department on or before January 15 in each year. The report shall include the number of jobs created and the value of investments in qualified property made by qualified business firms in the current tax year, and other information considered necessary by the Department of Revenue or required by the Economic and Community Development Department. [Formerly 285.593]

Note: See note under 285B.650.

285B.695 Duties of county assessor. The assessor of a county within which an enterprise zone is located shall:

(1) Assist the local zone manager and eligible or precertified business firms in determining whether property will qualify for a property tax exemption under ORS 285B.698 and 285B.713.

(2) Review and approve or deny applications from eligible business firms for precertification under ORS 285B.719.

(3) Process applications from precertified business firms for property tax exemptions under ORS 285B.722.

(4) Take action necessary under ORS 285B.728 if a business firm or property is no longer qualified for the property tax exemption.

(5) Submit a written report to the Department of Revenue on or before December 1 in each year. The report shall include the number of jobs created and the value of investments in qualified property made by qualified business firms in the current tax year, and other information considered necessary by the assessor or required by the Department of Revenue. The assessor shall provide copies of the report to the sponsors of enterprise zones located within the county and as directed by the Department of Revenue. [Formerly 285.595]

Note: See note under 285B.650.

285B.698 Property tax exemption. (1) Upon compliance with ORS 285B.722, qualified property of a qualified business firm shall be exempt from ad valorem property taxation, if:

(a) The qualified property was constructed, added to, modified or installed in furtherance of the production of income;

(b) The property or portion of the property for which exemption is sought was in use or occupancy no later than April 1 of the assessment year for which exemption is sought;

(c) The total cost of all of the qualified property for which application for exemption is made was at least $25,000; and

(d) The property satisfies the requirements of ORS 285B.713.

(2) The exemption allowed under this section shall be allowed only for property that is owned or leased by a qualified business firm that satisfies the requirements of ORS 285B.704. If the property is leased by a qualified business firm, the qualified business firm must be required by the terms of the lease to pay or compensate the owner for the entire amount of property taxes assessed against the leased property during the lease term.

(3)(a) The exemption allowed under this section shall first apply to the assessment year immediately following completion of the construction, addition, modification or installation of the property. The exemption shall continue for the two succeeding assessment years if the property continues to be owned or leased by the qualified business firm and located in the enterprise zone.

(b) If qualified property of a qualified business firm is sold or leased to an eligible business firm in the enterprise zone during the period of abatement, the purchasing or leasing firm is eligible to continue the exemption of the selling or leasing firm for the balance of the abatement period, but only if any effects on employment within the zone that result from the sale or lease do not constitute substantial curtailment under ORS 285B.728 (3).

(4) The exemption allowed under this section shall be 100 percent of the assessed value of the qualified property in each of the tax years for which the exemption is available. If the qualified property is an addition to or modification of an existing building or structure, the exemption shall be measured by the increase in value, if any, attributable to the addition or modification.

(5)(a) No exemption shall be granted for property assessed for property tax purposes in the county in which the zone is located on or before the effective date of the:

(A) Designation of the zone; or

(B) Approval of a boundary change for the zone if the property is located in an area added to the zone.

(b) No exemption shall be granted for property constructed, added to, modified or installed in the zone or in the process of construction, addition, modification or installation in the zone on or before the effective date of the:

(A) Designation of the zone; or

(B) Approval of a boundary change for the zone if the property is located in an area added to the zone.

(c) No exemption shall be granted for any qualified property that was in use or occupancy within the zone for more than 12 months by December 31 preceding the first assessment year for which an application for exemption is made.

(d) No exemption shall be granted for any qualified property unless the property was in use or occupancy in the assessment year immediately following completion of construction, addition, modification or installation.

(e) Except as provided in ORS 285B.719 (6), no exemption shall be granted for qualified property constructed, modified or installed after termination of an enterprise zone.

(6) A qualified business firm may apply for a tax exemption for additional qualified property initially occupied or used during or after the first year in which a tax exemption for the firm's initial investment in qualified property was approved if the firm meets the applicable requirements of this section and ORS 285B.701, 285B.704, 285B.707, 285B.710, 285B.713, 285B.716, 285B.719 and 285B.722. [Formerly 285.597]

Note: See note under 285B.650.

285B.701 Exemption allowed for property constructed or modified for lease or sale to precertified business firm. (1) The Legislative Assembly finds that the standard procedure for precertification in an enterprise zone inappropriately deters development or redevelopment of qualified buildings on speculation for subsequent sale or lease to eligible business firms.

(2) Notwithstanding ORS 285B.719 (1), a new building or structure or an addition to or modification of an existing building or structure may qualify for the exemption allowed under ORS 285B.698 or 285B.710 if the qualified property is leased or sold by an unrelated party to one or more precertified business firms after commencement of the construction, addition or modification but prior to use or occupancy of the qualified property.

(3) For purposes of ORS 285B.722, a business firm shall not be considered precertified and is not qualified for the exemption allowed under ORS 285B.698 or 285B.710 if the county assessor discovers prior to initially granting the exemption that the application for precertification was not submitted by the business firm in a timely manner in accordance with ORS 285B.719 (1), except as allowed under subsection (2) of this section or ORS 285B.719 (8).

(4) Records, communications or information submitted to a public body by a business firm for purposes of ORS 285B.650 to 285B.728 that identify a particular qualified property, that reveal investment plans prior to precertification, that are described in ORS 192.502 (16) or that are submitted under ORS 285B.728 are exempt from disclosure under ORS 192.410 to 192.505 and, as appropriate, shall be shared among the county assessor, the zone sponsor, the Department of Revenue and the Economic and Community Development Department. [Formerly 285.598; 1999 c.1104 §3]

Note: See note under 285B.650.

285B.704 Qualifications for exemption. (1) A business firm is qualified to receive a property tax exemption under ORS 285B.698 for its qualified property only if:

(a) The firm is an eligible business firm described in ORS 285B.707;

(b) The firm has business operations located inside the enterprise zone;

(c) The firm owns or leases qualified property located inside the enterprise zone;

(d) The employment of the firm, no later than April 1 following the assessment year in which the investment in qualified property was completed, is not less than 110 percent of the average annual employment of the firm, calculated over the 12 months preceding the date of application for precertification;

(e) The firm hired at least one new employee to work within the enterprise zone, under paragraph (d) of this subsection, after precertification and no later than April 1 following the assessment year in which the investment in qualified property was completed;

(f) The firm satisfies the hiring requirements of ORS 285B.710 (1);

(g) The firm did not diminish employment outside the enterprise zone under subsection (4) of this section;

(h) The firm did not substantially curtail employment within the enterprise zone as described in ORS 285B.728;

(i) The firm complies in all material respects with local, Oregon and federal laws applicable to the firm's operations inside the enterprise zone since the application for precertification and throughout the period of exemption, as prescribed by rule; and

(j) The firm complies with all additional conditions for precertification imposed by an enterprise zone sponsor under ORS 285B.671 (4).

(2)(a) Notwithstanding subsection (1)(d), (e) or (h) of this section, an eligible business firm is a qualified business firm if it completes an investment of $25 million or more in qualified property, on or before December 31 preceding the first assessment year for which the exemption is being sought, with less than a 10 percent increase in employment of the firm but without loss of employment of the firm.

(b) Approval to extend the property tax benefit to the eligible business firm under this subsection shall be documented by resolution of the governing body of the sponsor. The resolution shall specify the minimum percentage increase in employment that the eligible business firm must maintain to be a qualified business firm throughout the exemption period. The resolution may include other conditions for the firm to be a qualified business firm. At the request of the eligible business firm, the sponsor may modify the resolution prior to the initial filing by the firm for the property tax exemption. A copy of the resolution shall be attached to the final applications for precertification and for the property tax exemption.

(3)(a) Notwithstanding subsection (1)(d), (e) or (h) of this section, with the approval of the sponsor of the enterprise zone, an eligible business firm is a qualified business firm if it completes an investment of $25 million or more in qualified property, on or before December 31 preceding the first assessment year for which the exemption is being sought, with a loss of employment of the firm.

(b) Approval to extend the property tax benefit to the eligible business firm under this subsection shall be documented by resolution of the governing body of the sponsor. The resolution shall specify the minimum number of employees that the firm must retain for the eligible business firm to be a qualified business firm throughout the exemption period. The resolution may include other conditions for the firm to be a qualified business firm. At the request of the eligible business firm, the sponsor may modify the resolution prior to the firm's initial filing for the property tax exemption. A copy of the resolution shall be attached to the firm's applications for precertification and for the property tax exemption.

(4) Notwithstanding subsections (1) to (3) of this section, a business firm is not qualified to receive a property tax exemption if the firm or any other firm under common control closes or permanently curtails operations in another part of the state more than 30 miles from the nearest boundary of the enterprise zone in which the firm seeks a property tax exemption. This subsection applies to the transfer of any of the business firm's operations to an enterprise zone from another part of the state, if the closure or permanent curtailment in the other part of the state diminished employment in the county and more local labor markets after precertification and before the initial application for the exemption.

(5) An eligible business firm that moves any of its employees from a site or sites within 30 miles from the nearest boundary of the enterprise zone after precertification and before the initial application for the exemption may qualify to receive a property tax exemption only if the employment of the firm has been increased within the zone and at the site or sites from which the employees were transferred, no later than April 1 following the assessment year in which the investment in qualified property was completed, to not less than 110 percent of the average annual employment of the firm within the zone and the site or sites from which the employees were transferred, calculated over the 12 months preceding the date of application for precertification.

(6) As used in this section and except as provided in subsection (5) of this section, “employment of the firm” means the number of employees working for the firm a majority of their time in eligible operations at locations within the enterprise zone. [Formerly 285.600; 1999 c.1104 §3a]

Note: See note under 285B.650.

285B.705 Effect on exemption of noncompliance with applicable laws; determination of noncompliance; rules. For purposes of ORS 285B.704 (1)(i), the Economic and Community Development Department shall adopt rules that, notwithstanding ORS 311.205, define the effect of noncompliance on an eligible business firm’s continuing exemption in an enterprise zone and that indicate what is necessary to establish such noncompliance in terms of the materiality of the relevant violation, the finality of applicable legal or regulatory proceedings and judgments involving the firm, the failure by the firm to perform or submit to remedial or curative actions and similar factors. [1999 c.1104 §4b]

Note: 285B.705 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

285B.707 Eligibility. (1) Except as provided in subsections (3) and (4) of this section, to be an eligible business firm, a business firm must be engaged in the business of providing goods, products or services to other businesses, and not to the general public for personal or household use or consumption, through activities including, but not limited to, manufacturing, assembly, fabrication, processing, shipping or storage.

(2) Businesses significantly engaged in business activities within the enterprise zone such as 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 are not eligible business firms.

(3) Notwithstanding subsection (1) or (2) of this section, a business firm that operates a hotel, motel or destination resort is an eligible business firm regardless of the sale of services for personal consumption, if allowed in the enterprise zone under ORS 285B.716.

(4) Notwithstanding any other provision of this section, 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. For purposes of determining whether a business firm described in this subsection satisfies the requirements of ORS 285B.704, only the operations of the firm that are described in subsection (1) of this section and employees working a majority of their time in those operations shall be considered.

(5) 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.

(6) Notwithstanding subsection (1) or (2) of this section, a business firm engaged in the activity of providing a retail or financial service is an eligible business firm 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.

(7) Notwithstanding subsection (1) or (2) of this section, a business firm that makes an investment in qualified property at a facility that serves statewide, regional, national or global operations of the firm through administrative, design, financial, management, marketing or other activities is an eligible business firm, without regard to the relationship of such activities to any otherwise eligible activities within the enterprise zone if:

(a) In approving the application for precertification, the zone sponsor includes with the application a formal finding that the facility complies with the requirements of this subsection and that the size of the proposed investment, the employment at the facility or the nature of the activities at the facility will significantly enhance the local economy, in relation to the overall purpose and employment of the zone;

(b) The actual investment and facility of the firm are consistent with the descriptions presented in the precertification application; and

(c) For purposes of ORS 285B.704, all employees at the facility constitute employment of the firm, as defined in

ORS 285B.704.

(8) Notwithstanding subsection (1) or (2) of this section, a business firm that is engaged in electronic commerce is an eligible business firm if the enterprise zone has been approved for electronic commerce designation under ORS 285B.672. [Formerly 285.603; 1999 c.1104 §5; 2001 c.957 §3]

Note: See note under 285B.650.

285B.710 First-source hiring agreement; hiring requirements in urban zones; extended period of tax abatement. (1) A precertified business firm shall enter into a first-source hiring agreement with a publicly funded job training provider for the period of property tax exemption.

(2) If a qualified business firm is located in an urban enterprise zone inside a metropolitan statistical area with fewer than 400,000 residents, all new employees hired by the firm must meet all additional conditions imposed under ORS 285B.671 (4).

(3) Notwithstanding ORS 285B.698 (3)(a), if a firm is located in an urban enterprise zone situated inside a metropolitan statistical area of less than 400,000 residents, the sponsor may set a period of abatement of up to five consecutive assessment years if the qualified business firm agrees with the sponsor, in writing, at the time of precertification:

(a) To annually compensate all new employees hired by the firm at an average rate of not less than 150 percent of the county's average annual wage until the end of the tax exemption period. If the zone is in more than one county, the county with the highest average annual wage shall be used; and

(b) To meet any additional requirements that the zone sponsor may reasonably request.

(4) Notwithstanding ORS 285B.698 (3)(a), if an urban enterprise zone is located inside a metropolitan statistical area with more than 400,000 residents, the sponsor may set a longer period of abatement that does not exceed five consecutive assessment years if the qualified business firm agrees with the sponsor, in writing at the time of precertification, to meet any additional requirements that the zone sponsor may reasonably request.

(5) If a firm is located in an urban enterprise zone situated inside a metropolitan statistical area of more than 400,000 residents, all new employees hired by the firm must meet all additional conditions imposed under ORS 285B.671 (4).

(6) Notwithstanding ORS 285B.698 (3)(a), if a firm is located in a nonurban enterprise zone, the sponsor may set a period of abatement up to five consecutive assessment years if the qualified business firm agrees with the sponsor, in writing, at the time of precertification:

(a) To annually compensate all new employees hired by the firm at an average rate of not less than 150 percent of the county's average annual wage until the end of the tax exemption period. If the zone is in more than one county, the county with the highest average annual wage shall be used; and

(b) To meet any additional requirements which the zone sponsor may reasonably request.

(7) As used in this section, "new employees hired by the firm" includes only those employees engaged for a majority of their time in eligible operations. The term does not include individuals employed in a job or position that:

(a) Is filled for the first time after June 30 of the first tax year of the exemption;

(b) Existed prior to the submission of the relevant application for precertification; or

(c) Is performed primarily at locations outside the enterprise zone. [Formerly 285.605]

Note: See note under 285B.650.

285B.713 Qualified property. (1) The property tax exemption provided under ORS 285B.698 shall be available only for qualified property of a qualified business firm.

(2) The following kinds of property are qualified for the exemption allowed under ORS 285B.698:

(a) A new building or structure with a cost of $25,000 or more.

(b) An addition to or modification of an existing building or structure. The total cost of qualifying additions or modifications to an existing building or structure shall be at least $25,000 in one assessment year. In order to satisfy the minimum investment requirement, the cost of two or more additions or modifications made in one assessment year to a single building or structure may be aggregated.

(c) Any real property machinery or equipment, whether new, used or reconditioned, that is newly purchased, leased or transferred into the enterprise zone from outside the county within which the zone is located and installed in property owned or leased by a qualified business firm.

(d) Any single item of personal property machinery or equipment, whether new, used or reconditioned, that is newly purchased, leased or transferred into the enterprise zone from outside the county within which the zone is located and installed in property owned or leased by a qualified business firm and:

(A) That has a cost of at least $1,000 if the property is used exclusively for producing tangible goods or is used in electronic commerce in a zone approved for electronic commerce designation under ORS 285B.672; or

(B) That has a cost of at least $50,000.

(e) A new building and associated structures owned by a governmental body that are leased to one or more qualified business firms.

(f) Any property otherwise described in this section that is owned or leased and operated by a business firm operating a hotel, motel or destination resort, to the extent that the property is located on the same site as the hotel, motel or destination resort and is used primarily to serve overnight guests of the hotel, motel or destination resort. For purposes of this paragraph, property is primarily used to serve guests if at least 50 percent of any receipts from such use are paid by guests.

(g) Any property otherwise described in this section that is owned or leased and operated by a business firm described in ORS 285B.707 (4), to the extent that the property is used exclusively in an activity described in ORS 285B.707 (1).

(h) Any property otherwise described in this section that is owned or leased and operated by a business firm that is engaged in electronic commerce, if the enterprise zone in which the property is located is a zone approved for electronic commerce designation under ORS 285B.672.

(3) The following property is not qualified for exemption under ORS 285B.698:

(a) Land.

(b) Self-propelled motorized vehicles.

(c) Property excluded under ORS 285B.698 (5). [Formerly 285.607; 2001 c.957 §4]

Note: See note under 285B.650.

285B.714 Qualified property of idle business firm. (1) If an eligible business firm completes the refurbishing, retrofitting or upgrading of real property, machinery or equipment that is located within the enterprise zone, but was idle during the 18 months immediately preceding the first assessment year for which application for an enterprise zone tax exemption is made with respect to the property, the refurbished, retrofitted or upgraded real property, machinery or equipment is qualified property under ORS 285B.713 and potentially subject to enterprise zone tax exemption for all of the property's value if the following requirements are satisfied:

(a) Prior to the period of idleness, the property was in use within the enterprise zone for at least 12 consecutive months;

(b) The refurbishing, retrofitting or upgrading of the property involved an investment of at least $3 million; and

(c) As a result of refurbishing, retrofitting or upgrading the property, the value of the property is at least $25 million higher than the assessed value for the tax year prior to the first tax year of the enterprise zone tax exemption.

(2) The refurbishing, retrofitting or upgrading of real property, machinery or equipment described in subsection (1) of this section is a modification of property for purposes of ORS 285B.650 to 285B.728.

(3) ORS 285B.698 (5) does not apply to qualified property described in subsection (1) of this section.

(4) ORS 285B.704 (1)(d) does not apply to a business firm applying for or claiming an enterprise zone tax exemption for qualified property described in subsection (1) of this section if the provisions of ORS 285B.704 (2)(b) for zone sponsor approval by resolution of the local governing body or bodies are satisfied. [2001 c.883 §39d]

Note: Section 39e, chapter 883, Oregon Laws 2001, provides:

Sec. 39e. Section 39d of this 2001 Act [285B.714] applies only to property for which application for an enterprise zone tax exemption is made on or prior to April 1, 2004. [2001 c.883 §39e]

Note: 285B.714 was added to and made a part of 285B.650 to 285B.728 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

285B.716 When exemption available to hotel, motel or destination resort property. (1) Qualified property owned or leased and operated by a business firm as a hotel, motel or destination resort, including property described in ORS 285B.713 (2)(f), may not receive an exemption under ORS 285B.722, unless:

(a) The business firm that operates the hotel, motel or destination resort is precertified by the sponsor on or before June 30, 1996, under ORS 285B.719 and the sponsor notified the Department of Revenue on or before December 1, 1989, of the sponsor's desire to exempt hotel, motel and destination resort property;

(b) The business firm that operates the hotel, motel or destination resort is precertified by the sponsor after June 30, 1996, under ORS 285B.719, and the sponsor notifies the Economic and Community Development Department and the Department of Revenue in writing on or before June 1, 1996, of the sponsor's desire to exempt hotel, motel and destination resort property; or

(c) The business firm that operates the hotel, motel or destination resort is precertified under ORS 285B.719 not less than 30 days after notification to the Economic and Community Development Department and the Department of Revenue of the desire of the sponsor to exempt hotel, motel and destination resort property, as documented by a resolution adopted by the governing body of the sponsor not later than December 31, 1997.

(2) Only if a zone sponsor exercises its option pursuant to the notification procedures set forth in subsection (1) of this section or ORS 285B.656 (9) to exempt qualified hotel, motel and destination resort property located within the zone may such property of applicable precertified business firms be eligible for an exemption under ORS 285B.722 within that zone.

(3) For purposes of subsection (1)(a) of this section, notifications to the Department of Revenue on or before December 1, 1989, that exercise a sponsor's option of exempting hotel, motel or destination resort property are void on and after September 15, 1997. [Formerly 285.610]

Note: See note under 285B.650.

285B.719 Precertification for exemption. (1) Any eligible business firm proposing to apply for the tax exemption provided under ORS 285B.698 shall, before the commencement of construction, modification or installation of qualified property in an enterprise zone, and before the hiring of eligible employees, apply for precertification 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 and the Economic and Community Development Department.

(2) The application shall contain the following information:

(a) A description of the nature of the firm's business operations in the enterprise zone;

(b) A description and estimated cost or value of the qualified property to be constructed, modified or installed in the enterprise zone;

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

(d) A commitment to meet all requirements of ORS 285B.704;

(e) A commitment to satisfy all additional conditions for precertification that are imposed by the enterprise zone sponsor under ORS 285B.671 (4); and

(f) Any other information considered necessary by the Department of Revenue and the Economic and Community Development Department.

(3) If the sponsor and county assessor determine that the business firm is eligible under ORS 285B.707 and that the firm has committed to meet the requirements of ORS 285B.704, the sponsor and county assessor shall precertify the business firm by approving the application. The approval of both the sponsor and the county assessor shall be prima facie evidence that the eligible business firm will be qualified for the property tax exemption under ORS 285B.698. Neither the sponsor nor the county assessor shall be liable in any way if the Department of Revenue later determines that a precertified business firm is not qualified for a property tax exemption or if either the county assessor or the Department of Revenue determines that the precertified business firm has not satisfied the requirements of ORS 285B.704. In approving the application, the sponsor and county assessor shall provide proof of approval as directed by the Economic and Community Development Department.

(4) If the sponsor or county assessor fails or refuses to precertify 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, county assessor, the Department of Revenue and the Economic and Community Development Department.

(5) Notwithstanding the fact that an enterprise zone has terminated under ORS 285B.686 or that a zone boundary has been changed, an eligible business firm that has obtained precertification under this section shall be entitled to a property tax exemption under ORS 285B.698, if, as determined by the Economic and Community Development Department:

(a) The firm's application for precertification has not been withdrawn by the firm or has not expired;

(b) The firm completes construction, modification or installation of the qualified property within a reasonable time and without interruption of construction or installation activity; and

(c) The firm satisfies all other requirements of ORS 285B.704 and the precertification.

(6) If an enterprise zone is terminated under ORS 285B.686, the exemption under ORS 285B.698 shall be granted only if the sponsor and county assessor approve the application for precertification, such that the sponsor, county assessor or both formally granted such approval on or before the effective date of the termination of the zone, and the business firm satisfies subsection (5) of this section. If the sponsor or county assessor refuses or fails to precertify the firm under this subsection, the firm may appeal under subsection (4) of this section and may be granted the exemption.

(7) Precertification under this section shall not ensure that property constructed, modified or installed by the precertified business firm will receive property tax exemption under ORS 285B.698.

(8) Notwithstanding any other provision of this section, if a business firm satisfies the requirements of ORS 285B.704 and has constructed, modified or installed qualified property eligible for exemption under ORS 285B.698, the precertification requirement of subsection (1) of this section or ORS 285B.722 may be waived as specifically provided by rule or for good cause by the Department of Revenue. [Formerly 285.613]

Note: See note under 285B.650.

285B.722 Application for exemption upon completion of construction or modification; effect of exemption. (1) After January 1 and no later than April 1 of the assessment year immediately following completion of construction or modification or the installation of qualified property, a precertified business firm may apply for the exemption allowed under ORS 285B.698. The application shall be made on a form prescribed by the Department of Revenue and shall be filed with the county assessor. If the property for which exemption is sought is leased by the business firm, the application shall be made by both the owner and the lessee of the property.

(2) An application filed under this section shall contain:

(a) A statement that:

(A) The business firm satisfies the requirements of ORS 285B.704 as a qualified business firm; and

(B) The business firm has been precertified by the enterprise zone sponsor and the county assessor.

(b) Any other information required by the Department of Revenue.

(3) The business firm shall be prepared to verify the dates on which its application for precertification was submitted and approved. The statement made pursuant to subsection (2)(a) of this section shall be prima facie evidence that the firm is a qualified business firm.

(4) If the assessor determines the property for which exemption is sought satisfies the requirements of ORS 285B.698, the assessor shall grant the exemption. Thereafter, for each assessment year that the property is exempt from taxation, the assessor shall:

(a) Enter on the assessment roll, as a notation, the assessed value of the property as if it were not exempt under ORS 285B.698.

(b) Enter on the assessment and the tax roll, as a notation, the amount of additional taxes that would be due if the property 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 285B.728, by adding the notation "enterprise zone exemption (potential additional tax)."

(5) If the assessor denies an exemption applied for under this section, the business firm may appeal the denial to the Oregon Tax Court under ORS 305.404 to 305.560.

(6) The assessor shall provide copies of each exemption application filed under this section to the enterprise zone sponsor and as directed by the Department of Revenue.

(7) If an application required by subsection (1) of this section relates to principal or secondary industrial property as defined by ORS 306.126 and is filed with the Department of Revenue within the time required by subsection (1) of this section, the application shall be deemed timely filed with the assessor. [Formerly 285.615]

Note: See note under 285B.650.

285B.723 First-source hiring agreement necessary for exemption; waiver; rules. (1) Except as provided in subsection (3) of this section, the county assessor may not approve an application or grant the exemption under ORS 285B.722 (4) unless a first-source hiring agreement under ORS 285B.710 (1) is in effect and a copy of the agreement

is included with the application.

(2) The exemption that a qualified business firm is receiving or has received may not be disqualified retroactively or terminated for failure to meet the requirements of subsection (1) of this section or ORS 285B.710 (1).

(3) In accordance with rules adopted by the Economic and Community Development Department, the Director of the Economic and Community Development Department may waive the requirements of subsection (1) of this section or ORS 285B.710 (1) for a precertified business firm. The rules adopted by the department shall provide for a waiver under this subsection when the director finds that:

(a) The business firm is unable to employ persons referred under the agreement; or

(b) The waiver will further the goals and purposes of applicable state policies. [1999 c.1104 §2]

Note: See note under 285B.650.

285B.725 Late application for exemption; filing fee. (1) Notwithstanding ORS 285B.722 (1), an application for exemption under ORS 285B.722 may be filed under this section at any time on or before June 1 of the assessment year for which exemption is first sought. However, any application filed after the time for filing specified in ORS 285B.722 (1) must be accompanied by a late filing fee in the greater of the amounts of $200 or one-tenth of one percent of the real market value of the property, determined as of January 1 of the assessment year to which the application pertains, by the assessor for this purpose. If the application is not accompanied by the late filing fee or if the late filing fee is not otherwise paid, no exemption shall be allowed based upon an application filed pursuant to this section.

(2) An application may be filed under this section whether or not there are grounds for hardship as required for late filing under ORS 307.475.

(3) The value of the property used to determine the late filing fee under this section is appealable in the same manner as other acts of the county assessor.

(4) Any filing fee collected under this section shall be deposited to the county general fund. [Formerly 285.616; 1999 c.1104 §7]

Note: See note under 285B.650.

285B.726 Alternative late application for exemption for remaining years. (1) Notwithstanding ORS 285B.698 (3) and (5)(c) and 285B.722 (1), if a business firm does not qualify under ORS 285B.704 for a property tax exemption on qualified property solely because the business firm failed to file the application for exemption prior to April 1 of the assessment year for which the exemption is first sought, the business firm may submit an application for tax exemption for the qualified property to the county assessor on or before December 31 of the same assessment year. If the business firm meets the applicable requirements of ORS 285B.698, 285B.701, 285B.704, 285B.707, 285B.710, 285B.713, 285B.716, 285B.719, 285B.722 and 285B.728:

(a) The business firm shall qualify for the remainder of the exemption period that was otherwise available under ORS 285B.698 or 285B.710; and

(b) The county assessor shall take action under ORS 285B.722 (4) that is necessary to allow the qualified property to be exempted from property taxation for the remaining tax years that were otherwise available for exemption under ORS 285B.698 or 285B.710 after the first tax year, regardless of the prior entry of the qualified property on the county assessment roll.

(2) Nothing in this section exempts from ad valorem taxation:

(a) The qualified property in tax years other than those specified in subsection (1)(b) of this section;

(b) Any property that does not meet the requirements of subsection (1) of this section; or

(c) Any qualified property that was in use or occupancy within the enterprise zone for more than 12 months by December 31 preceding the assessment year in which the application for exemption is submitted under subsection (1) of this section.

(3) If the qualified property is leased by the business firm, the owner of the qualified property leased by the business firm shall also join in the application submitted under subsection (1) of this section.

(4) An application may be submitted under subsection (1) of this section regardless of there being grounds for hardship as required for late filing under ORS 307.475. [1997 c.835 §44; 1999 c.1104 §19]

Note: Section 26, chapter 1104, Oregon Laws 1999, provides:

Sec. 26. Section 44, chapter 835, Oregon Laws 1997 [285B.726], is repealed on June 30, 2009. [1999 c.1104 §26]

Note: 285B.726 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 285B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

285B.728 Notice to assessor and sponsor if property or business becomes unqualified for exemption. (1) The county assessor of any county in which an enterprise zone is situated and the sponsor shall be notified in writing by the qualified business firm or by the owner of the qualified property leased by the qualified business firm not later than July 1 following the assessment year for which the exemption is claimed but in which one of the following events occurs:

(a) Property granted exemption from taxation under ORS 285B.722 is sold, exchanged, transported or otherwise disposed of for use outside the enterprise zone or for use by an ineligible business firm;

(b) A qualified business firm closes or substantially curtails the operation of the trade or business in which property granted exemption from taxation under ORS 285B.722 is used, except as allowed by the zone sponsor under ORS 285B.704 (2) or (3);

(c) A qualified business firm fails to meet any of the requirements of ORS 285B.704 (2)(b) or (3)(b);

(d) A qualified business firm fails to meet any of the requirements of ORS 285B.710 (2), (3) or (6);

(e) A qualified business firm fails to meet any of the requirements of ORS 285B.710 (4) or (5); or

(f) A qualified business firm or the applicable activity or operation of the firm fails to meet any of the requirements of ORS 285B.707 or 285B.713 (2)(f) or (g) after it has received a property tax exemption for its qualified property.

(2)(a) When an assessor receives written notice under subsection (1) of this section, the assessor shall disqualify the property for the assessment year following the disqualifying event and 100 percent of the additional taxes calculated under ORS 285B.722 shall be assessed against the property for each year for which the property had been granted exemption.

(b) Notwithstanding paragraph (a) of this subsection, if a qualified business firm fails to meet any of the requirements in ORS 285B.710 (3), (4) or (6) during the exemption, but meets the requirements of ORS 285B.698 during the first three years of the exemption, the qualified business firm is entitled to receive the property tax exemption allowed under ORS 285B.698 (3).

(c) The additional taxes assessed under this subsection shall be reduced by the amount, if any, paid by the qualified business firm to the sponsor under subsection (6) of this section for the same property.

(3) For the purposes of ORS 285B.704 and this section, operation of a business firm shall be considered to be substantially curtailed when:

(a) The number of employees within the enterprise zone is reduced at the end of an assessment year by more than 85 percent from the highest number of such employees at the end of any assessment year during which the business firm received a property tax exemption under ORS 285B.698 or 285B.710;

(b) The number of employees within the enterprise zone at the end of an assessment year has been reduced for a period longer than one year by more than 50 percent from the highest number of such employees at the end of any assessment year during which the firm was receiving a property tax exemption under ORS 285B.698 or 285B.710; or

(c) The average annual number of employees within the enterprise zone is reduced at the end of the first assessment year of exemption and any subsequent qualifying years below 110 percent of the average annual number of employees at facilities of the firm located within the enterprise zone on the date of application for precertification.

(4) If the qualified business firm or owner fails to give the notice on time or at all as required by subsection (1) of this section, upon discovering the property no longer qualifies for the exemption due to a circumstance described in subsections (1) and (3) of this section, the assessor shall:

(a) Compute the amount of taxes described in subsection (2) of this section as though notice had been given, and shall add to that amount an additional penalty equal to 20 percent of the total amount so computed; and

(b) Add the property to the assessment and tax roll without the exemption as if the notice had been given.

(5) The amount determined to be due under subsections (2) and (4) of this section:

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

(b) Shall be added to the tax extended against the property on the next general property tax roll to be collected and distributed in the same manner as the remainder of the property taxes.

(6)(a) Notwithstanding subsections (2) and (5) of this section, when an assessor and sponsor receive notice under subsection (1)(b), (c), (d) or (e) of this section and the qualified business firm has not closed its operations, the

qualified business firm shall pay the sponsor an amount equal to the property taxes for the qualified property in the assessment year for which the exemption is claimed.

(b) Moneys collected under paragraph (a) of this subsection shall be used by the sponsor to benefit the residents of the enterprise zone and for the development of jobs, skills and training for residents of the enterprise zone and the zone's immediate vicinity.

(c) This subsection applies only to the first notice under subsection (1)(b), (c), (d) or (e) of this section or for the second notice under subsection (1)(b), (c), (d) or (e) of this section in the case of the final year of an exemption lasting a total of five consecutive years under ORS 285B.710.

(d) If the sponsor does not receive the full amount to be paid by the qualified business firm under paragraph (a) of this subsection, the assessor shall disqualify the property under subsections (2) and (5) of this section.

(7) The assessor is at all times authorized to demand by registered or certified mail reports from owners or lessees concerning the use of the qualified property and the employment status of the qualified business firm for purposes of this section. If the owner or lessee fails after 60 days' notice in writing by certified mail to comply with such demand, the assessor may disqualify the exemption in accordance with subsection (2) of this section, giving written notice of the disqualification to the Department of Revenue and the owners or lessees of the qualified property.

(8) The assessor is under no obligation to verify compliance by qualified business firms with requirements imposed under ORS 285B.710 (2), (3)(b), (4), (5) or (6)(b).

(9) The sponsor of an enterprise zone may initiate procedures in order to verify compliance by qualified business firms with requirements imposed under ORS 285B.692 to 285B.728. The procedures may include written requests to the assessor by the local zone manager or an executive official of the sponsoring jurisdiction in which the qualified business firm is located that the assessor exercise authority under subsection (7) of this section for a particular qualified business firm.

(10) An assessor may not impose the property taxes and penalties specified in subsection (4) of this section for failure by a qualified business firm or an owner of qualified property leased by the qualified business firm to notify the assessor or the enterprise zone sponsor that the qualified business firm does not meet requirements under ORS 285B.710 (2), (3)(b), (4), (5) or (6)(b), without having received written communication from the zone sponsor that demonstrates that the qualified business firm does not meet such requirements.

(11) Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate. [Formerly 285.617; 1999 c.1104 §8]

Note: See note under 285B.650.

(Miscellaneous)

285B.731 Short title for ORS 285B.650 to 285B.728. ORS 285B.650 to 285B.728 shall be known and may be cited as the Oregon Enterprise Zone Act of 1989. [Formerly 285.620]

Note: See note under 285B.650.

ENTREPRENEURIAL DEVELOPMENT

285B.740 Policy. It is the intent of the Legislative Assembly that in the administration of ORS 285B.740 to 285B.758, the Economic and Community Development Department work closely with regional economic development organizations, community development corporations, small business development centers and organizations that promote and assist small businesses owned and operated by women and minorities, as defined by ORS 285B.050 (9). The Economic and Community Development Department, to the maximum extent feasible and consistent with prudent financial controls, may delegate the administration and operation of the loan program created by ORS 285B.740 to 285B.758 to local and community-based entities. To carry out the policy described in this section:

(1) The Economic and Community Development Department may contract with any nonprofit corporation or agency with experience and expertise in business finance to administer all or any part of the loan program created by ORS 285B.740 to 285B.758.

(2) When entering into an agreement for the administration of the loan program by any nonprofit corporation or agency, the Economic and Community Development Department may agree to waive any claims it may have against such corporation or agency for losses arising out of the normal course of business, so long as the corporation or

agency does not act negligently or fraudulently in providing loans under ORS 285B.740 to 285B.758.

(3) When entering into an agreement to have a nonprofit corporation or agency administer the loan program created by ORS 285B.740 to 285B.758, the Economic and Community Development Department may pay loan origination and loan servicing fees to the corporation or agency. The amount of such fees may be determined in the agreement between the department and the administering corporation or agency. [1991 c.688 §12]

285B.743 Application for entrepreneurial development loan; eligibility. (1) Any individual or business firm may file with the Economic and Community Development Department an application to borrow money from the Oregon Entrepreneurial Development Loan Fund as provided in ORS 285B.740 to 285B.758. The application shall be filed in such a manner and contain or be accompanied by such information as the department may require.

(2) Upon receipt of an application under this section, the Economic and Community Development Department shall determine whether the applicant is eligible to receive a loan under ORS 285B.139 and 285B.740 to 285B.758. If the department determines that an applicant is not eligible to receive a loan, the department shall:

(a) Reject the application with a written statement of the reason for that rejection; or

(b) Require the applicant to submit additional information concerning the application as may be necessary. [1991 c.688 §7; 2001 c.684 §21]

285B.746 Conditions required for loan approval. (1) The Economic and Community Development Department may approve a loan requested in an application filed under ORS 285B.743 if, after investigation, it finds that:

(a) The applicant is enrolled in a small business management program with a small business development center;

(b) The applicant has prepared a business plan for the business, which has been reviewed by a small business development center or other entity certified by the Economic and Community Development Department to review business plans;

(c) The applicant has developed an expenditure plan for the use of the moneys received as a loan for the project under ORS 285B.740 to 285B.758; and

(d) The applicant is not effectively owned or controlled by another business entity or other person that, either by itself or when combined with the applicant, is not eligible for a loan under ORS 285B.740 to 285B.758.

(2) In addition to the requirements for loan approval described in subsection (1) of this section, in order to obtain a loan under ORS 285B.740 to 285B.758, an applicant must also satisfy two of the following conditions:

(a) The business or proposed business, at the time of application, must not have been operating for more than 24 months.

(b) The business must have annual revenues of less than $100,000 in the 12-month period immediately preceding the date of application.

(c) The business or proposed business is owned in whole or in part by a person certified as being severely disabled by the Department of Human Services or the Commission for the Blind. [1991 c.688 §8; 1997 c.147 §5]

285B.749 Additional conditions for loan approval; maximum term and amount of loan; deferral of repayment. (1) The Economic and Community Development Department may approve an entrepreneurial development loan under ORS 285B.740 to 285B.758 if, after investigation, it finds that:

(a) The loan has a reasonable prospect of repayment;

(b) The applicant provides funds for the project in the form of cash, property or business equity in an amount equal to 20 percent of the amount of the loan; and

(c) The applicant can provide such evidence of assurance for repayment as the department considers appropriate to the circumstances of the particular applicant. However, loans need not be secured with real property.

(2) The Economic and Community Development Department may make an entrepreneurial development loan to any single applicant in an amount not exceeding $25,000.

(3) Entrepreneurial development loans shall be made for a period not exceeding five years at a rate of interest that does not exceed 18 percent per annum.

(4) The Economic and Community Development Department may defer repayment of a loan by an applicant for a period not exceeding six months. However, interest shall continue to accrue on the unpaid principal amount of the loan during such period of deferred repayment. [1991 c.688 §9; 1997 c.147 §6]

285B.752 Additional loans; maximum aggregate amount. An applicant who receives an entrepreneurial development loan under ORS 285B.740 to 285B.758 may apply for another such loan. Notwithstanding the limit set

forth in ORS 285B.749 (2), the maximum aggregate amount that may be loaned to a single applicant under ORS 285B.139 and 285B.740 to 285B.758 is $40,000. [1991 c.688 §10; 1997 c.147 §7; 2001 c.684 §22]

285B.755 Oregon Entrepreneurial Development Loan Fund Advisory Committee. (1) The Economic and Community Development Department shall appoint an Oregon Entrepreneurial Development Loan Fund Advisory Committee of not less than five members to advise the department on the operation of the loan program created by ORS 285B.740 to 285B.758. The individuals appointed to the advisory committee shall be representatives of the private sector financial community, public sector business finance groups, small business support organizations and owners and operators of small businesses. The advisory committee shall include at least one owner or operator of a small business who is a woman or a member of a minority group. The advisory committee shall also include at least one person who is a representative of disabled Oregonians.

(2) The Oregon Entrepreneurial Development Loan Fund Advisory Committee shall review all loan forms, contracts and other administrative materials to assure that the loan program created by ORS 285B.740 to 285B.758 operates with administrative simplicity and efficiency to the greatest extent possible. [1991 c.688 §11]

285B.758 Oregon Entrepreneurial Development Loan Fund. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Oregon Entrepreneurial Development Loan Fund. All moneys in the fund are continuously appropriated to the Economic and Community Development Department for the following purposes:

(a) Administrative costs of the department incurred in processing loan applications, investigating the eligibility of loan applicants and servicing outstanding loans;

(b) Paying for loan origination and loan servicing by contractors under ORS 285B.740 to 285B.758; and

(c) Payment of loans to applicants under ORS 285B.740 to 285B.758.

(2) The Oregon Entrepreneurial Development Loan Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly;

(b) Interest earned on moneys in the fund; and

(c) Moneys received as repayment of principal and interest on loans made from the fund under ORS 285B.740 to 285B.758. [1991 c.688 §13]

285B.765 [1991 c.688 §6; 1997 c.61 §12; repealed by 2001 c.684 §38]

RESERVATION ENTERPRISE ZONE

285B.766 Definitions for ORS 285B.766 to 285B.776. As used in ORS 285B.766 to 285B.776:

(1) “Eligible business” means a business that:

(a) Is engaged within a reservation enterprise zone in the manufacture or provision of goods, products or services to other businesses or to the general public, through activities including, but not limited to, manufacturing, assembly, fabrication, processing, shipping, storage, retail sales or services, child care, housing, retail food service, health care, tourism, entertainment, financial services, professional services, energy development, construction or similar activities; and

(b) Occupies or owns a new business facility within a reservation enterprise zone.

(2) “New business facility”:

(a) Means a physical asset within a reservation enterprise zone that satisfies the following requirements:

(A) The facility is used by a business in the operation of a revenue-producing enterprise, except that the revenue-producing enterprise must consist of activity other than leasing the facility to another person; and

(B) The facility is acquired by or leased to a business on or after January 1, 2002, including a facility, the title or possession of which is transferred to the business on or after January 1, 2002, or a facility, the construction, erection or installation of which is completed on or after January 1, 2002;

(b) Subject to paragraph (c) of this subsection, includes a facility acquired or leased from a person that used the facility in a revenue-producing enterprise within the boundaries of the same Indian reservation immediately prior to the transfer of title or possession of the facility to the business; and

(c) Does not include:

(A) A facility that is used in a revenue-producing enterprise that is the same or substantially identical to the revenue-producing enterprise in which the facility was previously used within the boundaries of the same Indian

reservation; or

(B) Any property that merely replaces existing property and that does not expand the capacity of the revenue-producing enterprise in which the facility is to be used.

(3) “Reservation enterprise zone” means a zone designated by ORS 285B.770.

(4) “Tribal government” means the governing body of an Indian tribe, if the governing body has the authority to levy, impose and collect taxes within the boundaries of the reservation of the tribe.

(5) “Tribal tax” means any specific tax that is or may be levied or imposed by a tribal government upon a business and that is measured with reference to a specific level or quantity of that business’s income, operations, use or ownership of property. “Tribal tax” includes, but is not limited to, an income or excise tax, an ad valorem property tax, a gross receipts tax or a sales and use tax. [2001 c.932 §5]

285B.767 Policy. The Legislative Assembly finds that the welfare of the residents of the rural Indian reservations of this state is acutely dependent upon the growth, development and expansion of employment and business opportunities within reservation boundaries. Geographic and other obstacles have made it difficult for rural Indian reservations to attract and retain private business investment. The tax systems of this state, by subjecting businesses located within reservation boundaries to state taxation in addition to any taxation imposed by the reservations themselves, has heightened the economic isolation of this state’s rural reservations and impeded the efforts of Indian tribes to develop sufficient tax bases to fund essential governmental services on their reservations. The Legislative Assembly further finds that it is in the best interests of this state to create equality that will enable rural Indian reservations to attract and retain private business investment. The Legislative Assembly declares that it is the purpose of ORS 285B.766 to 285B.776 to remove the tax disincentives that currently inhibit private business and industry from locating and operating enterprises within the boundaries of the rural Indian reservations of this state. [2001 c.932 §6]

285B.770 Reservation enterprise zone. (1) Trust land of an Indian tribe that meets all of the following requirements is designated as a reservation enterprise zone for the purposes of ORS 285B.766 to 285B.776:

(a) The Indian tribe is a federally recognized Indian tribe;

(b) The reservation of the Indian tribe is entirely within the boundaries of this state;

(c) The land for which zone designation is sought is land held in trust by the United States for the benefit of the Indian tribe and is located entirely within the boundaries of the reservation;

(d) As of January 1, 2002, the population density of the reservation, as measured by the most recent federal decennial census, does not exceed 15 persons per square mile;

(e) Fifty percent or more of the households within the boundaries of the reservation have incomes below 80 percent of the median income of this state, as defined by the most recent federal decennial census; and

(f) The unemployment rate within the reservation for all enrolled members of the tribe is at least 2.0 percentage points greater than the comparable unemployment rate for this state, as defined by the most recently available data published or officially provided and verified by the United States Government, the Employment Department, the Portland State University Center for Population Research and Census or a special study conducted under a contract with a regional academic institution.

(2) At the request of a tribal government, the Economic and Community Development Department shall determine if trust land is designated as a reservation enterprise zone under this section. [2001 c.932 §7]

285B.773 Tax credit for new business facility in reservation enterprise zone. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to an eligible business operating a new business facility in a reservation enterprise zone.

(2) The amount of the credit allowed to the eligible business shall equal:

(a) The amount of tribal property tax imposed on a new business facility of an eligible business that is paid or incurred by the eligible business during the income or corporate excise tax year of the eligible business; or

(b) If the eligible business has not previously conducted business operations within the reservation enterprise zone, the amount of tribal tax paid or incurred by the eligible business during the income or corporate excise tax year of the eligible business.

(3) The credit allowed to the eligible business may not exceed the tax liability of the eligible business for the tax year and may not be carried over to another tax year.

(4) A credit is allowable under this section only to the extent the tribal tax on which the credit is based is imposed on businesses not owned by Indians on a uniform basis within the territory over which the tribal government has the

authority to levy, impose and collect taxes.

(5) The credit shall be claimed on a form prescribed by the Department of Revenue containing the information required by the department, including information sufficient for the department to determine that the taxpayer is an eligible business and that the facility operated by the business is a new business facility.

(6) An eligible nonresident individual shall be allowed the credit computed in the same manner and subject to the same limitations as the credit allowed a resident by subsection (1) of this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

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

(9) An eligible business claiming a credit under this section shall maintain records sufficient to authenticate the allowance of the credit claimed under this section and shall furnish the department with these records upon the request of the department.

(10) A credit claimed by an eligible business may not be disallowed solely because the eligible business conducts business operations both within and outside of a reservation enterprise zone. [2001 c.932 §8]

Note: Section 12, chapter 932, Oregon Laws 2001, provides:

Sec. 12. Sections 5 to 9 of this 2001 Act [285B.766 to 285B.776] and the amendments to ORS 314.752 and 318.031 by sections 10 and 11 of this 2001 Act apply to tax years beginning on or after January 1, 2002. [2001 c.932 §12]

285B.776 Status of reservation enterprise zone; sponsor. (1) A reservation enterprise zone shall be considered to be a nonurban enterprise zone for purposes of ORS 285B.650 to 285B.728. The tribal government of the reservation shall be considered to be the sponsor of the reservation enterprise zone.

(2) Reservation enterprise zones may not be taken into account in determining the number of nonurban enterprise zones allowable in this state under ORS 285B.650 to 285B.728, and are not subject to numerical limitation under ORS 285B.650 to 285B.728.

(3) In order for property within a reservation enterprise zone to be exempt under ORS 285B.698, the business firm and property must meet all of the requirements applicable to business firms and property in any nonurban enterprise zone.

(4) As used in this section, "business firm" has the meaning given that term in ORS 285B.650. [2001 c.932 §9]

TAX EXEMPTION FOR QUALIFIED PROPERTY IN NONURBAN ENTERPRISE ZONE

285B.781 Definitions for ORS 285B.781 to 285B.796. As used in ORS 285B.781 to 285B.796:

(1) "Business firm" has the meaning given that term in ORS 285B.650.

(2) "Certified business firm" means a business firm that has been certified under ORS 285B.783.

(3) "County with chronically low income or chronic unemployment" means, based on the most recently revised annual average unemployment rate or annual per capita income levels available, a county in which:

(a) The median ratio of the per capita personal income of the county to the equivalent annual personal income figure of the entire United States for each year, as reported by the Bureau of Economic Analysis of the United States Department of Commerce, is equal to or less than 0.75 over the last 10 years;

(b) Both of the following criteria are satisfied:

(A) The median ratio of the unemployment rate of the county to the equivalent rate of the entire United States for each year is at least 1.3 over the last 20 years or over the last 10 years; and

(B) The current unemployment rate of the county is at least one percentage point higher than the unemployment rate of the county for the immediately prior year or at least 50 percent higher than the current unemployment rate of this state; or

(c) The population of the county has experienced a negative net migration, irrespective of natural population change, since the most recent federal decennial census occurring three or more years prior to the current estimated population figure for the county, based on available population statistics.

(4) "Facility" means the land, real property improvements and personal property that are used:

(a) At a location in a nonurban enterprise zone that is identified in the application for certification under ORS 285B.783; and

(b) In those business operations of the business firm that are the subject of the application for certification under ORS 285B.783.

(5) “Nonurban enterprise zone” has the meaning given that term in ORS 285B.650. [1997 c.835 §36; 1999 c.1104 §10; 2001 c.292 §1]

Note: 285B.781 to 285B.796 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 285B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

285B.783 Certification of business firm; content of application; review; appeal to Oregon Tax Court. (1) Any business firm proposing to apply for the tax exemption provided under ORS 285B.786 shall, before the commencement of construction or installation of property or improvements at a location in a nonurban 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.

(2) The application shall contain the following information:

(a) A description of the firm’s proposed business operations and facility in the nonurban 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 285B.789;

(e) A commitment to satisfy all additional conditions agreed to pursuant to the written agreement between the nonurban 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 285B.789.

(c) The business firm has entered into a written agreement with the sponsor of the nonurban 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 285B.786. 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) The facility is located in a county with chronically low income or chronic unemployment, based on the most recently revised annual data available when the written agreement with the zone sponsor is executed.

(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 285B.786.

(5) The sponsor and the county assessor shall provide copies of an approved application to the applicant, the Department of Revenue and the Economic and Community 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 Economic and Community Development Department and the Department of Revenue. [1997 c.835 §37; 1999 c.1104 §11; 2001 c.292 §2]

Note: See note under 285B.781.

285B.786 Property tax exemption; duties of county assessor. (1) A facility of a certified business firm is exempt from ad valorem property taxation:

(a) For the first tax year following the calendar year in which the business firm is certified under ORS 285B.783 or

after which construction or reconstruction of the facility commences, whichever event occurs later;

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

(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 nonurban enterprise zone sponsor under ORS 285B.783 (3)(c), if the facility satisfies the requirements of ORS 285B.789. 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.

(2) An exemption under this section may not be allowed for real or personal property that has received a property tax exemption under ORS 285B.698.

(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 285B.793 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. [1997 c.835 §38; 1999 c.1104 §12; 2001 c.292 §5]

Note: See note under 285B.781.

285B.789 Conditions for continued property tax exemption. In order for a facility of a business firm to continue to be exempt from ad valorem property taxation under ORS 285B.786 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 285B.786 (1)(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 is at least 150 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 operation of the facility begins, and thereafter is met if the annual average compensation at the facility for the year exceeds the average wage in the county for the year in which the requirement is initially met.

(2) In order for the exemption under ORS 285B.786 (1)(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 285B.786 (1)(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 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 285B.786 (1)(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 285B.781 to 285B.796;

(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. [2001 c.292 §3]

Note: See note under 285B.781.

285B.790 Notice to county assessor. Upon meeting the applicable requirements of ORS 285B.789, the certified business firm shall notify the county assessor in writing that the applicable requirements have been met. [2001 c.292 §4]

Note: See note under 285B.781.

285B.793 Disqualification of certified business firm. (1) If a certified business firm does not begin operations or is not reasonably expected to begin operations, as determined by the county assessor consistent with criteria established by rule of the Department of Revenue, or fails to meet the minimum requirements set forth in ORS 285B.789, while receiving an exemption under ORS 285B.786, the assessor shall, as of the next tax year, disqualify the property from the exemption.

(2)(a) If a certified business firm that has achieved the minimum applicable full-time hiring requirements and annual average wage requirements at a facility under ORS 285B.789 subsequently fails to maintain the applicable minimum number of full-time employees or the minimum annual average compensation level at the facility, the assessor shall disqualify the facility from exemption under ORS 285B.786.

(b) This subsection does not apply if the decrease in hiring or in annual average compensation is caused by circumstances beyond the control of the business firm, including force majeure.

(3) Upon disqualification, there shall be added to the tax extended against the property on the next general property tax roll, to be collected and distributed in the same manner as the remainder of ad valorem property taxes, an amount equal to the taxes that would otherwise have been assessed against the property and improvements for each of the tax years for which the property was exempt under ORS 285B.786.

(4) The additional taxes described in this section shall be deemed assessed and imposed in the year to which the additional taxes relate. [1997 c.835 §39; 1999 c.1104 §13; 2001 c.292 §6]

Note: See note under 285B.781.

285B.796 Claiming tax exemption or tax credit. In order for a taxpayer to claim the property tax exemption under ORS 285B.786 or a corporate excise or income tax credit under ORS 317.124:

(1) The written agreement between the business firm and the nonurban enterprise zone sponsor that is required under ORS 285B.783 (3)(c) must be entered into prior to the termination of the enterprise zone under ORS 285B.686; and

(2) The business firm must obtain certification under ORS 285B.783 on or before December 31, 2004. [2001 c.292 §7]

Note: See note under 285B.781.

VERTICAL HOUSING DEVELOPMENT

285B.825 Definitions for ORS 285B.825 to 285B.848. As used in ORS 285B.825 to 285B.848:

(1) “Light rail station area” has the meaning given that term in ORS 307.605.

(2) “Transit oriented area” has the meaning given that term in ORS 307.605.

(3) “Vertical housing development project” means the construction, reconstruction or rehabilitation of a building, or a group of buildings, so that each building that is constructed, reconstructed or rehabilitated consists of a first floor, or first floor and other floors, to be used for commercial uses, and one or more floors located on floors above the commercial use floor or floors to be used for residential uses.

(4) “Vertical housing development zone” or “zone” means an area that has been designated a vertical housing development zone under ORS 285B.833. [2001 c.888 §2]

285B.827 Application for vertical housing development zone. (1) A city or a county may apply to the Director of the Economic and Community Development Department for designation of an area within the city or county as a vertical housing development zone.

(2) With the prior consent of the governing body of the city, a county may apply to the director on behalf of a city for designation of any area within that city as a vertical housing development zone.

(3) A city and a county, or any combination of cities and counties, may apply to the director for designation of an area situated partly within the city and partly in unincorporated territory within the county as a vertical housing development zone.

(4) A district listed in ORS 198.010 or 198.180 may elect not to participate in a vertical housing development zone. A district that elects not to participate may continue to impose taxes on property otherwise exempt from ad valorem property tax under ORS 285B.845.

(5) An application for designation of a vertical housing development zone shall be in such form and contain such information as the Economic and Community Development Department may require by rule, including:

(a) A list of local taxing districts, other than the applicant, that have territory in the proposed vertical housing development zone.

(b) A copy of a written notification mailed to the districts listed pursuant to paragraph (a) of this subsection that:

(A) Describes the proposed vertical housing development zone;

(B) Explains the exemption described in ORS 285B.845 that would apply if the proposed zone is designated; and

(C) Explains the process by which a district listed in ORS 198.010 or 198.180 may elect not to participate in the vertical housing development zone.

(c) A statement signed by the applicant attesting that the notification described in paragraph (b) of this subsection was sent by regular mail to each district listed pursuant to paragraph (a) of this subsection.

(6) The application shall:

(a) Be filed on behalf of one or more local government units as described in subsections (1) to (3) of this section by action of the governing body of each applicant;

(b) Contain a description of the area sought to be designated as a vertical housing development zone, including proposed zone boundaries; and

(c) Contain information sufficient to allow the director to determine if the criteria established in ORS 285B.833 are met.

(7) The applicant shall submit to the director within 30 days following the date the application is filed with the department a list of the districts that elected not to participate in the vertical housing development zone. [2001 c.888 §3]

285B.830 Review of application. (1) The Director of the Economic and Community Development Department shall review each application filed under ORS 285B.827 and shall approve or disapprove each application within 60 days of the date the application is filed.

(2) The director may approve an application and thereby designate the area that is the subject of the application as a vertical housing development zone if the director determines that the area meets the criteria set forth in ORS 285B.833.

(3) The determination of the director to approve or disapprove an application is a discretionary determination. The determination is final and may not be appealed. [2001 c.888 §4]

285B.833 Criteria for designation of vertical housing development zone; notice to county assessor. The Director of the Economic and Community Development Department shall:

(1) Designate a vertical housing development zone upon application made under ORS 285B.827 if the proposed zone constitutes a core area of an urban center of this state, a light rail station area or a transit oriented area.

(2) Notify the county assessor of the county in which the vertical housing development zone is located of the designation of that zone and of the districts that elected not to participate in the zone. [2001 c.888 §5]

285B.836 Termination of vertical housing development zone; effect of termination on property tax exemption. (1) Following vertical housing development zone designation under ORS 285B.833, if the Director of the Economic and Community Development Department receives a request to terminate a vertical housing development zone from the applicant for zone designation under ORS 285B.827, the director shall terminate the zone.

(2) The termination of a zone under this section does not affect the exemption of any property from tax under ORS 285B.845 if an application for the exemption was approved prior to the zone termination. [2001 c.888 §6]

285B.839 Application for partial property tax exemption; content. (1) Following the designation of a vertical housing development zone under ORS 285B.833, a person proposing to construct a vertical housing development project and seeking the partial property tax exemption set forth in ORS 285B.845 shall apply to the Economic and Community Development Department for certification.

(2) The application shall be on a form prescribed by the department and shall contain any information required by the department, including all of the following:

(a) The address of the proposed vertical housing development project;

(b) A description of the existing state of the property;

(c) A description of the proposed construction, including the number of floors to be constructed;

(d) A description of the commercial uses to which the first floor or lower floors are to be put; and

(e) A description of the residential housing to be located on the upper floor or floors of the proposed vertical housing development project.

(3) The application must be filed under this section on or before the date residential units that are a part of the vertical housing development project are ready for occupancy.

(4) The department shall review each application submitted under this section and shall certify or deny certification based on whether the proposed vertical housing development project meets the criteria set forth in ORS 285B.842.

(5) The department may request any documentation or undertake any investigation necessary to ascertain the veracity of any statement made on an application under this section.

(6) The department shall certify or deny certification within 60 days following the date the application is filed with the department.

(7) A denial of certification may be appealed to the department in the manner of a contested case under ORS 183.310 to 183.550. [2001 c.888 §7]

285B.842 Certification of project for partial property tax exemption. (1) The Economic and Community Development Department shall certify a proposed project as eligible for the partial property tax exemption under ORS 285B.845 if the application for certification describes a vertical housing development project and the project is to be constructed in a vertical housing development zone.

(2) The department shall send a copy of the certification to the county assessor of the county in which the vertical housing development project is to be located. [2001 c.888 §8]

285B.845 Partial property tax exemption for vertical housing development project. (1) For the first tax year in which, as of the assessment date, a vertical housing development project is occupied or ready for occupancy following certification under ORS 285B.842, and for the next nine consecutive tax years, the vertical housing development project shall be partially exempt from ad valorem property taxes imposed by local taxing districts, other than the districts that elected not to participate in the vertical housing development zone as described in ORS 285B.827 (4), according to the following schedule:

(a) If the project consists of one floor of residential housing, the project shall be 20 percent exempt.

(b) If the project consists of two floors of residential housing, the project shall be 40 percent exempt.

(c) If the project consists of three floors of residential housing, the project shall be 60 percent exempt.

(d) If the project consists of four or more floors of residential housing, the project shall be 80 percent exempt.

(2) During the period in which property would otherwise be partially exempt under this section, property shall be disqualified from exemption under this section if a floor used for residential housing is converted to another use. [2001 c.888 §9]

285B.848 Acquisition and development of real property within vertical housing development zone. (1) Following the designation of a vertical housing development zone under ORS 285B.833, the city or county in which the zone is located may acquire real property within the zone for the purpose of developing the property. The development may be undertaken by the city or county independently, jointly or in partnership with a private entity. The entities undertaking the development of property under this section may own and operate the developed property or may sell or otherwise dispose of the property at any time during or after development. The property may be sold at the property's real market value or at a lesser value.

(2) The development of property under this section may be undertaken only if the governing body of the city or county determines that the development will encourage high-density vertical residential housing or the efficient use of mass transit facilities within the vertical housing development zone. [2001 c.888 §10]