

CHAPTER 610

AN ACT

HB 2066

Relating to tax expenditures; creating new provisions; amending ORS 285B.600, 285C.050, 285C.160, 285C.400, 285C.403, 285C.412, 285C.503, 314.752, 315.613, 317.090, 317.097 and 318.031 and section 6, chapter 739, Oregon Laws 2007, sections 11, 21, 25 and 30, chapter 913, Oregon Laws 2009, and section 45, chapter 701, Oregon Laws 2015; and prescribing an effective date.

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

RESERVATION ENTERPRISE ZONES

SECTION 1. Section 21, chapter 913, Oregon Laws 2009, as amended by section 28, chapter 76, Oregon Laws 2010, is amended to read:

Sec. 21. A credit may not be claimed under ORS 285C.309 for tax years beginning on or after January 1, [2018] **2028**.

SECTION 2. ORS 285C.309 is added to and made a part of ORS chapter 315.

AFFORDABLE HOUSING LENDERS

SECTION 3. Section 30, chapter 913, Oregon Laws 2009, as amended by section 1, chapter 475, Oregon Laws 2011, is amended to read:

Sec. 30. The Housing and Community Services Department may not issue a certificate under ORS 317.097 on or after January 1, [2020] **2026**.

SECTION 4. ORS 317.097, as amended by section 23, chapter 33, Oregon Laws 2016, is amended to read:

317.097. (1) As used in this section:

(a) "Annual rate" means the yearly interest rate specified on the note, and not the annual percentage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

(b) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed by the lending institution, and other charges related to the cost of obtaining credit.

(c) "Lending institution" means any insured institution, as that term is defined in ORS 706.008, any mortgage banking company that maintains an office in this state or any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

(d) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

(e) "Nonprofit corporation" means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2015.

(f) "Preservation project" means housing that was previously developed as affordable housing with a contract for rent assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity.

(g) "Qualified assignee" means any investor participating in the secondary market for real estate loans.

(h) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by a qualified loan. A controlling interest includes, but is not limited to, a controlling interest in the general partner of a limited partnership that owns the real property.

(i) "Qualified loan" means:

(A) A loan that meets the criteria stated in subsection (5) of this section or that is made to refinance a loan that meets the criteria described in subsection (5) of this section; or

(B) The purchase by a lending institution of bonds, as defined in ORS 286A.001, issued on behalf of the Housing and Community Services Department, the proceeds of which are used to finance or refinance a loan that meets the criteria described in subsection (5) of this section.

(j) "Sponsoring entity" means a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any other person, provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government or housing authority.

(2) The Department of Revenue shall allow a credit against taxes otherwise due under this chapter for the taxable year to a lending institution that makes a qualified loan certified by the Housing and Community Services Department as provided in subsection (7) of this section. The amount of the credit is equal to the difference between:

(a) The amount of finance charge charged by the lending institution during the taxable year at an annual rate less than the market rate for a qualified loan that is made before January 1, [2020] **2026**, that complies with the requirements of this section; and

(b) The amount of finance charge that would have been charged during the taxable year by the lending institution for the qualified loan for housing construction, development, acquisition or rehabilitation measured at the annual rate charged by the lending institution for nonsubsidized loans made under like terms and conditions at the time the qualified loan for housing construction, development, acquisition or rehabilitation is made.

(3) The maximum amount of credit for the difference between the amounts described in subsection (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of the qualified loan during the tax year for which the credit is claimed.

(4) Any tax credit allowed under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(5) To be eligible for the tax credit allowable under this section, a lending institution must make a qualified loan by either purchasing bonds, as defined in ORS 286A.001, issued on behalf of the Housing and Community Services Department, the proceeds of which are used to finance or refinance a loan that meets the criteria stated in this subsection, or by making a loan directly to:

(a) An individual or individuals who own a dwelling, participate in an owner-occupied community rehabilitation program and are certified by the local government or its designated agent as having an income level when the loan is made of less than 80 percent of the area median income;

(b) A qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing; and

(B) Provides a written certification executed by the Housing and Community Services Department that the:

(i) Housing created by the loan is or will be occupied by households earning less than 80 percent of the area median income; and

(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on to the tenants in the form of reduced housing payments, regardless of other subsidies provided to the housing project;

(c) Subject to subsection (14) of this section, a qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing consisting of a manufactured dwelling park; and

(B) Provides a written certification executed by the Housing and Community Services Department that the housing will continue to be operated as a manufactured dwelling park during the period for which the tax credit is allowed; or

(d) A qualified borrower who:

(A) Uses the loan proceeds to finance acquisition or rehabilitation of housing consisting of a preservation project; and

(B) Provides a written certification executed by the Housing and Community Services Department that the housing preserved by the loan:

(i) Is or will be occupied by households earning less than 80 percent of the area median income; and

(ii) Is the subject of a rent assistance contract with the United States Department of Housing and Urban Development or the United States Department of Agriculture that will be maintained by the qualified borrower.

(6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this section must be treated the same as a loan that meets the criteria stated in subsection (5) of this section.

(7) For a qualified loan to be eligible for the tax credit allowable under this section, the Housing and Community Services Department must execute a written certification for the qualified loan that:

(a) Specifies the period, not to exceed 20 years, as determined by the Housing and Community Services Department, during which the tax credit is allowed for the qualified loan; and

(b) States that the qualified loan is within the limitation imposed by subsection (8) of this section.

(8) The Housing and Community Services Department may certify qualified loans that are eligible under subsection (5) of this section if the total credits attributable to all qualified loans eligible for credits under this section and then outstanding do not exceed [~~\$17 million~~] **\$25 million** for any fiscal year. In making loan certifications under subsection (7) of this section, the Housing and Community Services Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state that are determined by the Oregon Housing Stability Council to have the greatest need for affordable housing.

(9) The tax credit provided for in this section may be taken whether or not:

(a) The financial institution is eligible to take a federal income tax credit under section 42 of the Internal Revenue Code with respect to the project financed by the qualified loan; or

(b) The project receives financing from bonds, the interest on which is exempt from federal taxation under section 103 of the Internal Revenue Code.

(10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the purchase of bonds, the interest of which is exempt from federal taxation under section 103 of the Internal Revenue Code, the amount of finance charge that would have been charged under subsection (2)(b) of this section is determined by reference to the finance charge that would have been charged if the federally tax exempt bonds had been issued and the tax credit under this section did not apply.

(11) A lending institution may sell a qualified loan for which a certification has been executed to a qualified assignee whether or not the lending institution retains servicing of the qualified loan so long as a designated lending institution maintains records, annually verified by a loan servicer, that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

(12) Notwithstanding any other provision of law, a lending institution that is a community develop-

ment corporation organized under the Oregon Non-profit Corporation Law may transfer all or part of a tax credit allowed under this section to one or more other lending institutions that are stockholders or members of the community development corporation or that otherwise participate through the community development corporation in the making of one or more qualified loans for which the tax credit under this section is allowed.

(13) The lending institution shall file an annual statement with the Housing and Community Services Department, specifying that it has conformed with all requirements imposed by law to qualify for a tax credit under this section.

(14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified borrower on a loan to finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park under subsection (5)(c) of this section must be a non-profit corporation, manufactured dwelling park nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706 or housing authority.

(15) The Housing and Community Services Department and the Department of Revenue may adopt rules to carry out the provisions of this section.

SECTION 5. The amendments to ORS 317.097 by section 4 of this 2017 Act apply to tax years beginning on or after January 1, 2018.

BOVINE MANURE TAX CREDIT

SECTION 6. Section 7 of this 2017 Act is added to and made a part of ORS chapter 315.

SECTION 7. (1) As used in this section:

(a) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been converted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct biomass energy use at the biofuel producer's site.

(b) "Biofuel producer" means a person that, through activities in Oregon:

(A) Alters the physical makeup of biomass to convert it into biofuel;

(B) Changes one biofuel into another type of biofuel; or

(C) Uses biomass in Oregon to produce energy.

(c) "Bovine manure" means, subject to subsection (2) of this section, cow manure that is produced by cows on Oregon farms.

(d) "Bovine manure producer or collector" means a person that produces or collects bovine manure in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

(2) The Director of Agriculture may adopt rules to define criteria, only as the criteria apply to bovine manure, to determine additional char-

acteristics of bovine manure for purposes of this section.

(3)(a) A bovine manure producer or collector shall be allowed a credit against the taxes that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for the collection of bovine manure in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

(b) A credit under this section may be claimed in the tax year in which the credit is certified under this section.

(c) A credit under this section may be claimed only once for each wet ton of bovine manure.

(4) The amount of the credit shall be calculated at a rate of \$3.50 per wet ton, as certified under this section.

(5)(a) The State Department of Agriculture may establish by rule procedures and criteria for determining the amount of the tax credit to be certified under this section. The department shall provide written certification to taxpayers that are eligible to claim the credit under this section.

(b) The State Department of Agriculture may charge and collect a fee from taxpayers for certification of credits under this section. The fee may not exceed the cost to the department of issuing certifications.

(6) All fees collected under this section shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund. Moneys deposited under this section are continuously appropriated to the department for the purpose of administering and enforcing the provisions of this section.

(7)(a) The Department of Revenue may by rule require that the State Department of Agriculture provide information about the certification issued under this section, including the name and taxpayer identification number of the taxpayer or other person receiving certification, the date the certification was issued in its final form, the approved amount of credit and the first tax year for which the credit may be claimed.

(b) A taxpayer that is a pass-through entity that has received certification under this section shall provide the information described in paragraph (a) of this section to the Department of Revenue within two months after the close of the tax year in which the certification was issued.

(c) The Department of Revenue shall prescribe by rule the manner and the timing of submission of the information to the department.

(8) The amount of the credit claimed under this section for any tax year may not exceed the tax liability of the taxpayer.

(9) Each bovine manure producer or collector shall maintain a record of the written certi-

fication of the amount of the tax credit under this section for a period of at least five years after the tax year in which the credit is claimed and provide the written certification to the Department of Revenue upon request.

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

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

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

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

(b) If a change in the status of the 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.

(c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

SECTION 8. (1) A person that has obtained a tax credit under section 7 of this 2017 Act may transfer the credit to a taxpayer subject to tax under ORS chapter 316, 317 or 318. A transfer that occurs on or after January 1, 2018, is conditioned upon compliance with this section and ORS 315.052 and 315.053.

(2) The Department of Revenue may require that the person that has earned the credit and the taxpayer that intends to claim the credit jointly file a notice of tax credit transfer with the department on or before the earliest of the following dates:

(a) A date 30 days after the transfer of the credit;

(b) The date on which the transferee files a return; or

(c) The due date, including extensions, of the transferee's return.

(3) The notice shall be given on a form prescribed by the department that contains:

(a) The name and address of the transferor and of the transferee;

(b) The taxpayer identification number of the transferor and of the transferee;

(c) The dates on which the person earning the credit received certifications for the credit;

(d) The amount of the credit that is certified, the amount that is being transferred and the amount that is being retained by the transferor; and

(e) Any other information required by the department.

(4)(a) A transferor may separately transfer the entirety of that portion corresponding to the tax year to one or more transferees, subject to subsection (5) of this subsection.

(b) Any amount of credit that would be allowed due only to a carryforward provision may not be transferred.

(5) Any transfer of a tax credit or a portion of a tax credit must be completed no later than the earliest of the following dates in relation to the tax return on which it is claimed:

(a) The original due date, including extensions, of the transferor's return;

(b) The date on which the transferor's return is actually filed;

(c) The original due date, including extensions, of the transferee's return; or

(d) The date on which the transferee's return is actually filed.

(6) If the transferor is a tax-exempt entity, the transfer must be completed on or before a date one year after the close of the tax year for which the credit receives final certification. As used in this subsection, "tax-exempt entity" means a government agency or an organization that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code.

(7) The transferee shall claim the credit in accordance with the provisions of section 7 of this 2017 Act for the tax years in which the credit is allowed.

(8) The department by rule may establish policies and procedures for the implementation of this section.

SECTION 9. (1) Under the procedures for a contested case under ORS chapter 183, the director of the agency responsible for certifying or otherwise determining eligibility or granting approval for a tax credit allowed under section 7 of this 2017 Act may order the suspension, revocation or forfeiture of the tax credit approval or of a portion thereof if the director finds that:

(a) The approval was obtained by fraud or misrepresentation;

(b) The approval was obtained by mistake or miscalculation; or

(c) The taxpayer otherwise violates or has violated a provision that allows or provides for administration of a tax credit.

(2) As soon as an order of revocation under this section becomes final, the director shall notify the Department of Revenue and the person that received the tax credit certification, or other approval, of the order of revocation. Upon notification, the Department of Revenue immediately shall proceed to collect:

(a) If no portion of a credit has been transferred, those taxes not paid by the holder of the certificate or other approval as a result of the tax credits provided to the holder under the revoked approval, from the holder or a successor in interest to the business interests of the holder. All tax credits provided to the holder and attributable to the fraudulently or mistakenly obtained approval or portion of the approval shall be forfeited.

(b) If all of a credit has been transferred, an amount equal to the amount of the tax credits allowable to the transferee under the revoked approval, from the transferor.

(c) If a portion of a tax credit has been transferred, those taxes not paid by the transferor as a result of the tax credits provided to the transferor pursuant to the revoked approval, from the transferor or a successor in interest to the business interests of the transferor, and an amount equal to the amount of the tax credits allowable to the transferee pursuant to the revoked approval, from the transferor.

(3)(a) The Department of Revenue shall have the benefit of all laws of the state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in subsection (2) of this section from the person that obtained approval or a successor in interest to the business interests of that person. An assessment of tax is not necessary and the collection of taxes described in this subsection is not precluded by any statute of limitations.

(b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires an interest through bankruptcy or through foreclosure of a security interest is not considered to be a successor in interest to the business interests of the person that obtained approval.

(4) If the approval is ordered revoked pursuant to this section, the holder of the certificate or other approval shall be denied any further relief in connection with the credit from and after the date that the order of revocation becomes final.

(5) Notwithstanding subsections (1) to (4) of this section, a certificate or portion of a certificate held by a transferee may not be considered revoked for purposes of the transferee, the tax credit allowable to the transferee may not be reduced and a transferee is not liable under this section.

(6) Interest under this section shall accrue at the rate established in ORS 305.220 beginning

the day after the due date of the return on which the credit may first be claimed.

SECTION 10. The total amount claimed for tax credits for the production or collection of bovine manure under section 7 of this 2017 Act may not exceed \$5 million for all taxpayers for any tax year. If the State Department of Agriculture receives applications for the credit sufficient to exceed this amount, the department shall by rule proportionately reduce the amount of certified credits among all taxpayers applying for the credit.

SECTION 11. Section 7 of this 2017 Act applies to tax years beginning on or after January 1, 2018, and before January 1, 2022.

BIOMASS TAX CREDIT

SECTION 12. Section 6, chapter 739, Oregon Laws 2007, as amended by section 5, chapter 590, Oregon Laws 2007, section 18, chapter 913, Oregon Laws 2009, section 2, chapter 730, Oregon Laws 2011, and section 11, chapter 29, Oregon Laws 2016, is amended to read:

Sec. 6. (1)[(a)] ORS 315.141, 315.144 and 469B.403 apply to tax credits for tax years beginning on or after January 1, 2007, and before January 1, [2022] **2018**.

[(b) Notwithstanding paragraph (a) of this subsection, credits as provided under ORS 469B.403 (1) to (7) are not allowed for tax years beginning on or after January 1, 2018.]

(2) Notwithstanding subsection (1) of this section, a tax credit is not allowed for wheat grain (other than nongrain wheat material) for tax years beginning before January 1, 2009, or on or after January 1, 2018.

RURAL MEDICAL PROVIDER TAX CREDIT

SECTION 13. Section 25, chapter 913, Oregon Laws 2009, as amended by section 10, chapter 750, Oregon Laws 2013, section 18, chapter 701, Oregon Laws 2015, and section 7, chapter 829, Oregon Laws 2015, is amended to read:

Sec. 25. (1) Except as provided in subsection (2) of this section, a credit may not be claimed under ORS 315.613 for tax years beginning on or after January 1, [2018] **2022**.

(2) A taxpayer who meets the eligibility requirements in ORS 315.613 for the tax year beginning on or after January 1, [2017] **2021**, and before January 1, [2018] **2022**, shall be allowed the credit under ORS 315.613 for any tax year:

(a) That begins on or before January 1, [2027] **2031**; and

(b) For which the taxpayer meets the eligibility requirements of ORS 315.613.

(3) Notwithstanding subsection (2) of this section, a taxpayer may not during the taxpayer's lifetime claim the credit allowed under this section for more than a total of 10 tax years that begin on or after January 1, 2018.

SECTION 14. ORS 315.613, as amended by section 1, chapter 29, Oregon Laws 2016, is amended to read:

315.613. [(1) A resident or nonresident individual certified as eligible under ORS 442.563, licensed under ORS chapter 677, who is engaged in the practice of medicine, and who is engaged for at least 20 hours per week, averaged over the month, during the tax year in a rural practice, shall be allowed an annual credit against taxes otherwise due under ORS chapter 316.]

(1) An annual credit against the taxes otherwise due under ORS chapter 316 shall be allowed to a resident or nonresident individual who is:

(a) Certified as eligible under ORS 442.563;
(b) Licensed under ORS chapter 677;
(c) Engaged in the practice of medicine, and engaged for at least 20 hours per week, averaged over the month, during the tax year in a rural practice; and

(d) Has adjusted gross income not in excess of \$300,000 for the tax year. The limitation in this paragraph does not apply to a physician who practices as a general surgeon, specializes in obstetrics or specializes in family or general practice and provides obstetrical services.

(2) The amount of credit allowed shall be based on the distance from a major population center in a qualified metropolitan statistical area at which the taxpayer maintains a practice or hospital membership:

(a) If at least 10 miles but fewer than 20 miles, \$3,000.
 (b) If at least 20 miles but fewer than 50 miles, \$4,000.
 (c) If 50 or more miles, \$5,000.

(3) The credit shall be allowed during the time in which the individual retains such practice and membership if the individual is actively practicing in and is a member of the medical staff of one of the following hospitals:

(a) A type A hospital designated as such by the Office of Rural Health;

(b) A type B hospital designated as such by the Office of Rural Health if the hospital is:

(A) Not within the boundaries of a metropolitan statistical area;

(B) Located 30 or more miles from the closest hospital within the major population center in a metropolitan statistical area; or

(C) Located in a county with a population of less than 75,000;

(c) A type C rural hospital, if the Office of Rural Health makes the findings required by ORS 315.619;

(d) A rural hospital that was designated a rural referral center by the federal government before January 1, 1989, and that serves a community with a population of at least 14,000 but not more than 19,000; or

(e) A rural critical access hospital.

(4) In order to claim the credit allowed under this section, the individual must remain willing during the tax year to serve patients with Medicare coverage and patients receiving medical assistance in at least the same proportion to the individual's total number of patients as the Medicare and medical assistance populations represent of the total number of persons determined by the Office of Rural Health to be in need of care in the county served by the practice, not to exceed 20 percent Medicare patients or 15 percent medical assistance patients.

(5) A nonresident individual shall be allowed the credit under this section in the proportion provided in ORS 316.117. 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.

(6) For purposes of this section, an "individual's practice" shall be determined on the basis of actual time spent in practice each week in hours or days, whichever is considered by the Office of Rural Health to be more appropriate. In the case of a shareholder of a corporation or a member of a partnership, only the time of the individual shareholder or partner shall be considered and the full amount of the credit shall be allowed to each shareholder or partner who qualifies in an individual capacity.

(7) As used in this section:

(a) "Qualified metropolitan statistical area" means only those counties of a metropolitan statistical area that are located in Oregon if the largest city within the metropolitan statistical area is located in Oregon.

(b) "Rural critical access hospital" means a facility that meets the criteria set forth in 42 U.S.C. 1395i-4 (c)(2)(B) and that has been designated a critical access hospital by the Office of Rural Health and the Oregon Health Authority.

(c) "Type A hospital," "type B hospital" and "type C hospital" have the meaning for those terms provided in ORS 442.470.

SECTION 15. The amendments to ORS 315.613 by section 14 of this 2017 Act apply to tax years beginning on or after January 1, 2018.

USE OF CREDITS AGAINST MINIMUM TAX

SECTION 16. Section 45, chapter 701, Oregon Laws 2015, is amended to read:

Sec. 45. [(1)] The amendments to ORS 317.090 by [section 43 of this 2015 Act] **sections 43 and 44, chapter 701, Oregon Laws 2015**, apply to tax years beginning on or after January 1, 2015[, and before January 1, 2021].

[*(2) The amendments to ORS 317.090 by section 44 of this 2015 Act apply to tax years beginning on or after January 1, 2021.*]

SECTION 17. ORS 317.090, as amended by section 44, chapter 701, Oregon Laws 2015, is amended to read:

317.090. (1) As used in this section:

(a) "Oregon sales" means:

(A) If the corporation apportions business income under ORS 314.650 to 314.665 for Oregon tax purposes, the total sales of the taxpayer in this state during the tax year, as determined for purposes of ORS 314.665;

(B) If the corporation does not apportion business income for Oregon tax purposes, the total sales in this state that the taxpayer would have had, as determined for purposes of ORS 314.665, if the taxpayer were required to apportion business income for Oregon tax purposes; or

(C) If the corporation apportions business income using a method different from the method prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by rule.

(b) If the corporation is an agricultural cooperative that is a cooperative organization described in section 1381 of the Internal Revenue Code, "Oregon sales" does not include sales representing business done with or for members of the agricultural cooperative.

(2) Each corporation or affiliated group of corporations filing a return under ORS 317.710 shall pay annually to the state, for the privilege of carrying on or doing business by it within this state, a minimum tax as follows:

(a) If Oregon sales properly reported on a return are:

(A) Less than \$500,000, the minimum tax is \$150.

(B) \$500,000 or more, but less than \$1 million, the minimum tax is \$500.

(C) \$1 million or more, but less than \$2 million, the minimum tax is \$1,000.

(D) \$2 million or more, but less than \$3 million, the minimum tax is \$1,500.

(E) \$3 million or more, but less than \$5 million, the minimum tax is \$2,000.

(F) \$5 million or more, but less than \$7 million, the minimum tax is \$4,000.

(G) \$7 million or more, but less than \$10 million, the minimum tax is \$7,500.

(H) \$10 million or more, but less than \$25 million, the minimum tax is \$15,000.

(I) \$25 million or more, but less than \$50 million, the minimum tax is \$30,000.

(J) \$50 million or more, but less than \$75 million, the minimum tax is \$50,000.

(K) \$75 million or more, but less than \$100 million, the minimum tax is \$75,000.

(L) \$100 million or more, the minimum tax is \$100,000.

(b) If a corporation is an S corporation, the minimum tax is \$150.

(3) The minimum tax is not apportionable (except in the case of a change of accounting periods), [and] is payable in full for any part of the year during which a corporation is subject to tax **and may not be reduced, paid or otherwise satisfied through the use of any tax credit.**

EMPLOYEE TRAINING TAX CREDIT

SECTION 18. Section 19 of this 2017 Act is added to and made a part of ORS chapter 315.

SECTION 19. (1) As used in this section, "qualifying county" means a county with a population greater than 60,000 but less than 80,000 that:

(a) Is located entirely outside of the Portland Metropolitan Area Regional Urban Growth Boundary and the acknowledged urban growth boundary of cities with populations of 30,000 or more;

(b) Has an annual economic development budget of \$500,000 or greater;

(c) Has an unemployment rate at least 1.5 percentage points greater than the comparable unemployment rate for the state;

(d) Is party to an agreement with an institute of higher education to coordinate efforts to promote enterprise throughout the county;

(e) Is the site of a base or installation of the Armed Forces of the United States that employs at least 750 civilian and military personnel; and

(f) Has access to Internet service with the minimum connection speed required to effectively conduct electronic commerce.

(2) A credit against 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 a taxpayer who is located in a qualifying county and who establishes and implements an employee training program in collaboration with a local community college operated under ORS chapter 341.

(3) The credit allowed under this section shall be equal to 12 percent of the taxpayer's expenses to establish and implement the employee training program described in subsection (2) of this section.

(4) For each tax year for which a credit is claimed under this section, the taxpayer shall maintain records sufficient to prove the taxpayer's eligibility for the credit allowed under this section. A taxpayer shall maintain the records required under this subsection for at least five years.

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

(6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for

the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, but may not be carried forward for any tax year thereafter.

(7) A nonresident taxpayer shall be allowed the credit under this section. The credit shall be computed in the same manner and be subject to the same limitations as the credit granted to a resident taxpayer. However, the credit shall be prorated using the proportion provided in ORS 316.117.

(8) If a change in the taxable year of the 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.

(9) 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.

(10) Spouses in a marriage who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the adjusted gross income of each.

SECTION 20. Section 19 of this 2017 Act applies to tax years beginning on or after January 1, 2017.

BUSINESS TAX CREDITS

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

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

(3) The character of any item included in a shareholder's pro rata share under subsection (2) of this section shall be determined as if such item were

realized directly from the source from which realized by the corporation, or incurred in the same manner as incurred by the corporation.

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

(5) As used in this section, "business tax credit" means a tax credit granted to personal income taxpayers to encourage certain investment, to create employment, economic opportunity or incentive or for charitable, educational, scientific, literary or public purposes that is listed under this subsection as a business tax credit or is designated as a business tax credit by law or by the Department of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic commerce) and ORS 315.533 (low income community jobs initiative) **and section 7 of this 2017 Act (bovine manure) and section 19 of this 2017 Act (employee training programs).**

SECTION 22. ORS 318.031 is amended to read: 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter 317 shall be administered as uniformly as possible (allowance being made for the difference in imposition of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are incorporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and sections 7 and 19 of this 2017 Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

ENTERPRISE ZONES

SECTION 23. ORS 285C.160 is amended to read: 285C.160. (1) An eligible business firm seeking authorization under ORS 285C.140 and the sponsor of the enterprise zone in which the firm intends to invest may enter into a written agreement to extend the period during which the qualified property is

exempt from taxation under ORS 285C.175 if the firm complies with the terms of the agreement.

(2) The period for which the qualified property is to continue to be exempt must be set forth in the agreement and may not exceed two additional tax years.

(3) In order for an agreement under this section to extend the period of exemption, the agreement must be executed on or before the date on which the firm is authorized, and:

(a) If the enterprise zone is a rural enterprise zone or an urban enterprise zone located inside a metropolitan statistical area of fewer than 400,000 residents, the agreement must require that the firm *[meet both of the following]*:

(A)(i) Annually compensate all new employees hired by the firm at an average rate of *[not less than]* at least 150 percent of the county average annual wage for each assessment year during the tax exemption period, as determined at the time of authorization[.]; or

(ii) **If the enterprise zone is located in a qualified rural county, annually compensate all new employees hired by the firm at an average rate of at least 130 percent of the county average annual wage for each assessment year during the tax exemption period, as determined at the time of authorization; and**

(B) Meet any additional requirement that the sponsor may reasonably request.

(b) Notwithstanding paragraph (a)(A) of this subsection, the average wage received by the newly hired employees must equal or exceed 100 percent of the average wage in the county.

[(b)] (c) If the enterprise zone is an urban enterprise zone located inside a metropolitan statistical area of 400,000 residents or more, the agreement must require that the firm meet any additional requirement the sponsor may reasonably require.

(4) If a firm enters into an agreement under this section that includes a compensation requirement under subsection (3)(a)(A) of this section and the firm subsequently submits one or more statements of continued intent under ORS 285C.165, notwithstanding the terms of the agreement made under this section, for each statement of continued intent submitted, the county average annual wage under subsection (3)(a)(A) of this section shall be adjusted to a level that is current with the statement.

SECTION 24. ORS 285C.050 is amended to read: 285C.050. As used in ORS 285C.050 to 285C.250, unless the context requires otherwise:

(1) “Assessment date” and “assessment year” have the meanings given those terms in ORS 308.007.

(2) “Authorized business firm” means an eligible business firm that has been authorized under ORS 285C.140.

(3) “Business firm” means a person operating or conducting one or more trades or businesses, a people’s utility district organized under ORS chapter 261 or a joint operating agency formed under ORS

chapter 262, but does not include any other governmental agency, municipal corporation or nonprofit corporation.

(4) “County average annual wage” means:

(a) The most recently available average annual covered payroll for the county in which the enterprise zone is located, as determined by the Employment Department; or

(b) If the enterprise zone is located in more than one county, the highest county average annual wage as determined under paragraph (a) of this subsection.

(5) “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 Oregon Business Development Department by rule.

(6) “Eligible business firm” means a firm engaged in an activity described under ORS 285C.135 that may file an application for authorization under ORS 285C.140.

(7) “Employee” means a person who works more than 32 hours per week, but does not include a person with a temporary or seasonal job or a person hired solely to construct qualified property.

(8) “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 areas designated by the Director of the Oregon Business Development Department under ORS 285C.080 before October 5, 2015, an area designated under ORS 285C.065, a federal enterprise zone area designated under ORS 285C.085, an area designated under ORS 285C.250 or a reservation enterprise zone designated, or a reservation partnership zone cosponsored, under ORS 285C.306.

(9) “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.

(10) “First-source hiring agreement” means an agreement between an authorized business firm and a publicly funded job training provider whereby the provider refers qualified candidates to the firm for new jobs and job openings in the firm.

(11) “In service” means being used or occupied or fully ready for use or occupancy for commercial purposes consistent with the intended operations of the business firm as described in the application for authorization.

(12) “Modification” means modernization, renovation or remodeling of an existing building, structure or real property machinery or equipment.

(13) “New employees hired by the firm”:

(a) Includes only those employees of an authorized business firm engaged for a majority of their time in eligible operations.

(b) Does not include individuals employed in a job or position that:

(A) Is created and first filled after December 31 of the first tax year in which qualified property of the firm is exempt under ORS 285C.175;

(B) Existed prior to the submission of the relevant application for authorization; or

(C) Is performed primarily at a location outside of the enterprise zone.

(14) "Publicly funded job training provider" includes but is not limited to a community college, a service provider under the federal Workforce Investment Act Title I-B (29 U.S.C. 2801 et seq.), or a similar program.

(15) "Qualified business firm" means a business firm described in ORS 285C.200, the qualified property of which is exempt from property tax under ORS 285C.175.

(16) "Qualified property" means property described under ORS 285C.180.

(17) "Qualified rural county" means a county:

(a) That is outside all metropolitan statistical areas, as defined by the most recent federal decennial census; and

(b) In which, on the most recently certified property tax assessment roll, the total property taxes imposed by all taxing districts within the county are equal to or greater than 1.3 percent of the total assessed value of all taxable property located in the county.

[(17)] (18) "Rural enterprise zone" means:

(a) An enterprise zone located in an area of this state in which an urban enterprise zone could not be located; or

(b) A reservation enterprise zone designated, or a reservation partnership zone cosponsored, under ORS 285C.306.

[(18)] (19) "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 Population Research Center.

[(19)] (20) "Sponsor" means:

(a) The city, county or port, or any combination of cities, counties or ports, that received approval of an enterprise zone under ORS 284.150 and 284.160 (1987 Replacement Part), under ORS 285C.080 before October 5, 2015, or under ORS 285C.085 or 285C.250 or that designated an enterprise zone under ORS 285C.065 or 285C.250;

(b) The tribal government, in the case of a reservation enterprise zone;

(c) The tribal government and the cosponsoring city, county or port, in the case of a reservation partnership zone; or

(d) A city, county or port that joined the enterprise zone through a boundary change under ORS 285C.115 (6) or a port that joined the enterprise zone under ORS 285C.068.

[(20)] (21) "Tax year" has the meaning given that term in ORS 308.007.

[(21)] (22) "Urban enterprise zone" means an enterprise zone in a metropolitan statistical area, as defined by the most recent federal decennial census, that is located inside a regional or metropolitan urban growth boundary.

[(22)] (23) "Year" has the meaning given that term in ORS 308.007.

SECTION 25. The amendments to ORS 285C.050 and 285C.160 by sections 23 and 24 of this 2017 Act apply to agreements executed on or after the effective date of this 2017 Act.

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

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

(1) In order for the exemption under ORS 285C.409 (1)(c) 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]* **must be** at least 150 percent of the average wage in the county in which the facility is located, **or, if the facility is located in a qualified rural county, determined as of the date on which the written agreement between the zone sponsor and the business firm was executed, the annual average compensation must be at least 130 percent of the average wage in the county in which the facility is located.** This requirement may be initially met in any year during the first five years after the year in which *[operation of the facility begins]* **the facility is placed in service**, and thereafter is met if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 27. ORS 285C.400 is amended to read: 285C.400. As used in ORS 285C.400 to 285C.420:

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

(2) "Certified business firm" means a business firm that has been certified under ORS 285C.403.

(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) 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; 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 rural enterprise zone that is identified in the application for certification under ORS 285C.403; and

(b) In those business operations of the business firm that are the subject of the application for certification under ORS 285C.403.

(5) "Qualified rural county" means a county:

(a) That is outside all metropolitan statistical areas, as defined by the most recent federal decennial census; and

(b) In which, on the most recently certified property tax assessment roll, the total property taxes imposed by all taxing districts within the county are equal to or greater than 1.3 percent of the total assessed value of all taxable property located in the county.

[(5)] (6) "Rural enterprise zone" has the meaning given that term in ORS 285C.050.

SECTION 28. The amendments to ORS 285C.400 and 285C.412 by sections 26 and 27 of this 2017 Act apply to exemptions initially allowed under ORS 285C.409 (1)(c) on or after the effective date of this 2017 Act.

SECTION 29. ORS 285C.503 is amended to read:

285C.503. (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, reconstruction, modification 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 Oregon Business 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, reconstructed, modified, acquired, installed or leased and that is to comprise the facility when the business firm commences business operations at the facility;

(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 Oregon Business 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. If the facility is to be located within a port, the department shall also send a copy of the application to the governing body of the port.

(b) The governing body of a city, port or county described in paragraph (a) of this subsection may object to the preliminary certification of a business firm if the firm would be:

(A) In competition with an existing business employing individuals within the city, port or county; or

(B) Incompatible with economic growth or development standards that the city, port or county had adopted prior to the date of application for preliminary certification.

(c) If the governing body of the city, port 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.

(d) The governing body of a city, port or county has 60 days from the date the application is sent to the city, port or county to object to preliminary certification. If the objection is not made within the 60-day period, the city, port 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 five employees for full-time, year-round employment.

(d)(A) The newly hired employees described in paragraph (c) of this subsection are to receive a minimum annual compensation of:

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

[(B)] (ii) 100 percent of the county per capita personal income of the county in which the facility is to be located **determined** as of the date of the application for preliminary certification and the business firm will provide health insurance coverage to the employees at the facility who are described in paragraph (c) of this subsection that equals or exceeds the health insurance benefits provided to employees of the city, port or county in which the facility is to be located[.]; or

(iii) **If the facility is to be located in a county that is outside all metropolitan statistical areas, as defined by the most recent federal decennial census, 130 percent of the county per capita personal income of the county in which the facility is to be located determined as of the date of the application for preliminary certification.**

(B) **Notwithstanding subparagraph (A) of this paragraph, the average wage received by the newly hired employees must equal or exceed 100 percent of the average wage in the county.**

(e) 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.

(f) 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, meets the criteria set forth in subsection (5) of this section and the governing body of the city, port or county does not object under subsection (4) of this section 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 chapter 183. No appeal may be made if the reason for not issuing a preliminary certification is the objection of the governing body of the city, port or county under subsection (4) of this section.

SECTION 30. The amendments to ORS 285C.503 by section 29 of this 2017 Act apply to applications filed under ORS 285C.503 on or after the effective date of this 2017 Act.

SECTION 31. ORS 285B.600 is amended to read: 285B.600. As used in ORS 285B.600 to 285B.620:

(1) "Certified employer" means an eligible employer certified under ORS 285B.605.

(2) "Compensation" has the meaning given that term in ORS 314.610.

(3) "Eligible employee" means a new full-time employee [*whose compensation averages at least 150 percent of the county or state average in annual per employee compensation, whichever is less,*] who is **paid qualifying compensation and is hired** by a certified employer after the employer is certified under ORS 285B.605.

(4) "Eligible employer" means an employer that, in the month in which the employer submits an application under ORS 285B.608:

(a) Has at least 150 employees;

(b) Plans to hire at least 50 [*new full-time*] **eligible** employees in this state [*whose compensation will average at least 150 percent of the county or state average in annual per employee compensation, whichever is less*];

(c) Operates in an industry in the traded sector, as that term is defined in ORS 285A.010; and

(d) Is not a retailer, as that term is defined in ORS 72.8010.

(5) "Estimated incremental Oregon Business Retention and Expansion Program tax revenues" means the Oregon personal income tax revenues that are estimated pursuant to ORS 285B.618 to be substantially equivalent to the amount of tax that eligible employees of an eligible employer will be required to pay under ORS chapter 316 as a result of **quali-**

fying compensation paid to the eligible employees by the eligible employer in the two consecutive tax years beginning with the tax year following the tax year in which the employer receives certification under ORS 285B.605.

(6) "**Qualifying compensation**" means:

(a) **Compensation that averages at least 150 percent of the lesser of the county or state average annual per employee compensation; or**

(b) **If the employees are to be hired in a county that is outside all metropolitan statistical areas, as defined by the most recent federal decennial census, compensation that averages at least 130 percent of the lesser of the county or state average annual per employee compensation.**

SECTION 32. The amendments to ORS 285B.600 by section 31 of this 2017 Act apply to applications for certification submitted under ORS 285B.608 on or after the effective date of this 2017 Act.

SECTION 33. ORS 285C.403 is amended to read:

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

(2) The application shall contain the following information:

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

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

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

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

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

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

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

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

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

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

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

(A) A **qualified rural** county; or

(B) A **county** with chronically low income or chronic unemployment, based on the most recently revised annual data available [*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 285C.409.

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

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

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

FISH SCREENING CREDIT

SECTION 34. Section 11, chapter 913, Oregon Laws 2009, as amended by section 18a, chapter 730, Oregon Laws 2011, is amended to read:

Sec. 11. The State Department of Fish and Wildlife may not issue a preliminary certificate of approval under ORS 315.138 after January 1, [2018] 2024.

UNIT CAPTIONS

SECTION 35. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.

EFFECTIVE DATE

SECTION 36. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Approved by the Governor August 2, 2017

Filed in the office of Secretary of State August 2, 2017

Effective date October 6, 2017