

OR S 1507, Enacted - Final

Oregon

SUMMARY: Makes corrections to provisions that provide for a tax credit for a rural medical practice; limits the amount of credit allowed per taxpayer for a donation to an individual development account; allows for an election to donate surplus refund credit for education funding; makes corrections to provisions for tax credits allowed for alternative energy devices; increases the annual amount of tax credits for certified film production development contributions.~SAME AS:

Legislative History and Analysis

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

01/27/2016 PREFILED

01/27/2016 Filed as Draft 179.

02/01/2016 INTRODUCED.

02/01/2016 To SENATE Committee on FINANCE AND REVENUE.

02/02/2016 Public Hearing Scheduled.

02/02/2016 Public Hearing held.

02/09/2016 Public Hearing held.

02/11/2016 Public Hearing held.

02/16/2016 Public Hearing held.

02/17/2016 Work Session scheduled.

02/17/2016 Public Hearing held.

02/18/2016 Work Session scheduled.

02/18/2016 Public Hearing held.

02/22/2016 From SENATE Committee on FINANCE AND REVENUE: Do pass with amendment.

02/22/2016 Printed A Engrossed Text.

02/23/2016 In SENATE: Second Reading.

02/24/2016 Passed SENATE. *****To HOUSE.

02/25/2016 To HOUSE Committee on REVENUE.

02/26/2016 Public Hearing and Work Session scheduled.

02/29/2016 Public Hearing and Work Session scheduled.

02/29/2016 Public Hearing and Work Session held.

02/29/2016 From HOUSE Committee on REVENUE: Do pass.

03/01/2016 In HOUSE: Second Reading.

03/02/2016 Passed HOUSE.

03/02/2016 Eligible for GOVERNOR'S desk.

03/10/2016 Signed by GOVERNOR.

03/14/2016 Chaptered. Chapter No. 29

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March 10, 2016

Senate Committee on Finance and Revenue

78th OREGON LEGISLATIVE ASSEMBLY--2016 Regular Session

Enrolled

Senate Bill 1507

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CHAPTER 29

AN ACT

Relating to tax credits; creating new provisions; amending ORS 284.367, 284.368, 305.792, 315.271, 315.514, 315.613, 316.116 and 469B.403 and section 6, chapter 739, Oregon Laws 2007; and prescribing an effective date.

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

SECTIONS NOT PERTAINING TO THE FILM INCENTIVE ARE OMITTED.

SECTION 6. ORS 284.367 is amended to read:

284.367. (1) The Oregon Production Investment Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Production Investment Fund shall be credited to the fund.

(2) Moneys in the Oregon Production Investment Fund shall consist of:

- (a) Amounts donated to the fund;
- (b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;
- (c) Other amounts deposited in the fund from any source; and
- (d) Interest earned by the fund.

(3) ~~Ninety-five~~ **Eighty-nine and one-half** percent of moneys in the fund are continuously appropriated to the Oregon Business Development Department for the purposes of making:

(a) Reimbursements to filmmakers **or local media production services companies** under ORS 284.368;

(b) Payments to a tax credit marketer for marketing services provided by the marketer as described in ORS 284.369; and

(c) Refunds described in ORS 315.514 (5).

(4) ~~Five~~ **Seven and one-half** percent of moneys in the fund are continuously appropriated to the department for the purpose of making reimbursements to local filmmakers or local media production services companies under ORS 284.368 (3). Total annual reimbursements to local media production services companies **under this subsection** may not exceed ~~five~~ **seven and one-half** percent of the moneys deposited annually in the fund. On July 1 of each fiscal year, any moneys that remain unexpended or unallocated from the previous fiscal year may be

used by the department for the purpose of making reimbursements to filmmakers **or local media production services companies** under ORS 284.368 (2).

(5) Three percent of moneys in the fund are continuously appropriated to the department for the purpose of making payments to filmmakers under ORS 284.368 (4). Total annual payments to filmmakers under this subsection may not exceed five percent of the moneys deposited annually in the fund. On July 1 of each fiscal year, any moneys that remain unexpended or unallocated from the previous fiscal year may be used by the department for the purpose of making payments to filmmakers under this section. Any excess over five percent that remains unexpended or unallocated shall be used by the department for the purpose of making reimbursements to filmmakers or local media production services companies under ORS 284.368 (2).

~~(5)~~ **(6)** Expenditures from the fund are not subject to ORS 291.232 to 291.260.

SECTION 7. ORS 284.368 is amended to read:

284.368. (1) As used in this section:

(a) "Actual Oregon expenses" means the costs paid in Oregon for principal photography, production or postproduction in Oregon of a film, or for media production services, including but not limited to the purchase or rental cost of equipment, food, lodging, real property and permits and payments made for salaries, wages and benefits for work in Oregon.

(b) "Film" means a television movie or one or more episodes of a single television series, or a movie produced for release to theaters, video or the Internet. "Film" does not include the production of a commercial or one or more segments of a newscast or sporting event.

(c) "Filmmaker" means a person who owns a television or film production company.

(d) "Local filmmaker" means a person who owns a television or film production company that has its principal place of business in this state.

(e) "Local media production project" means, if made or performed by a local media production services company, a single interactive video game or a portion thereof, or postproduction services for a single film.

~~(e)~~ **(f)** "Local media production services company" means a media production services company that has its principal place of business in this state.

~~(f)~~ **(g)** "Media production services" includes postproduction services and interactive video game development. "Media production services" does not include the production of a commercial or one or more segments of a newscast or sporting event.

~~(g)~~ **(h)** "Media production services company" means a person who is engaged in media production services.

(i) "Portland metropolitan zone" means the area within a 30-mile radius of the center of the Burnside Bridge in Portland.

~~(h)~~ **(j)** "Resident of this state" has the meaning given that term in ORS 316.027.

(2)(a) The Oregon Business Development Department may reimburse a filmmaker **or local media production services company** for a portion of the actual Oregon expenses incurred by the filmmaker **or local media production services company** .

(b) Maximum reimbursement for a single film **or a single local media production project** shall be the total of:

(A) 10 percent of payments made for employee salaries, wages and benefits for work done in Oregon; and

(B) 20 percent of all other actual Oregon expenses.

(c) Notwithstanding paragraph (b) of this subsection, maximum reimbursement for a single film may not exceed 50 percent of total moneys received by the Oregon Production Investment Fund during the biennium in which the actual Oregon expenses are incurred.

~~(c)~~ **(d)** To qualify for reimbursement under this subsection, total actual Oregon expenses for ~~the~~ **a film or a local media production project** must equal or exceed \$1 million.

(3)(a) The department may reimburse a local filmmaker or local media production services company for all or a portion of the actual Oregon expenses, up to \$1 million, incurred by the local filmmaker or local media production services company.

(b) To qualify for reimbursement under this subsection:

(A) Total actual Oregon expenses paid for the film or media production services must be at least \$75,000;

(B) The local filmmaker or local media production services company must have spent 80 percent of the film's payroll on employees who are residents of this state; and

(C) The local filmmaker or local media production services company must have employed or contracted with a public accountant certified under ORS 673.040 for the provision of payroll services.

(4) In combination with the reimbursements allowed under subsections (2) and (3) of this section, the department may make an additional payment to a filmmaker for one of the following:

(a) A travel and living expenses rebate of \$200 per employee per day, for any day that a film is shot entirely outside the Portland metropolitan zone, not to exceed \$10,000 per day or \$50,000 per film; or

(b) An increase of 10 percent of the amount otherwise allowable under subsections (2) and (3) this section, if for at least six days and at least one day more than half of its total shoot days in Oregon the film is shot entirely outside the Portland metropolitan zone.

~~(4)~~ **(5)** Reimbursement under this section shall be made from moneys credited to or deposited in the Oregon Production Investment Fund during the biennium in which the actual Oregon expenses were paid or any prior biennium. A reimbursement may not be made to the extent funds are not available in the fund to make the reimbursement.

~~(5)(a)~~ **(6)(a)** Total actual Oregon expenses supporting a claim for reimbursement under this section must be verified by the Oregon Film and Video Office. The filmmaker or local media production services company must submit to the office proof of the actual Oregon expenses. The proof must include any documentation that may be required by the office in its discretion to verify the actual Oregon expenses.

(b) The office may charge the filmmaker or local media production services company for costs reasonably incurred to verify the actual Oregon expenses, including but not limited to the cost for a review or audit of the supporting documentation by an accountant or auditor. The office may require the department to deduct the costs incurred by the office in performing its review or audit from any reimbursement made to the filmmaker or local media production services company under this section.

(c) The office may adopt rules that establish a procedure for the submission and verification of actual Oregon expenses.

SECTION 8. ORS 315.514 is amended to read:

315.514. (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 a taxpayer for certified film production development contributions made by the taxpayer during the tax year to the Oregon Production Investment Fund established under ORS 284.367.

(2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office, conduct an auction of tax credits under this section. The department may conduct the auction in the manner that it determines is best suited to maximize the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the department for the actual costs incurred by the department in administering an

auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The department shall deposit net receipts from the auction required under this section in the Oregon Production Investment Fund.

(b) The Oregon Film and Video Office shall adopt rules in order to achieve the following goals:

(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of ~~– \$10–~~ **\$12** million are certified for each fiscal year;

(B) Maximize income and excise tax revenues that are retained by the State of Oregon for state operations; and

(C) Provide the necessary financial incentives for taxpayers to make contributions, taking into consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

(3) Contributions made under this section shall be deposited in the Oregon Production Investment Fund.

(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed ~~–\$10–~~ **\$12** million for the fiscal year in which certification is made.

(b) The Oregon Film and Video Office and the department are not liable, and a refund of a contributed amount need not be made, if a taxpayer who has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

(5) To the extent the Oregon Film and Video Office does not certify contributed amounts as eligible for a tax credit under this section, the taxpayer may request a refund of the amount the taxpayer contributed, and the office shall refund that amount.

(6)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under this section may not exceed the tax liability of the taxpayer and may not be carried over to another tax year.

(b) 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.

(c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which the credit would otherwise be allowed begins on or after January 1, 2024.

(7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer, the amount shall be allowed without proration under ORS 316.117.

(8) If the amount of contribution for which a tax credit certification is made is allowed as a deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable income for Oregon tax purposes.

SECTION 9. ORS 315.514, as amended by section 8 of this 2016 Act, is amended to read:

315.514. (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 a taxpayer for certified film production development contributions made by the taxpayer during the tax year to the Oregon Production Investment Fund established under ORS 284.367.

(2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office, conduct an auction of tax credits under this section. The department may conduct the auction in the manner that it determines is best suited to maximize the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the department for the actual costs incurred by the department in administering an

auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The department shall deposit net receipts from the auction required under this section in the Oregon Production Investment Fund.

(b) The Oregon Film and Video Office shall adopt rules in order to achieve the following goals:

(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of ~~– \$12~~ **\$14** million are certified for each fiscal year;

(B) Maximize income and excise tax revenues that are retained by the State of Oregon for state operations; and

(C) Provide the necessary financial incentives for taxpayers to make contributions, taking into consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

(3) Contributions made under this section shall be deposited in the Oregon Production Investment Fund.

(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed ~~–\$12~~ **\$14** million for the fiscal year in which certification is made.

(b) The Oregon Film and Video Office and the department are not liable, and a refund of a contributed amount need not be made, if a taxpayer who has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

(5) To the extent the Oregon Film and Video Office does not certify contributed amounts as eligible for a tax credit under this section, the taxpayer may request a refund of the amount the taxpayer contributed, and the office shall refund that amount.

(6)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under this section may not exceed the tax liability of the taxpayer and may not be carried over to another tax year.

(b) 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.

(c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which the credit would otherwise be allowed begins on or after January 1, 2024.

(7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer, the amount shall be allowed without proration under ORS 316.117.

(8) If the amount of contribution for which a tax credit certification is made is allowed as a deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable income for Oregon tax purposes.

SECTION 10. (1) The amendments to ORS 315.514 by section 8 of this 2016 Act apply to fiscal years beginning on or after July 1, 2016, and before July 1, 2017.

(2) The amendments to ORS 284.367, 284.368 and 315.514 by sections 6, 7 and 9 of this 2016 Act apply to fiscal years beginning on or after July 1, 2017.

SECTIONS NOT PERTAINING TO THE FILM INCENTIVE ARE OMITTED.

SECTION 17. This 2016 Act takes effect on the 91st day after the date on which the 2016 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

