

**C-Engrossed**  
**House Bill 2332**

Ordered by the Senate July 6  
Including House Amendments dated May 21 and Senate Amendments  
dated June 26 and July 6

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Representative Bill Witt and Representative-elect Steve March)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Provides \$1,000 credit against personal income taxes for taxpayer providing certain unreimbursed assistance to relative for tax years beginning on or after January 1, 2003, and before January 1, 2005. Increases credit to \$1,500 for tax years beginning on or after January 1, 2005. Defines types of assistance eligible for credit. Limits credit to taxpayers with taxable incomes that do not exceed \$40,000. Phases out credit for taxpayers with income above \$40,000. Adjusts qualifying income for inflation.]*

Provides that trust land of Indian tribe is reservation enterprise zone under specified circumstances. Provides tax credit for eligible business operating new business facility in reservation enterprise zone.

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to taxation; creating new provisions; amending ORS 314.752 and 318.031; and prescribing  
3 an effective date.

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

5 **NOTE:** Sections 1 through 3 were deleted by amendment. Subsequent sections were not re-  
6 numbered.

7 **SECTION 4.** Sections 5 to 9 of this 2001 Act are added to and made a part of ORS chapter  
8 **285B.**

9 **SECTION 5.** As used in sections 5 to 9 of this 2001 Act:

10 **(1) "Eligible business" means a business that:**

11 **(a) Is engaged within a reservation enterprise zone in the manufacture or provision of**  
12 **goods, products or services to other businesses or to the general public, through activities**  
13 **including, but not limited to, manufacturing, assembly, fabrication, processing, shipping,**  
14 **storage, retail sales or services, child care, housing, retail food service, health care, tourism,**  
15 **entertainment, financial services, professional services, energy development, construction**  
16 **or similar activities; and**

17 **(b) Occupies or owns a new business facility within a reservation enterprise zone.**

18 **(2) "New business facility":**

19 **(a) Means a physical asset within a reservation enterprise zone that satisfies the follow-**  
20 **ing requirements:**

21 **(A) The facility is used by a business in the operation of a revenue-producing enterprise,**  
22 **except that the revenue-producing enterprise must consist of activity other than leasing the**  
23 **facility to another person; and**

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

1       **(B) The facility is acquired by or leased to a business on or after January 1, 2002, in-**  
2 **cluding a facility, the title or possession of which is transferred to the business on or after**  
3 **January 1, 2002, or a facility, the construction, erection or installation of which is completed**  
4 **on or after January 1, 2002;**

5       **(b) Subject to paragraph (c) of this subsection, includes a facility acquired or leased from**  
6 **a person that used the facility in a revenue-producing enterprise within the boundaries of the**  
7 **same Indian reservation immediately prior to the transfer of title or possession of the facil-**  
8 **ity to the business; and**

9       **(c) Does not include:**

10       **(A) A facility that is used in a revenue-producing enterprise that is the same or sub-**  
11 **stantially identical to the revenue-producing enterprise in which the facility was previously**  
12 **used within the boundaries of the same Indian reservation; or**

13       **(B) Any property that merely replaces existing property and that does not expand the**  
14 **capacity of the revenue-producing enterprise in which the facility is to be used.**

15       **(3) "Reservation enterprise zone" means a zone designated by section 7 of this 2001 Act.**

16       **(4) "Tribal government" means the governing body of an Indian tribe, if the governing**  
17 **body has the authority to levy, impose and collect taxes within the boundaries of the reser-**  
18 **vation of the tribe.**

19       **(5) "Tribal tax" means any specific tax that is or may be levied or imposed by a tribal**  
20 **government upon a business and that is measured with reference to a specific level or**  
21 **quantity of that business's income, operations, use or ownership of property. "Tribal tax"**  
22 **includes, but is not limited to, an income or excise tax, an ad valorem property tax, a gross**  
23 **receipts tax or a sales and use tax.**

24       **SECTION 6.** **The Legislative Assembly finds that the welfare of the residents of the rural**  
25 **Indian reservations of this state is acutely dependent upon the growth, development and**  
26 **expansion of employment and business opportunities within reservation boundaries. Ge-**  
27 **ographic and other obstacles have made it difficult for rural Indian reservations to attract**  
28 **and retain private business investment. The tax systems of this state, by subjecting busi-**  
29 **nesses located within reservation boundaries to state taxation in addition to any taxation**  
30 **imposed by the reservations themselves, has heightened the economic isolation of this state's**  
31 **rural reservations and impeded the efforts of Indian tribes to develop sufficient tax bases to**  
32 **fund essential governmental services on their reservations. The Legislative Assembly further**  
33 **finds that it is in the best interests of this state to create equality that will enable rural**  
34 **Indian reservations to attract and retain private business investment. The Legislative As-**  
35 **sembly declares that it is the purpose of sections 5 to 9 of this 2001 Act to remove the tax**  
36 **disincentives that currently inhibit private business and industry from locating and operating**  
37 **enterprises within the boundaries of the rural Indian reservations of this state.**

38       **SECTION 7.** **(1) Trust land of an Indian tribe that meets all of the following requirements**  
39 **is designated as a reservation enterprise zone for the purposes of sections 5 to 9 of this 2001**  
40 **Act:**

41       **(a) The Indian tribe is a federally recognized Indian tribe;**

42       **(b) The reservation of the Indian tribe is entirely within the boundaries of this state;**

43       **(c) The land for which zone designation is sought is land held in trust by the United**  
44 **States for the benefit of the Indian tribe and is located entirely within the boundaries of the**  
45 **reservation;**

1       **(d) As of January 1, 2002, the population density of the reservation, as measured by the**  
2 **most recent federal decennial census, does not exceed 15 persons per square mile;**

3       **(e) Fifty percent or more of the households within the boundaries of the reservation have**  
4 **incomes below 80 percent of the median income of this state, as defined by the most recent**  
5 **federal decennial census; and**

6       **(f) The unemployment rate within the reservation for all enrolled members of the tribe**  
7 **is at least 2.0 percentage points greater than the comparable unemployment rate for this**  
8 **state, as defined by the most recently available data published or officially provided and**  
9 **verified by the United States Government, the Employment Department, the Portland State**  
10 **University Center for Population Research and Census or a special study conducted under a**  
11 **contract with a regional academic institution.**

12       **(2) At the request of a tribal government, the Economic and Community Development**  
13 **Department shall determine if trust land is designated as a reservation enterprise zone under**  
14 **this section.**

15       **SECTION 8. (1) A credit against the taxes that are otherwise due under ORS chapter 316**  
16 **or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to an eligible**  
17 **business operating a new business facility in a reservation enterprise zone.**

18       **(2) The amount of the credit allowed to the eligible business shall equal:**

19       **(a) The amount of tribal property tax imposed on a new business facility of an eligible**  
20 **business that is paid or incurred by the eligible business during the income or corporate ex-**  
21 **cise tax year of the eligible business; or**

22       **(b) If the eligible business has not previously conducted business operations within the**  
23 **reservation enterprise zone, the amount of tribal tax paid or incurred by the eligible business**  
24 **during the income or corporate excise tax year of the eligible business.**

25       **(3) The credit allowed to the eligible business may not exceed the tax liability of the eli-**  
26 **gible business for the tax year and may not be carried over to another tax year.**

27       **(4) A credit is allowable under this section only to the extent the tribal tax on which the**  
28 **credit is based is imposed on businesses not owned by Indians on a uniform basis within the**  
29 **territory over which the tribal government has the authority to levy, impose and collect**  
30 **taxes.**

31       **(5) The credit shall be claimed on a form prescribed by the Department of Revenue con-**  
32 **taining the information required by the department, including information sufficient for the**  
33 **department to determine that the taxpayer is an eligible business and that the facility oper-**  
34 **ated by the business is a new business facility.**

35       **(6) An eligible nonresident individual shall be allowed the credit computed in the same**  
36 **manner and subject to the same limitations as the credit allowed a resident by subsection**  
37 **(1) of this section. However, the credit shall be prorated using the proportion provided in**  
38 **ORS 316.117.**

39       **(7) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or**  
40 **if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the**  
41 **credit allowed by this section shall be prorated or computed in a manner consistent with ORS**  
42 **314.085.**

43       **(8) If a change in the status of a taxpayer from resident to nonresident or from nonres-**  
44 **ident to resident occurs, the credit allowed by this section shall be determined in a manner**  
45 **consistent with ORS 316.117.**

1       **(9) An eligible business claiming a credit under this section shall maintain records suffi-**  
2 **cient to authenticate the allowance of the credit claimed under this section and shall furnish**  
3 **the department with these records upon the request of the department.**

4       **(10) A credit claimed by an eligible business may not be disallowed solely because the el-**  
5 **igible business conducts business operations both within and outside of a reservation enter-**  
6 **prise zone.**

7       **SECTION 9. (1) A reservation enterprise zone shall be considered to be a nonurban en-**  
8 **terprise zone for purposes of ORS 285B.650 to 285B.728. The tribal government of the reser-**  
9 **vation shall be considered to be the sponsor of the reservation enterprise zone.**

10       **(2) Reservation enterprise zones may not be taken into account in determining the**  
11 **number of nonurban enterprise zones allowable in this state under ORS 285B.650 to 285B.728,**  
12 **and are not subject to numerical limitation under ORS 285B.650 to 285B.728.**

13       **(3) In order for property within a reservation enterprise zone to be exempt under ORS**  
14 **285B.698, the business firm and property must meet all of the requirements applicable to**  
15 **business firms and property in any nonurban enterprise zone.**

16       **(4) As used in this section, “business firm” has the meaning given that term in ORS**  
17 **285B.650.**

18       **SECTION 10. ORS 314.752 is amended to read:**

19       314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a  
20 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The  
21 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
22 allowable to the shareholders of the S corporation.

23       (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on  
24 income of the shareholder of an S corporation, there shall be taken into account the shareholder’s  
25 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but  
26 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-  
27 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the  
28 manner prescribed under section 1377(a) of the Internal Revenue Code.

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

32       (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax  
33 credit that in the case of a nonresident that the credit be allowed in the proportion provided in ORS  
34 316.117, then that provision shall apply to the nonresident shareholder.

35       (5) As used in this section, “business tax credit” means a tax credit granted to personal income  
36 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive  
37 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-  
38 section as a business tax credit or is designated as a business tax credit by law or by the Depart-  
39 ment of Revenue by rule and includes but is not limited to the following credits: ORS 315.104  
40 (forestation and reforestation), ORS 315.134 (fish habitat improvement), ORS 315.138 (fish screening,  
41 by-pass devices, fishways), ORS 315.156 (crop gleaning), ORS 315.164 (farmworker housing), ORS  
42 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.234 (child de-  
43 velopment program contributions), ORS 315.254 (youth apprenticeship sponsorship), ORS 315.304  
44 (pollution control facility), ORS 315.324 (plastics recycling), ORS 315.354 and ORS 469.207 (energy  
45 conservation facilities), ORS 315.504 (Oregon Capital Corporation), ORS 315.604 (bone marrow

1 transplant expenses) and ORS 317.115 (fueling stations necessary to operate an alternative fuel ve-  
2 hicle) **and section 8 of this 2001 Act (tribal taxes on reservation enterprise zones).**

3 **SECTION 11.** ORS 318.031 is amended to read:

4 318.031. It being the intention of the Legislative Assembly that this chapter and the Corporation  
5 Excise Tax Law of 1929 shall be administered as uniformly as possible (allowance being made for  
6 the difference in imposition of the taxes and the operative date of this chapter), the provisions of  
7 ORS 305.140 and 305.150 and ORS chapter 314 and of the following sections of ORS chapter 315 or  
8 317, as amended on or before August 3, 1955, and as they may thereafter be amended, are incorpo-  
9 rated into this chapter by this reference and made a part hereof: ORS 315.104, 315.134, 315.156,  
10 315.204, 315.208, 315.234, 315.254, 315.304, 315.504 and 315.604 (all only to the extent applicable for  
11 a corporation) and ORS 317.010, 317.013, 317.018 to 317.022, 317.030, 317.035, 317.038, 317.080, 317.152  
12 to 317.154, 317.259 to 317.303, 317.310 to 317.386, 317.476 to 317.485, 317.510 to 317.635 and 317.705  
13 to 317.725 and section 40, chapter 835, Oregon Laws 1997, and section 4, chapter 358, Oregon Laws  
14 1999, **and section 8 of this 2001 Act.**

15 **SECTION 12.** Sections 5 to 9 of this 2001 Act and the amendments to ORS 314.752 and  
16 318.031 by sections 10 and 11 of this 2001 Act apply to tax years beginning on or after January  
17 1, 2002.

18 **SECTION 13.** This 2001 Act takes effect on the 91st day after the date on which the  
19 regular session of the Seventy-first Legislative Assembly adjourns sine die.  
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