

A-Engrossed House Bill 3166

Ordered by the House April 17
Including House Amendments dated April 17

Sponsored by Representative HOLVEY, Senator BEYER

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.

[Establishes Oregon Energy and Climate Board as oversight and advisory body for State Department of Energy.]

[Modifies state energy policy.]

[Modifies general duties of department.]

[Requires department and board to develop statewide strategic energy plan. Requires department to adopt plan no later than January 1, 2020. Requires department to present draft plan to Legislative Assembly no later than September 15, 2019. Requires board to periodically review and recommend to department updates for plan.]

[Requires board and department to provide biennial comprehensive energy report to Legislative Assembly.]

[Adds Oregon Business Development Department to agencies represented by ex officio nonvoting members of Oregon Global Warming Commission. Requires nonlegislative ex officio nonvoting members of commission to regularly report and make certain recommendations to commission.]

[Directs commission to make certain recommendations related to energy and climate to agencies, Governor and Legislative Assembly.]

[Becomes operative July 1, 2018.]

Modifies cost recovery formula for site certificate holders. Changes calculated share of annual energy resource supplier assessment below which energy resource supplier is exempt from payment of assessment from \$250 to \$2,500. Applies to annual fees due on and after July 1, 2018.

Establishes Energy Facility Siting Task Force.

Sunsets task force on December 31, 2018.

Transfers duties, functions and powers of State Department of Energy related to issuance of loans for small scale local energy projects to Oregon Business Development Department. Becomes operative on January 1, 2018.

Requires Oregon Business Development Department to study commercial needs in state for loans for small scale local energy projects. Requires Oregon Business Development Department to initially complete study no later than September 15, 2018.

Requires loan contracts to make loans payable in full in event that Director of Oregon Business Development Department declares default of payment of loan or project that is subject of loan fails to meet standards and criteria for projects. Becomes operative on January 1, 2018.

Abolishes Energy Project Supplemental Fund, Energy Revenue Bond Repayment Fund, Energy Project Bond Loan Fund, Alternative Fuel Vehicle Revolving Fund and Jobs, Energy and School Fund. Transfers moneys remaining in abolished funds to Small Scale Local Energy Project Administration and Bond Sinking Fund.

Appropriates moneys from General Fund to Oregon Business Development Department for purposes related to loans for small scale local energy projects.

Repeals energy efficiency and sustainable technology loan program.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1

2 Relating to the State Department of Energy; creating new provisions; amending ORS 223.680,

3 291.445, 469.421, 470.050, 470.060, 470.080, 470.090, 470.100, 470.110, 470.120, 470.130, 470.135,

4 470.140, 470.145, 470.150, 470.160, 470.170, 470.180, 470.190, 470.200, 470.210, 470.230, 470.270,

5 470.300, 470.310, 470.810, 470.815 and 757.247; repealing ORS 469.960, 469.961, 469.962, 469.963,

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.

1 469.964, 469.965, 469.966, 470.070, 470.500, 470.505, 470.510, 470.515, 470.520, 470.525, 470.530,
2 470.535, 470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575, 470.580, 470.585,
3 470.590, 470.595, 470.600, 470.605, 470.610, 470.615, 470.620, 470.630, 470.635, 470.640, 470.645,
4 470.650, 470.655, 470.660, 470.665, 470.670, 470.675, 470.680, 470.685, 470.690, 470.695, 470.700,
5 470.710, 470.715, 470.720, 701.108 and 701.119; and prescribing an effective date.

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

7
8 **COST RECOVERY**

9
10 **SECTION 1.** ORS 469.421, as amended by section 71, chapter 117, Oregon Laws 2016, is
11 amended to read:

12 469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent,
13 a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370,
14 a request for an expedited review under ORS 469.373, a request for the State Department of Energy
15 to approve a pipeline under ORS 469.405 (3), an application for a site certificate or a request to
16 amend a site certificate shall pay all expenses incurred by the Energy Facility Siting Council and
17 the department related to the review and decision of the council. Expenses under this subsection
18 may include:

19 (a) Legal expenses;

20 (b) Expenses incurred in processing and evaluating the application;

21 (c) Expenses incurred in issuing a final order or site certificate;

22 (d) Expenses incurred in commissioning an independent study under ORS 469.360;

23 (e) Compensation paid to a state agency, a tribe or a local government pursuant to a written
24 contract or agreement relating to compensation as provided for in ORS 469.360; or

25 (f) Expenses incurred by the council in making rule changes that are specifically required and
26 related to the particular site certificate.

27 (2) Every person submitting a notice of intent to file for a site certificate, a request for ex-
28 emption or a request for expedited review shall pay the fee required under the fee schedule estab-
29 lished under ORS 469.441 to the department prior to submitting the notice or request to the council.
30 To the extent possible, the full cost of the evaluation shall be paid from the fee paid under this
31 subsection. However, if costs of the evaluation exceed the fee, the person submitting the notice or
32 request shall pay any excess costs shown in an itemized statement prepared by the council. In no
33 event shall the council incur evaluation expenses in excess of 110 percent of the fee initially paid
34 unless the council provides prior notification to the applicant and a detailed projected budget the
35 council believes necessary to complete the project. If costs are less than the fee paid, the excess
36 shall be refunded to the person submitting the notice or request.

37 (3) Before submitting a site certificate application, the applicant shall request from the depart-
38 ment an estimate of the costs expected to be incurred in processing the application. The department
39 shall inform the applicant of that amount and require the applicant to make periodic payments of
40 the costs pursuant to a cost reimbursement agreement. The cost reimbursement agreement shall
41 provide for payment of 25 percent of the estimated costs when the applicant submits the application.
42 If costs of the evaluation exceed the estimate, the applicant shall pay any excess costs shown in an
43 itemized statement prepared by the council. In no event shall the council incur evaluation expenses
44 in excess of 110 percent of the fee initially estimated unless the council provided prior notification
45 to the applicant and a detailed projected budget the council believes is necessary to complete the

1 project. If costs are less than the fee paid, the council shall refund the excess to the applicant.

2 (4) Any person who is delinquent in the payment of fees under subsections (1) to (3) of this
3 section shall be subject to the provisions of subsection (11) of this section.

4 (5)(a) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual
5 fee, due every July 1 following issuance of a site certificate.

6 (b) For each fiscal year, upon approval of the department's budget authorization by an odd-
7 numbered year regular session of the Legislative Assembly or as revised by the Emergency Board
8 meeting in an interim period or by the Legislative Assembly meeting in special session or in an
9 even-numbered year regular session, the Director of the State Department of Energy promptly shall
10 enter an order establishing an annual fee based on the amount of revenues that the director esti-
11 mates is needed to fund:

12 (A) The cost of ensuring that the facility is being operated consistently with the terms and
13 conditions of the site certificate, any order issued by the department under ORS 469.405 (3) and any
14 applicable health or safety standards; **and**

15 (B) **The general costs of the council and the department incurred in the support of**
16 **council activities that cannot be allocated to an individual, licensed facility or to a person for**
17 **purposes of a notice of intent, request or application as described in subsection (1) of this**
18 **section.**

19 (c) In determining *[this cost]* **costs under paragraph (b) of this subsection**, the director shall
20 include both:

21 (A) The actual direct cost to be incurred by the council and the department to ensure that the
22 facility is being operated consistently with the terms and conditions of the site certificate, any order
23 issued by the department under ORS 469.405 (3) and any applicable health or safety standards[.]; and

24 (B) The general costs to be incurred by the council and the department to ensure that all cer-
25 tificated facilities are being operated consistently with the terms and conditions of the site certif-
26 icates, any orders issued by the department under ORS 469.405 (3) and any applicable health or
27 safety standards that cannot be allocated to an individual, licensed facility. *[Not more than 35 per-*
28 *cent of the annual fee charged each facility shall be for the recovery of these general costs.]*

29 (d) **The director shall:**

30 (A) **Adopt by rule a formula for apportioning among holders of site certificates the gen-**
31 **eral costs of the council and the department described in paragraph (c)(B) of this subsection;**
32 **and**

33 (B) **Calculate** the fees for direct costs *[shall reflect]* **in a manner that reflects** the size and
34 complexity of the facility, the anticipated costs of ensuring compliance with site certificate condi-
35 tions, the anticipated costs of conducting site inspections and compliance reviews as described in
36 ORS 469.430, and the anticipated costs of compensating state agencies and local governments for
37 participating in site inspection and compliance enforcement activities at the request of the council.

38 (6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for
39 the remaining portion of the **fiscal** year. The amount of the fee shall be set at *[the cost of regulating*
40 *the facility during the remaining portion of the year determined in the same manner as the annual*
41 *fee.]* **an amount necessary to fund the cost of ensuring that the facility is being operated**
42 **consistently with the terms and conditions of the site certificate, any order issued by the**
43 **department under ORS 469.405 (3) and any applicable health or safety standards.**

44 (7) When the actual costs of regulation incurred by the council and the department for the year,
45 including that portion of the general regulation costs that have been allocated to a particular fa-

1 cility, are less than the annual fees for that facility, the unexpended balance shall be refunded to
2 the site certificate holder. When the actual regulation costs incurred by the council and the de-
3 partment for the year, including that portion of the general regulation costs that have been allo-
4 cated to a particular facility, are projected to exceed the annual fee for that facility, the director
5 may issue an order revising the annual fee.

6 (8)(a) In addition to any other fees required by law, each energy resource supplier shall pay to
7 the department annually its share of an assessment to fund the programs and activities of the
8 council and the department.

9 (b) Prior to filing an agency request budget under ORS 291.208 for purposes related to the
10 compilation and preparation of the Governor's budget under ORS 291.216, the director shall deter-
11 mine the projected aggregate amount of revenue to be collected from energy resource suppliers un-
12 der this subsection that will be necessary to fund the programs and activities of the council and the
13 department for each fiscal year of the upcoming biennium. After making that determination, the di-
14 rector shall convene a public meeting with representatives of energy resource suppliers and other
15 interested parties for the purpose of providing energy resource suppliers with a full accounting of:

16 (A) The projected revenue needed to fund each department program or activity; and

17 (B) The projected allocation of moneys derived from the assessment imposed under this sub-
18 section to each department program or activity.

19 (c) Upon approval of the budget authorization of the council and the department by an odd-
20 numbered year regular session of the Legislative Assembly, the director shall promptly enter an
21 order establishing the amount of revenues required to be derived from an assessment pursuant to
22 this subsection in order to fund programs and activities that the council and the department are
23 charged with administering and authorized to conduct under the laws of this state, including those
24 enumerated in ORS 469.030, for the first fiscal year of the forthcoming biennium. On or before June
25 1 of each even-numbered year, the director shall enter an order establishing the amount of revenues
26 required to be derived from an assessment pursuant to this subsection in order to fund the programs
27 and activities that the council and the department are charged with administering and authorized
28 to conduct under the laws of this state, including those enumerated in ORS 469.030, for the second
29 fiscal year of the biennium. The order shall take into account any revisions to the biennial budget
30 of the council and the department made by the Emergency Board meeting in an interim period or
31 by the Legislative Assembly meeting in special session or in an even-numbered year regular session.

32 (d) Each order issued by the director pursuant to paragraph (c) of this subsection shall allocate
33 the aggregate assessment set forth in the order to energy resource suppliers in accordance with
34 paragraph (e) of this subsection.

35 (e) The amount assessed to an energy resource supplier shall be based on the ratio which that
36 supplier's annual gross operating revenue derived within this state in the preceding calendar year
37 bears to the total gross operating revenue derived within this state during that year by all energy
38 resource suppliers. The assessment against an energy resource supplier shall not exceed 0.375 per-
39 cent of the supplier's gross operating revenue derived within this state in the preceding calendar
40 year. The director shall exempt from payment of an assessment any individual energy resource
41 supplier whose calculated share of the annual assessment is less than [~~\$250~~] **\$2,500**.

42 (f) The director shall send each energy resource supplier subject to assessment pursuant to this
43 subsection a copy of each order issued by registered or certified mail or through use of an electronic
44 medium with electronic receipt verification. The amount assessed to the energy resource supplier
45 pursuant to the order shall be considered to the extent otherwise permitted by law a government-

1 imposed cost and recoverable by the energy resource supplier as a cost included within the price
2 of the service or product supplied.

3 (g) The amounts assessed to individual energy resource suppliers pursuant to paragraph (e) of
4 this subsection shall be paid to the department as follows:

5 (A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days
6 following adjournment sine die of the odd-numbered year regular session of the Legislative Assem-
7 bly; and

8 (B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July
9 1 of each even-numbered year or 90 days following adjournment sine die of the even-numbered year
10 regular session of the Legislative Assembly, whichever is later.

11 (h) An energy resource supplier shall provide the director, on or before May 1 of each year, a
12 verified statement showing its gross operating revenues derived within the state for the calendar
13 or fiscal year that was used by the energy resource supplier for the purpose of reporting federal
14 income taxes for the preceding calendar or fiscal year. The statement must be in the form prescribed
15 by the director and is subject to audit by the director. The statement must include an entry showing
16 the total operating revenue derived by petroleum suppliers from fuels sold that are subject to the
17 requirements of Article IX, section 3a, of the Oregon Constitution, and ORS 319.020 with reference
18 to aircraft fuel and motor vehicle fuel, and ORS 319.530. The director may grant an extension of not
19 more than 15 days for the requirements of this subsection if:

20 (A) The energy supplier makes a showing of hardship caused by the deadline;

21 (B) The energy supplier provides reasonable assurance that the energy supplier can comply with
22 the revised deadline; and

23 (C) The extension of time does not prevent the council or the department from fulfilling its
24 statutory responsibilities.

25 (i) As used in this section:

26 (A) "Energy resource supplier" means an electric utility, natural gas utility or petroleum sup-
27 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-
28 ducts in Oregon.

29 (B) "Gross operating revenue" means gross receipts from sales or service made or provided
30 within this state during the regular course of the energy supplier's business, but does not include
31 either revenue derived from interutility sales within the state or revenue received by a petroleum
32 supplier from the sale of fuels that are subject to the requirements of Article IX, section 3a, of the
33 Oregon Constitution, or ORS 319.020 or 319.530.

34 (C) "Petroleum supplier" has the meaning given that term in ORS 469.020.

35 (j) In determining the amount of revenues that must be derived from any class of energy re-
36 source suppliers by assessment pursuant to this subsection, the director shall take into account all
37 other known or readily ascertainable sources of revenue to the council and department, including,
38 but not limited to, fees imposed under this section and federal funds, and may take into account any
39 funds previously assessed pursuant to ORS 469.420 (1979 Replacement Part) or section 7, chapter
40 792, Oregon Laws 1981.

41 (k) Orders issued by the director pursuant to this section shall be subject to judicial review
42 under ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an en-
43 ergy resource supplier to pay amounts assessed to it on or before the statutory deadline.

44 (9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal
45 power plant or nuclear installation within this state shall pay to the department annually on July

1 an assessment in an amount determined by the director to be necessary to fund the activities of
2 the state and the counties associated with emergency preparedness for a nuclear fueled thermal
3 power plant or nuclear installation. The assessment shall not exceed \$461,250 per year. Moneys
4 collected as assessments under this subsection are continuously appropriated to the department for
5 this purpose.

6 (b) The department shall maintain and cause other state agencies and counties to maintain time
7 and billing records for the expenditure of any fees collected from an operator of a nuclear fueled
8 thermal power plant under paragraph (a) of this subsection.

9 (10) Reactors operated by a college, university or graduate center for research purposes and
10 electric utilities not connected to the Northwest Power Grid are exempt from the fee requirements
11 of subsections (5), (8) and (9) of this section.

12 (11)(a) All fees assessed by the director against holders of site certificates for facilities that have
13 an installed capacity of 500 megawatts or greater may be paid in several installments, the schedule
14 for which shall be negotiated between the director and the site certificate holder.

15 (b) Energy resource suppliers or applicants or holders of a site certificate who fail to pay a fee
16 provided under subsections (1) to (9) of this section after it is due and payable shall pay, in addition
17 to that fee, a penalty of two percent of the fee a month for the period that the fee is past due. Any
18 payment made according to the terms of a schedule negotiated under paragraph (a) of this sub-
19 section shall not be considered past due. The director may bring an action to collect an unpaid fee
20 or penalty in the name of the State of Oregon in a court of competent jurisdiction. The court may
21 award reasonable attorney fees to the director if the director prevails in an action under this sub-
22 section. The court may award reasonable attorney fees to a defendant who prevails in an action
23 under this subsection if the court determines that the director had no objectively reasonable basis
24 for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

25 **SECTION 2. The amendments to ORS 469.421 by section 1 of this 2017 Act apply to annual**
26 **fees due on or after July 1, 2018.**

27
28 **ENERGY FACILITY SITING TASK FORCE**

29
30 **SECTION 3. (1) The Energy Facility Siting Task Force is established.**

31 **(2) The task force consists of nine members appointed as follows:**

32 **(a) The President of the Senate shall appoint two members from among members of the**
33 **Senate.**

34 **(b) The Speaker of the House of Representatives shall appoint two members from among**
35 **members of the House of Representatives.**

36 **(c) The Governor shall appoint five members who represent the interests of persons af-**
37 **ected by the energy facility siting process.**

38 **(3) The task force shall:**

39 **(a) Review the statutes and regulations that govern the jurisdiction of the Energy Fa-**
40 **cility Siting Council and, upon such review, develop recommendations regarding:**

41 **(A) Proposed changes to what constitutes an “energy facility,” as that term is defined in**
42 **ORS 469.300 (11)(a)(A)(iii), (D) and (J), that may serve to better align the jurisdiction of the**
43 **council with the needs and interests of this state and local governments;**

44 **(B) Ways to improve public participation in the energy facility siting process; and**

45 **(C) Ways to expedite the process for receiving a site certificate for constructing or ex-**

1 **panding an energy facility subject to the jurisdiction of the council; and**

2 **(b) Develop recommendations for defining or otherwise clarifying in statute the term**
3 **“single energy facility” as related to energy facilities as defined in ORS 469.300 (11)(a)(D) and**
4 **(J), in order to better clarify when an electric power generating plant that produces power**
5 **from solar photovoltaic, geothermal or wind energy qualifies as an “energy facility” for**
6 **purposes of ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.**

7 **(4) Members of the Legislative Assembly appointed to the task force are nonvoting**
8 **members of the task force and may act in an advisory capacity only.**

9 **(5) A majority of the voting members of the task force constitutes a quorum for the**
10 **transaction of business.**

11 **(6) Official action by the task force requires the approval of a majority of the voting**
12 **members of the task force.**

13 **(7) The task force shall elect one of its members to serve as chairperson.**

14 **(8) If there is a vacancy for any cause, the appointing authority shall make an appoint-**
15 **ment to become immediately effective.**

16 **(9) The task force shall meet at times and places specified by the call of the chairperson**
17 **or of a majority of the voting members of the task force.**

18 **(10) The task force may adopt rules necessary for the operation of the task force.**

19 **(11) The task force shall submit a report in the manner provided by ORS 192.245, and**
20 **shall include recommendations for legislation, to an interim committee of the Legislative**
21 **Assembly related to energy no later than September 15, 2018.**

22 **(12) The Legislative Policy and Research Director shall provide staff support to the task**
23 **force.**

24 **(13) Notwithstanding ORS 171.072, members of the task force who are members of the**
25 **Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volun-**
26 **teers on the task force. Other members of the task force are not entitled to compensation**
27 **or reimbursement for expenses and serve as volunteers on the task force.**

28 **(14) All agencies of state government, as defined in ORS 174.111, are directed to assist**
29 **the task force in the performance of the task force’s duties and, to the extent permitted by**
30 **laws relating to confidentiality, to furnish information and advice the members of the task**
31 **force consider necessary to perform their duties.**

32 **SECTION 4. Section 3 of this 2017 Act is repealed on December 31, 2018.**

33
34 **TRANSFER OF DUTIES, FUNCTIONS AND POWERS**
35 **RELATED TO SMALL SCALE LOCAL ENERGY PROJECTS**
36

37 **SECTION 5. The duties, functions and powers of the State Department of Energy related**
38 **to the issuance of loans for small scale local energy projects under ORS chapter 470 are**
39 **imposed upon, transferred to and vested in the Oregon Business Development Department.**
40

41 **RECORDS, PROPERTY, POSITIONS**
42

43 **SECTION 6. (1) The Director of the State Department of Energy shall:**

44 **(a) Deliver to the Oregon Business Development Department all records and property**
45 **within the jurisdiction of the director that relate to the duties, functions and powers trans-**

1 referred by section 5 of this 2017 Act; and

2 (b) Transfer to the Oregon Business Development Department responsibility for those
3 positions dedicated primarily to the exercise of the duties, functions and powers transferred
4 by section 5 of this 2017 Act.

5 (2) The Director of the Oregon Business Development Department shall take possession
6 of the records and property and shall take responsibility for the positions dedicated to the
7 exercise of the duties, functions and powers transferred by section 5 of this 2017 Act.

8 (3) The Governor shall resolve any dispute between the State Department of Energy and
9 the Oregon Business Development Department relating to transfers of records, property and
10 positions under this section, and the Governor's decision is final.

11
12 **UNEXPENDED REVENUES**

13
14 **SECTION 7.** (1) The unexpended balances of amounts authorized to be expended by the
15 State Department of Energy for the biennium beginning July 1, 2017, from revenues dedi-
16 cated, continuously appropriated, appropriated or otherwise made available for the purpose
17 of administering and enforcing the duties, functions and powers transferred by section 5 of
18 this 2017 Act are transferred to and are available for expenditure by the Oregon Business
19 Development Department for the biennium beginning July 1, 2017, for the purpose of admin-
20 istering and enforcing the duties, functions and powers transferred by section 5 of this 2017
21 Act.

22 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
23 expenditures by the State Department of Energy remain applicable to expenditures by the
24 Oregon Business Development Department under this section.

25
26 **ACTION, PROCEEDING, PROSECUTION**

27
28 **SECTION 8.** The transfer of duties, functions and powers to the Oregon Business Devel-
29 opment Department by section 5 of this 2017 Act does not affect any action, proceeding or
30 prosecution involving or with respect to the duties, functions and powers begun before and
31 pending at the time of the transfer, except that the Oregon Business Development Depart-
32 ment is substituted for the State Department of Energy in the action, proceeding or prose-
33 cution.

34
35 **LIABILITY, DUTY, OBLIGATION**

36
37 **SECTION 9.** (1) Nothing in sections 5 to 11 of this 2017 Act or in the amendments to
38 statutes by sections 16 to 39 of this 2017 Act relieves a person of a liability, duty or obligation
39 accruing under or with respect to the duties, functions and powers transferred by section 5
40 of this 2017 Act. The Oregon Business Development Department may undertake the col-
41 lection or enforcement of any such liability, duty or obligation.

42 (2) The rights and obligations of the State Department of Energy legally incurred under
43 contracts, leases and business transactions executed, entered into or begun before the op-
44 erative date of section 5 of this 2017 Act accruing under or with respect to the duties, func-
45 tions and powers transferred by section 5 of this 2017 Act are transferred to the Oregon

1 **Business Development Department. For the purpose of succession to these rights and obli-**
2 **gations, the Oregon Business Development Department is a continuation of the State De-**
3 **partment of Energy and not a new authority.**

4
5 **RULES**
6

7 **SECTION 10. Notwithstanding the transfer of duties, functions and powers by section 5**
8 **of this 2017 Act, the rules of the State Department of Energy with respect to such duties,**
9 **functions or powers that are in effect on the operative date of section 5 of this 2017 Act**
10 **continue in effect until superseded or repealed by rules of the Oregon Business Development**
11 **Department. References in the rules of the State Department of Energy to the State De-**
12 **partment of Energy or an officer or employee of the State Department of Energy are con-**
13 **sidered to be references to the Oregon Business Development Department or an officer or**
14 **employee of the Oregon Business Development Department.**

15 **SECTION 11. Whenever, in any uncodified law or resolution of the Legislative Assembly**
16 **or in any rule, document, record or proceeding authorized by the Legislative Assembly, in**
17 **the context of the duties, functions and powers transferred by section 5 of this 2017 Act,**
18 **reference is made to the State Department of Energy, or an officer or employee of the State**
19 **Department of Energy whose duties, functions or powers are transferred by section 5 of this**
20 **2017 Act, the reference is considered to be a reference to the Oregon Business Development**
21 **Department or an officer or employee of the Oregon Business Development Department who**
22 **by this 2017 Act is charged with carrying out the duties, functions and powers.**

23
24 **NEEDS STUDY**
25

26 **SECTION 12. Section 13 of this 2017 Act is added to and made a part of ORS chapter 470.**

27 **SECTION 13. (1) The Oregon Business Development Department shall conduct a study**
28 **to determine the commercial needs in this state for loans for small scale local energy**
29 **projects. The purposes of the study must be to identify the highest and best uses of funds**
30 **available for the issuance of loans for small scale local energy projects.**

31 **(2) The Director of the Oregon Business Development Department shall utilize the in-**
32 **formation developed through the study required by this section in adopting rules under ORS**
33 **470.080.**

34 **(3) The department may periodically update the information developed through the study**
35 **required by this section, as necessary, to account for changes in the commercial needs in**
36 **this state for loans for small scale local energy projects.**

37 **SECTION 14. The Oregon Business Development Department shall initially complete the**
38 **study required by section 13 of this 2017 Act, and shall report the findings of the study to**
39 **the Governor and to the appropriate interim committees of the Legislative Assembly in the**
40 **manner required under ORS 192.245, no later than September 15, 2018.**

41 **SECTION 15. Section 14 of this 2017 Act is repealed on December 31, 2018.**

42
43 **AMENDMENTS TO STATUTES**
44

45 **SECTION 16. ORS 470.050 is amended to read:**

1 470.050. As used in this chapter, unless the context requires otherwise:

2 (1) "Alternative fuel project" means:

3 (a) Equipment, including vehicles that are not used primarily for personal, family or household
4 purposes, that is modified or acquired directly from a factory and that:

5 (A) Uses an alternative fuel, including **but not limited to** electricity, biofuel, gasohol with at
6 least 20 percent denatured alcohol content, hydrogen, hythane, methane, methanol, natural gas[,]
7 **or** propane [*or any other fuel approved by the Director of the State Department of Energy*]; and

8 (B) Produces lower exhaust emissions or is more energy efficient than equivalent equipment fu-
9 eled by gasoline or diesel; and

10 (b) A facility, including a fueling station, or equipment necessary to produce alternative fuel or
11 operate equipment that uses an alternative fuel.

12 (2) "Applicant" means an applicant for a loan to construct a small scale local energy project.

13 [(3) "*Base efficiency package*" means the package of energy efficiency upgrades or renewable energy
14 projects for a property that, when energy savings, project repayment costs, tax or other incentives, loan
15 offset grants and other relevant economic factors are considered, is estimated to not increase the utility
16 bill of the customer over the loan repayment term.]

17 [(4) "*Committee*" means the Small Scale Local Energy Project Advisory Committee created under
18 ORS 470.070.]

19 [(5)] (3) "Cooperative" means a cooperative corporation organized under ORS chapter 62.

20 [(6) "*Director*" means the Director of the State Department of Energy appointed under ORS
21 469.040.]

22 [(7)] (4) "Eligible federal agency" means a federal agency or public corporation created by the
23 federal government that proposes to use a loan for a small scale local energy project. "Eligible
24 federal agency" does not include a federal agency or public corporation created by the federal
25 government that proposes to use a loan for a small scale local energy project to generate electricity
26 for sale.

27 [(8)] (5) "Eligible state agency" means a state officer, board, commission, department, institution,
28 branch or agency of the state whose costs are paid wholly or in part from funds held in the State
29 Treasury.

30 [(9) "*Energy efficiency and sustainable technology loan*" means a loan for a small scale local en-
31 ergy project that is repayable by means of:]

32 [(a) A charge included with the participant's utility customer account billing; or]

33 [(b) An alternative repayment method identified by the department and the borrower and specified
34 in the loan agreement.]

35 [(10) "*Energy Project Bond Loan Fund*" means the fund established under ORS 470.580.]

36 [(11) "*Energy Project Supplemental Fund*" means the fund established under ORS 470.570.]

37 [(12) "*Energy Revenue Bond Repayment Fund*" means the fund established under ORS 470.585.]

38 [(13) "*Energy savings projection*" means an examination of the energy performance and site char-
39 acteristics of a property that, at a minimum, identifies:]

40 [(a) A base efficiency package; and]

41 [(b) Any additional optional measures that a customer is able to repay and that the sustainable
42 energy project manager believes to be feasible for the site.]

43 [(14) "*Jobs, Energy and Schools Fund*" means the fund established under ORS 470.575.]

44 [(15)] (6) "Loan" includes the purchase or other acquisition of evidence of indebtedness and
45 money used for the purchase or other acquisition of evidence of indebtedness.

1 [(16)] (7) “Loan contract” means the evidence of indebtedness and all instruments used in the
2 purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or
3 municipal corporations that are tax exempt entities, a loan contract may include a lease purchase
4 agreement with respect to personal property.

5 [(17) “Loan offset grant” means moneys from the Jobs, Energy and Schools Fund that are used to
6 help offset the initial project costs or loan payments for energy efficiency, renewable energy and energy
7 conservation projects.]

8 [(18) “Loan repayment charge” means an amount charged to a utility customer account through
9 on-bill financing as a mechanism for the repayment of an energy efficiency and sustainable technology
10 loan.]

11 [(19)] (8) “Municipal corporation” has the meaning given in ORS 297.405 and also includes any
12 Indian tribe or authorized Indian tribal organization or any combination of two or more of these
13 tribes or organizations acting jointly in connection with a small scale local energy project.

14 [(20) “On-bill financing” means a mechanism for collecting the repayment of an energy efficiency
15 and sustainable technology loan through a utility customer account billing system.]

16 [(21) “Optional package” means measures for promoting energy efficiency or the use of renewable
17 energy:]

18 [(a) That are in addition to the measures described in the customer’s base efficiency package;]

19 [(b) For which a customer has the ability to repay; and]

20 [(c) That the sustainable energy project manager believes to be feasible for the site.]

21 [(22)] (9) “Oregon business” means a sole proprietorship, partnership, company, cooperative,
22 corporation or other form of business entity that is organized or authorized to do business under
23 Oregon law for profit.

24 [(23) “Primary contractor” means a contractor that:]

25 [(a) Has entered into a contract with an owner of property for which a proposed small scale local
26 energy project will be located;]

27 [(b) Is responsible for the completion of the small scale local energy project;]

28 [(c) Undertakes to complete the small scale local energy project; and]

29 [(d) Is responsible for any subcontractors performing work on the small scale local energy
30 project.]

31 [(24) “Public Purpose Fund Administrator” means the entity designated by the Public Utility
32 Commission to administer moneys collected by a company through the public purpose charge described
33 under ORS 757.612.]

34 [(25)] (10) “Recycling project” means a facility or equipment that converts waste into a new and
35 usable product.

36 [(26)] (11) “Small business” means:

37 (a) An Oregon business that is:

38 (A) A retail or service business employing 50 or fewer persons at the time the loan is made; or

39 (B) An industrial or manufacturing business employing 200 or fewer persons at the time the loan
40 is made; or

41 (b) An Oregon subsidiary of a sole proprietorship, partnership, company, cooperative, corpo-
42 ration or other form of business entity for which the total number of employees for both the sub-
43 sidiary and the parent sole proprietorship, partnership, company, cooperative, corporation or other
44 form of business entity at the time the loan is made is:

45 (A) Fifty or fewer persons if the subsidiary is a retail or service business; and

1 (B) Two hundred or fewer if the subsidiary is an industrial or manufacturing business.

2 [(27) “Small scale local energy program loan” means a loan for a small scale local energy project
3 other than an energy efficiency and sustainable technology loan.]

4 [(28)] (12) “Small scale local energy project” means any of the following:

5 (a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or
6 indirectly uses or enables the use of, by the applicant or another person, renewable resources in-
7 cluding, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to
8 produce energy, including heat, electricity and substitute fuels, to meet a local community or re-
9 gional energy need in this state.

10 (b) A system, mechanism or series of mechanisms located primarily in Oregon or providing
11 substantial benefits to Oregon that directly or indirectly conserves energy or enables the conserva-
12 tion of energy by the applicant or another person, including energy used in transportation.

13 (c) A recycling project.

14 (d) An alternative fuel project.

15 (e) An improvement that increases the production or efficiency, or extends the operating life,
16 of a system, mechanism, series of mechanisms or project otherwise described in this subsection, in-
17 cluding but not limited to restarting a dormant project.

18 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility
19 that directly or indirectly reduces the amount of energy needed for the construction and operation
20 of the facility and that meets [*the sustainable building practices standard established by the State*
21 *Department of Energy*] **any applicable sustainable building practices standards identified by the**
22 **Oregon Business Development Department** by rule. For purposes of this paragraph, “system,
23 mechanism or series of mechanisms” includes related and integrated upgrades to attain compliance
24 with standards set in the State of Oregon Structural Specialty Code and Fire and Life Safety Code,
25 and seismic safety upgrades.

26 (g) A project described in paragraphs (a) to (f) of this subsection, whether or not the existing
27 project was originally financed under this chapter, together with any refinancing necessary to re-
28 move prior liens or encumbrances against the existing project.

29 (h) A project described in paragraphs (a) to (g) of this subsection that conserves energy or
30 produces energy by generation or by processing or collection of a renewable resource.

31 [(29)] (13) “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the
32 fund created under ORS 470.300.

33 [(30)] (14) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Arti-
34 cle XI-J of the Oregon Constitution and appropriated to the [*State*] department [*of Energy*] under
35 ORS 470.130.

36 [(31) “Sustainable energy project manager” means the organization responsible for promoting the
37 energy efficiency and sustainable technology loan program or the clean energy deployment program and
38 related incentives for energy efficiency and renewable energy at the neighborhood and community
39 level.]

40 [(32) “Utility service territory” means the allocated territory in which a utility subject to this
41 chapter provides a utility service. For the purposes of this subsection, “allocated territory” and “utility
42 service” have the meanings given those terms in ORS 758.400.]

43 **SECTION 17.** ORS 470.060 is amended to read:

44 470.060. (1) The following may file with the [*State Department of Energy*] **Oregon Business**
45 **Development Department** an application to obtain moneys for a small scale local energy project

1 as provided in this chapter:

2 (a) An individual who is an Oregon resident;

3 (b) An Oregon business;

4 (c) A nonprofit or public cooperative;

5 (d) A nonprofit corporation;

6 (e) An eligible federal agency;

7 (f) An eligible state agency;

8 (g) A public corporation created by this state;

9 (h) An intergovernmental entity created pursuant to an intergovernmental agreement under ORS
10 190.003 to 190.130;

11 (i) A special district;

12 (j) A local improvement district;

13 (k) A public university listed in ORS 352.002; or

14 (L) A municipal corporation.

15 (2) Applications to obtain financing for a small scale local energy project shall be made in
16 writing on a form prescribed by the [State] department [of Energy]. Applications submitted to the
17 [State] department [of Energy] shall:

18 (a) Describe the nature and purpose of the proposed small scale local energy project.

19 (b) State whether any purposes other than energy production, but consistent with energy pro-
20 duction, will be served by the proposed small scale local energy project, and the nature of the other
21 purposes, if any.

22 (c) Include an evaluation of the potential of the small scale local energy project to meet local
23 community energy needs.

24 (d) Include an evaluation of the potential environmental impacts of the small scale local energy
25 project.

26 (e) State whether any moneys other than those in the loan fund are proposed to be used for the
27 development of the proposed small scale local energy project, and whether any other moneys are
28 available or have been sought for the project.

29 (f) Describe the source of moneys for repayment of the loan applied for.

30 (3) *[If the application is for a loan other than an energy efficiency and sustainable technology loan*
31 *to an individual,]* A fee of **\$500** or one-tenth of one percent of the amount of the loan applied for
32 *[or]* **up to a fee of \$2,500**, whichever is *[less]* **more**, shall be submitted with each application. In
33 addition, the applicant may be required to pay for costs incurred in connection with the application
34 that exceed the application fee and which the Director of the [State Department of Energy] **Oregon**
35 **Business Development Department** determines are incurred solely in connection with processing
36 the application. The applicant shall be advised of any additional costs the applicant must pay before
37 the costs are incurred.

38 **SECTION 18.** ORS 470.080 is amended to read:

39 470.080. (1) *[After consultation with the Small Scale Local Energy Project Advisory Committee, the*
40 *Director of the State Department of Energy]* **As informed by the study conducted under section**
41 **13 of this 2017 Act, the Director of the Oregon Business Development Department** shall es-
42 tablish by rule standards and criteria for small scale local energy projects to be funded under this
43 chapter. *[other than projects funded through energy efficiency and sustainable technology loans. The*
44 *standards and criteria shall operate to encourage diversity in projects funded, give preference to the*
45 *maximum extent practical to projects proposed by individuals and small businesses, ensure acceptability*

1 of environmental impacts and shall require consideration of the potential contribution of a project if
2 developed at other suitable locations to meeting the energy needs of this state. The standards and cri-
3 teria shall give the least preference to projects proposed by an eligible federal agency.] **Standards and**
4 **criteria adopted by rule under this subsection must include, but need not be limited to:**

5 (a) **Credit underwriting standards and criteria, including credit eligibility criteria for**
6 **small scale local energy projects to be funded under this chapter; and**

7 (b) **Energy and energy policy standards and criteria, including but not limited to stan-**
8 **dards and criteria for ensuring that:**

9 (A) **Small scale local energy projects funded under this chapter are consistent with the**
10 **preservation and enhancement of environmental quality;**

11 (B) **A dwelling constructed before January 1, 1979, that will be served by a proposed space**
12 **heating project is weatherized according to the standards established under ORS 469.155; and**

13 (C) **Except for a proposed space heating project for a dwelling under subparagraph (B)**
14 **of this paragraph, a loan under this chapter does not finance any project for which the**
15 **projected economic value of the energy savings of the project during the first year of the**
16 **project is implemented is equal to or greater than the cost of the project.**

17 (2) **Except as provided in subsection (4)(b) of this section,** all applications submitted under
18 ORS 470.060 [shall] **must** be reviewed by the [State Department of Energy] **Oregon Business De-**
19 **velopment Department.** The department may request that the applicant submit additional infor-
20 mation or revise the application. The department shall:

21 (a) Determine whether the application meets the standards and criteria adopted under sub-
22 section (1) of this section; and

23 (b) **Based on the department's determination under paragraph (a) of this subsection, de-**
24 **velop a recommendation to the Oregon Infrastructure Finance Authority Board, or a**
25 **designee of the board, on the** [recommend] approval or denial of the loan application[, and if ap-
26 *approval is recommended in what amount the loan should be made.*]

27 (3) After concluding its review, [unless the application meets the criteria established by the com-
28 mittee under subsection (4) of this section,] the department shall refer the application and its findings
29 and recommendation to the [committee] **board** for [its] review. The department shall notify the ap-
30 plicant of the date, time and place of any oral presentation to the [committee] **board** on the appli-
31 cation. [The committee shall review the application and the department's findings and recommendations
32 and advise the director whether the proposed small scale local energy project meets the criteria estab-
33 lished by the director under subsection (1) of this section, whether the project should be financed with
34 moneys from the Small Scale Local Energy Project Loan Fund and in what amount the loan should
35 be made if approved.]

36 [(4) The committee may provide for direct referral of an application by the department to the di-
37 rector if the application meets criteria established by the committee.]

38 (4) **The department may:**

39 (a) **In adopting energy and energy policy standards and criteria under subsection (1)(b)**
40 **of this section, consult as necessary with state or federal agencies or nongovernmental en-**
41 **tities that have appropriate energy or energy policy expertise.**

42 (b) **Contract for the review of applications under this section to determine whether the**
43 **applications meet the energy and energy policy standards and criteria adopted under sub-**
44 **section (1)(b) of this section.**

45 **SECTION 19.** ORS 470.090 is amended to read:

1 470.090. (1) After consideration of the recommendation of the [*Small Scale Local Energy Project*
 2 *Advisory Committee or the State Department of Energy*] **Oregon Business Development Depart-**
 3 **ment** as provided by ORS 470.080, the [*Director of the State Department of Energy*] **Oregon**
 4 **Infrastructure Finance Authority Board, or a designee of the board,** may approve or reject the
 5 financing of a small scale local energy project described in an application filed as provided in ORS
 6 470.060, using moneys in the Small Scale Local Energy Project Loan Fund. Approval of a loan by
 7 the [*director*] **board** shall include a certification of the amount of the loan.

8 (2) The [*director's*] **board's** approval of a loan for a small scale local energy project shall be
 9 based on a finding that:

10 (a) The proposed small scale local energy project meets established standards and criteria under
 11 ORS 470.080;

12 (b) [*The proposed project is consistent with the preservation and enhancement of environmental*
 13 *quality;*] **The proposed small scale local energy project is secured by good and sufficient**
 14 **collateral;**

15 (c) The proposed **small scale local energy** project is feasible and a reasonable risk from prac-
 16 tical and economic standpoints;

17 (d) The plan for development of the **small scale local energy** project is satisfactory;

18 (e) The applicant is qualified, creditworthy and responsible and is willing and able to enter into
 19 a contract with the Director **of the Oregon Business Development Department** for development
 20 and repayment as provided in ORS 470.150 [*or 470.645*];

21 (f) There is a need for the proposed small scale local energy project and the applicant's financial
 22 resources are adequate to provide the working capital to maintain the project after completion;

23 (g) Moneys in the loan fund are or will be available for the development of the proposed small
 24 scale local energy project; **and**

25 [*h*] *A dwelling constructed before January 1, 1979, that will be served by a proposed space heating*
 26 *project is weatherized according to the standards established under ORS 469.155;*

27 [*i*] *Except for a proposed space heating project for a dwelling under paragraph (h) of this sub-*
 28 *section, the loan does not finance any project for which the projected economic value of the energy*
 29 *savings of the project during the first year the project is implemented is equal to or greater than the*
 30 *cost of the project; and]*

31 [*j*] **(h)** The loan will not preclude individuals and small businesses from access to loan moneys.

32 (3) The [*director*] **Oregon Business Development Department** shall notify the applicant [*and*
 33 *the presiding officer of the committee of the director's*] **of the board's** action and of the reasons for
 34 that action. The [*director*] **department** shall inform the applicant of the review procedure estab-
 35 lished in ORS 470.100.

36 **SECTION 20.** ORS 470.100 is amended to read:

37 470.100. (1) If the [*Director of the State Department of Energy*] **Oregon Infrastructure Finance**
 38 **Authority Board, or a designee of the board,** rejects a loan application or approves a loan
 39 amount different than that requested by the applicant, the applicant may request that the [*Small*
 40 *Scale Local Energy Project Advisory Committee review the director's action*] **board review the**
 41 **action.**

42 (2) [*The committee may review the director's action on its own motion or at the request of the ap-*
 43 *PLICANT. A majority of the members of the committee may authorize the presiding officer of the committee*
 44 *to appeal the director's action to the Governor.*] **At the request of the applicant, the board may**
 45 **review the request and any new documentation that the applicant may provide that may**

1 **support reconsideration. If, upon further consideration, a majority of the board determines**
 2 **that further action is necessary, the board may amend the previous action, approve or reject**
 3 **the loan or approve the loan for a different amount than previously approved.**

4 (3) An appeal of the [*director's*] **board's** action may be initiated by the [*presiding officer of the*
 5 *committee*] **applicant** no later than 45 days after the date the applicant receives notice of the
 6 [*director's*] **board's** action under ORS 470.090.

7 (4) The decision of the [*Governor*] **board** is final. If the [*Governor*] **board** fails to act within 30
 8 days after receiving the appeal, the appeal shall be considered to be denied.

9 (5) Notwithstanding ORS chapter 183, a decision of the [*director or the Governor*] **board** on an
 10 application for financing under ORS 470.090 or this section is not subject to judicial review.

11 **SECTION 21.** ORS 470.110 is amended to read:

12 470.110. The Director of the [*State Department of Energy*] **Oregon Business Development De-**
 13 **partment** may accept gifts of money or other property from any source, given for the purposes of
 14 ORS 470.050 to 470.120, 470.140 (1) and 470.150 to 470.210. Money so received shall be paid into the
 15 Small Scale Local Energy Project Loan Fund. Money or other property so received shall be used for
 16 the purposes for which received.

17 **SECTION 22.** ORS 470.120 is amended to read:

18 470.120. If the applicant receives from any source other than the Small Scale Local Energy
 19 Project Loan Fund[, *the Energy Project Supplemental Fund or the Energy Project Bond Loan Fund*]
 20 any moneys to assist in the development of the **small scale local energy** project, the amount of the
 21 loan to the applicant from the Small Scale Local Energy Project Loan Fund[, *Energy Project Sup-*
 22 *plemental Fund or Energy Project Bond Loan Fund*] shall be limited to that amount necessary for
 23 the development of those portions of the project not funded by other sources.

24 **SECTION 23.** ORS 470.130 is amended to read:

25 470.130. All moneys in the Small Scale Local Energy Project Loan Fund created by Article XI-J
 26 of the Oregon Constitution are appropriated continuously to the [*State Department of Energy*]
 27 **Oregon Business Development Department** and shall be used for the purposes authorized under
 28 this chapter.

29 **SECTION 24.** ORS 470.135 is amended to read:

30 470.135. The duties of the Director of the Oregon Department of Administrative Services to es-
 31 tablish, maintain and keep accounts of, and make disbursements or transfers out of, the funds and
 32 accounts established or identified in the two bond indentures, as supplemented, dated June 1, 1981,
 33 and September 1, 1985, that relate to the Small Scale Local Energy Project Loan Program estab-
 34 lished by Article XI-J of the Oregon Constitution and this chapter are transferred to the [*State De-*
 35 *partment of Energy*] **Oregon Business Development Department**. Notwithstanding the transfer of
 36 these fiscal functions to the [*State Department of Energy*] **Oregon Business Development Depart-**
 37 **ment**, in accordance with ORS 291.015 (2), the [*State Department of Energy's*] **Oregon Business**
 38 **Development Department's** performance of these fiscal functions shall remain subject to the con-
 39 trol of the Oregon Department of Administrative Services.

40 **SECTION 25.** ORS 470.140 is amended to read:

41 470.140. (1) In accordance with the applicable provisions of ORS chapter 183, the Director of the
 42 [*State Department of Energy*] **Oregon Business Development Department** may adopt rules con-
 43 sidered necessary to carry out the purposes of this chapter.

44 (2) The director shall submit to the Legislative Assembly and the Governor a biennial report
 45 of the transactions of the Small Scale Local Energy Project Loan Fund and the Small Scale Local

1 Energy Project Administration and Bond Sinking Fund in such detail as will accurately indicate the
2 condition of the funds.

3 **SECTION 26.** ORS 470.145 is amended to read:

4 470.145. The [*State Department of Energy*] **Oregon Business Development Department** shall
5 develop, implement and periodically update a marketing plan to inform potential applicants of the
6 availability of small scale local energy project loans. The first priority of the marketing plan shall
7 be to inform individuals and small businesses that small scale local energy project loans are avail-
8 able.

9 **SECTION 27.** ORS 470.150 is amended to read:

10 470.150. Except as provided in ORS 470.155 and 470.170, if the [*Director of the State Department*
11 *of Energy*] **Oregon Infrastructure Finance Authority Board** approves the financing of a small
12 scale local energy project, the Director of the **Oregon Business Development Department**, on
13 behalf of the state, and the applicant may enter into a loan contract, secured by a first lien or by
14 other good and sufficient collateral in the manner provided in ORS 470.155 to 470.210. For purposes
15 of this section, the interest of the [*State Department of Energy*] **Oregon Business Development**
16 **Department** under a lease purchase contract entered into with an eligible federal or state agency
17 or a municipal corporation may constitute good and sufficient collateral. The contract:

18 (1) May provide that the [*director*] **board**, on behalf of the state, must approve the arrangements
19 made by the applicant for the development, operation and maintenance of the small scale local en-
20 ergy project, using moneys in the Small Scale Local Energy Project Loan Fund for the project de-
21 velopment.

22 (2) Shall provide a plan for repayment by the applicant of moneys borrowed from the loan fund
23 used for the development of the small scale local energy project and interest on those moneys used
24 at a rate of interest the [*director*] **board** determines is necessary to provide adequate funds to re-
25 cover the administrative expenses incurred in connection with the loan. The [*director*] **board** shall
26 set the interest rate at an incremental rate above the interest rate on the underlying bonds in an
27 amount sufficient to recover all program-related costs including, but not limited to, implementation,
28 financing, administration, **losses** and promotional costs for the program. The incremental rate for
29 projects proposed by an eligible federal agency shall be greater than the incremental rate charged
30 to any other governmental borrower. The repayment plan, among other matters:

31 (a) Shall provide for commencement of repayment by the applicant of moneys used for project
32 development and interest thereon not later than two years after the date of the loan contract or at
33 any other time as the [*director*] **board** may provide. [*In addition to any other prepayment option*
34 *provided in a borrower's loan agreement, the department shall provide a borrower the opportunity to*
35 *prepay the borrower's loan, without any additional premium, by defeasing such loan to the call date*
36 *of the bond or bonds funding the applicable loan, or any refunding bonds linked to the loan, but such*
37 *defeasance shall occur only if the director finds that after the defeasance, the sinking fund will have*
38 *sufficient funds to make payments required under ORS 470.300 (1).]*

39 (b) May provide for reasonable extension of the time for making any repayment in emergency
40 or hardship circumstances, if approved by the [*director*] **board**.

41 (c) Shall provide for evidence of debt assurance of and security for repayment by the applicant
42 considered necessary or proper by the [*director*] **board**.

43 (d) Shall set forth the period of loan, which may not exceed the usable life of the completed
44 project, or 30 years from the date of the loan contract, whichever is less.

45 (e) [*May*] **Shall** set forth a procedure for formal declaration of default of payment by the direc-

1 tor, including formal notification of all relevant federal, state and local agencies; and further, a
2 procedure for notification of all relevant federal, state and local agencies that declaration of default
3 has been rescinded when appropriate.

4 **(f) Shall require the loan to be paid in full in the event that:**

5 **(A) The director makes a formal declaration of default of payment pursuant to paragraph**
6 **(e) of this subsection; or**

7 **(B) The small scale local energy project fails to meet the standards and criteria estab-**
8 **lished under ORS 470.080.**

9 (3) May include provisions satisfactory to the [*director*] **board** for field inspection, the
10 [*director*] **board** to be the final judge of completion of the project.

11 (4) May provide that the liability of the state under the contract is contingent upon the avail-
12 ability of moneys in the loan fund for use in the planning and development of the project.

13 (5) May include further provisions the director considers necessary to ensure expenditure of the
14 funds for the purposes set forth in the approved application.

15 (6) May provide that the director may institute an appropriate action or suit to prevent use of
16 the project financed by the loan fund by any person who is delinquent in the repayment of any
17 moneys due the sinking fund.

18 *[(7) If the project is being financed by an energy efficiency and sustainable technology loan or*
19 *small scale local energy program loan, in addition to the requirements of subsections (1) to (6) of this*
20 *section, shall include:]*

21 *[(a) For an energy efficiency and sustainable technology loan that relies on an on-bill financing*
22 *system for the collection of a loan repayment charge, an agreement by the applicant to notify a person*
23 *acquiring ownership of, or an interest in, the property from the applicant that the loan repayment*
24 *charge will be transferred to the utility customer account of the person acquiring the ownership or in-*
25 *terest unless the loan is discharged before or at the time the ownership or interest transfers;]*

26 *[(b) A plainly worded acknowledgment by the applicant that failure to make payments as required*
27 *under the loan agreement may result in the foreclosure of a property lien or other debt collection*
28 *actions;]*

29 *[(c) A waiver stating that the applicant waives any jurisdictional or other irregularities or defects*
30 *in:]*

31 *[(A) The energy efficiency and sustainable technology loan program;]*

32 *[(B) A small scale local energy project;]*

33 *[(C) The small scale local energy program loan provisions;]*

34 *[(D) This chapter; or]*

35 *[(E) Department rules that relate in any way to the loan repayment charge, real property lien pro-*
36 *visions or any form or combination of loan security or to the requirement to satisfy the loan*
37 *obligation;]*

38 *[(d) If the applicant is not the owner of the property to be burdened by the loan repayment charge,*
39 *fixture filing or real property lien, provision for participation by the property owner as a party to the*
40 *contract or a notarized authorization by the owner for the fixture filing and lien; and]*

41 *[(e) A description of any other conditions required by the department.]*

42 **SECTION 28.** ORS 470.160 is amended to read:

43 470.160. If the [*Director of the State Department of Energy*] **Oregon Infrastructure Finance**
44 **Authority Board** approves a loan for a small scale local energy project, the State Treasurer shall
45 pay moneys for such project from the Small Scale Local Energy Project Loan Fund [*or Energy*

1 *Project Bond Loan Fund*] in accordance with the terms of the loan contract, as prescribed by the
 2 *[director]* **board and the Director of the Oregon Business Development Department under ORS**
 3 **470.150.**

4 **SECTION 29.** ORS 470.170 is amended to read:

5 470.170. [(1)(a)] (1) [*Except as otherwise provided in this subsection,*] When a loan is made under
 6 this chapter to an applicant other than a municipal corporation, the loan shall be secured pursuant
 7 to a mortgage, trust deed, security agreement, pledge, assignment or similar instrument, by a secu-
 8 rity interest or lien on real or personal property in the full amount of the loan or as the *[Director*
 9 *of the State Department of Energy]* **Oregon Infrastructure Finance Authority Board** shall require
 10 for adequate security, including but not limited to long-term leasehold interests or equitable inter-
 11 ests in real property or personal property. In lieu of, or in addition to, any of the collateral other-
 12 wise described in this *[paragraph]* **subsection**, the applicant may secure the loan by providing credit
 13 enhancement, including but not limited to a letter of credit or payment bond, or a guaranty ac-
 14 ceptable to the *[director]* **board.**

15 [(b) *To the extent consistent with any declaration, pledge or agreement for bonds issued under ORS*
 16 *470.220 to 470.290, an energy efficiency and sustainable technology loan shall be secured as provided*
 17 *in ORS 470.680 or 470.685.*]

18 (2) When a loan is made to a municipal corporation for the development of a small scale local
 19 energy project under this chapter, the loan shall be secured as the *[director]* **board** shall require for
 20 adequate security. The security may be in the form of a lien, mortgage, interest under a lease-
 21 purchase contract or other form of security acceptable to the *[director]* **board** and the municipal
 22 corporation.

23 (3) When a loan made under this chapter is secured by a lien on the real property of the appli-
 24 cant, the Director **of the Oregon Business Development Department** shall perfect the lien by
 25 recording as provided by law.

26 (4) Upon payment of all amounts loaned to an applicant pursuant to this chapter, the director
 27 shall file a satisfaction or release notice that indicates repayment of the loan.

28 (5) The director may cause to be instituted appropriate proceedings to foreclose liens for delin-
 29 quent loan payments, and shall pay the proceeds of any such foreclosure, less the director's expenses
 30 incurred in foreclosing, into the Small Scale Local Energy Project Administration and Bond Sinking
 31 Fund if the loan was issued from the Small Scale Local Energy Project Loan Fund[, *or into the En-*
 32 *ergy Project Bond Loan Fund if the loan was from the Energy Project Bond Loan Fund*]. In a fore-
 33 closure proceeding the *[director]* **Oregon Business Development Department** may bid on property
 34 offered for sale in the proceedings and may acquire title to the property on behalf of the state.

35 (6) The director may take any action, make any disbursement, hold any funds or institute any
 36 action or proceeding necessary to protect the state's interest.

37 (7) The director may settle, compromise or release, for reasons other than uncollectibility as
 38 provided in ORS 293.240, all or part of any loan obligation so long as the director's action is con-
 39 sistent with the purposes of this chapter and does not impair the ability to pay the administrative
 40 expenses of the *[State Department of Energy]* **Oregon Business Development Department** or the
 41 obligations of any bonds then outstanding.

42 **SECTION 30.** ORS 470.180 is amended to read:

43 470.180. In addition to any other remedy available to the *[State Department of Energy,]* **Oregon**
 44 **Business Development Department**, if a municipal corporation entitled by law to share in the
 45 apportionment of any state revenues or funds defaults on any payments due to the State of Oregon

1 under a loan contract entered into under ORS 470.150, the [*State Department of Energy*] **Oregon**
 2 **Business Development Department** may certify that fact to the Oregon Department of Adminis-
 3 trative Services and the Oregon Department of Administrative Services shall withhold payment of
 4 any revenues or funds in the State Treasury to which the municipal corporation is entitled, in an
 5 amount not to exceed the balance owing on the loan, until the [*State Department of Energy*] **Oregon**
 6 **Business Development Department** certifies that the default has been remedied.

7 **SECTION 31.** ORS 470.190 is amended to read:

8 470.190. If an applicant fails to comply with a contract entered into with the Director of the
 9 [*State Department of Energy*] **Oregon Business Development Department** for development and
 10 repayment as provided in ORS 470.150 [*or 470.645*], the director, in addition to remedies provided in
 11 ORS 470.170 and 470.180, may seek other appropriate legal remedies to secure the loan and may
 12 contract as provided in ORS 470.150 with any other person for continuance of development and for
 13 repayment of moneys from the Small Scale Local Energy Project Loan Fund [*or from the Energy*
 14 *Project Bond Loan Fund*] used therefor and interest thereon.

15 **SECTION 32.** ORS 470.200 is amended to read:

16 470.200. If any small scale local energy project is refinanced or an additional grant or loan in-
 17 tended to finance the project development is obtained from other sources after the execution of the
 18 loan from the state, all such funds shall be used to repay the state unless the [*Director of the State*
 19 *Department of Energy*] **Oregon Infrastructure Finance Authority Board** finds that repayment of
 20 the state from the additional grant or loan would be contrary to public interest.

21 **SECTION 33.** ORS 470.210 is amended to read:

22 470.210. (1) Notwithstanding any other provision of law, a municipal corporation may enter into
 23 a loan contract with the [*State Department of Energy*] **Oregon Business Development Department**
 24 to finance a small scale local energy project.

25 (2) In order to finance a small scale local energy project, the Director of the [*State Department*
 26 *of Energy,*] **Oregon Business Development Department**, on behalf of the state and in lieu of en-
 27 tering into a loan contract under subsection (1) of this section, may purchase or otherwise acquire
 28 a municipal corporation's general obligations or revenue obligations, including but not limited to
 29 bonds, notes, certificates of participation, warrants or lease purchase agreements.

30 **SECTION 34.** ORS 470.230 is amended to read:

31 470.230. Except as provided in ORS 470.270, all moneys obtained from the sale of general obli-
 32 gation bonds under ORS 470.220 to 470.290 and Article XI-J of the Oregon Constitution shall be
 33 credited by the State Treasurer to the Small Scale Local Energy Project Loan Fund. Those moneys
 34 shall be used only for the purposes stated in Article XI-J of the Oregon Constitution, including
 35 payment of the costs of issuing the bonds and of obtaining credit enhancement for the bonds, and
 36 making payments of interest on bonds issued pursuant to the provisions of ORS 470.220 to 470.290
 37 if there are insufficient funds in the Small Scale Local Energy Project Administration and Bond
 38 Sinking Fund to make the payments referred to in ORS 470.300 (1). Moneys loaned to municipal
 39 corporations but withheld by the [*State Department of Energy*] **Oregon Business Development**
 40 **Department** for security or to pay for future project costs may remain in the loan fund. Pending
 41 the use of the moneys in the loan fund for the proper purposes, the moneys may be invested in the
 42 manner provided by law.

43 **SECTION 35.** ORS 470.270 is amended to read:

44 470.270. (1) After consultation with the State Treasurer, the Director of the [*State Department*
 45 *of Energy*] **Oregon Business Development Department** may issue general obligation refunding

1 bonds for the purpose of refunding outstanding bonds issued under ORS 470.220 to 470.290 and Ar-
 2 ticle XI-J of the Oregon Constitution. The refunding bonds may be sold in the same manner as other
 3 bonds are sold under ORS 470.220 to 470.290. All moneys obtained from the sale of refunding bonds
 4 shall be credited by the State Treasurer to the Small Scale Local Energy Project Administration and
 5 Bond Sinking Fund. The refunding bonds may be issued to refund bonds previously issued for re-
 6 funding purposes. Pending the use of moneys obtained from the sale of refunding bonds for proper
 7 purposes, such moneys may be invested in the manner provided by law.

8 (2) Notwithstanding any provision of ORS 470.150, if the [*State Department of Energy*] **Oregon**
 9 **Business Development Department** issues taxable refunding bonds at a lower interest rate to re-
 10 fund outstanding general obligation bonds, and is unable to allow loan recipients to receive a por-
 11 tion of the interest savings, the director shall allow the loan recipient to prepay the outstanding
 12 loan balance upon the request of the recipient. The director shall respond to such a request within
 13 30 days after receiving the request by specifying the outstanding principal balance after applying
 14 reserves held by the state for the borrower and the prepayment premium as listed in the bond doc-
 15 ument, loan document or bond purchase agreement.

16 (3) The department shall pursue opportunities for refunding bonds to reduce interest sums pay-
 17 able by the department. When the department refunds a bond with tax-exempt bonds, the department
 18 shall share, on an equitable basis, the savings from any refunding with the borrowers whose loans
 19 were made with the proceeds of the refunded bonds in an amount consistent with a finding by the
 20 director that the sinking fund has, and will continue to have, sufficient funds to make payments re-
 21 quired under ORS 470.300 (1). The department may not refund tax-exempt bonds with taxable bonds,
 22 unless the department is able to share the savings associated with such a refunding with the bor-
 23 rowers whose loans are linked to such bonds. At least 120 days before the date on which the de-
 24 partment intends to issue refunding bonds, the director shall notify each borrower whose loan was
 25 made from the proceeds of the bonds being refunded and shall offer the borrower the opportunity
 26 to prepay the borrower's loan. A borrower shall respond within 60 days of the date of the notice
 27 described in this subsection if the borrower intends to prepay the borrower's loan.

28 **SECTION 36.** ORS 470.300 is amended to read:

29 470.300. (1) There hereby is created the Small Scale Local Energy Project Administration and
 30 Bond Sinking Fund, separate and distinct from the General Fund, to provide for payment of:

31 (a) Administrative expenses of the [*State Department of Energy and the Director of the State De-*
 32 *partment of Energy*] **Oregon Business Development Department and the Director of the Oregon**
 33 **Business Development Department** in processing applications, investigating potential small scale
 34 local energy projects and proposed loans and servicing and collecting outstanding loans made from
 35 the Small Scale Local Energy Project Loan Fund, if the expense is not paid directly by the applicant.

36 (b) Administrative expenses of the State Treasurer in carrying out the duties, functions and
 37 powers imposed upon the State Treasurer by this chapter.

38 (c) Principal, interest and redemption premium, if any, of all bonds issued pursuant to the pro-
 39 visions of ORS 470.220 to 470.290 and Article XI-J of the Oregon Constitution.

40 (d) Net investment earnings on any funds loaned to municipal corporations but withheld as
 41 provided in ORS 470.230.

42 (e) Costs of issuing the bonds and of obtaining credit enhancement for the bonds.

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

44 (a) Application fees required by ORS 470.060, unless the department requires the applicant to
 45 pay the fee directly for a cost incurred in connection with the application.

1 (b) Repayment of moneys loaned to applicants from the Small Scale Local Energy Project Loan
2 Fund, including interest on such moneys.

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

4 (d) Moneys obtained from the sale of refunding bonds under ORS 470.220 to 470.290 and any
5 accrued interest on such bonds.

6 (e) Moneys received from ad valorem taxes levied pursuant to Article XI-J of the Oregon Con-
7 stitution, and all moneys that the Legislative Assembly may provide in lieu of such taxes.

8 (f) Interest earned on cash balances invested by the State Treasurer.

9 (g) Moneys transferred from the loan fund.

10 (h) Gifts, grants, donations or other moneys for promoting small scale local energy [*program*
11 *loan purposes and goals.*] **projects.**

12 (3) The director, with the approval of the State Treasurer, may transfer moneys from the sinking
13 fund to the loan fund if:

14 (a) A cash flow projection shows that, for the term of the bonds outstanding at the time the
15 director transfers the moneys, remaining moneys in the sinking fund, together with expected loan
16 contract payments and fund earnings, will improve the financial basis of the program and will con-
17 tinue to be adequate to pay bond principal, interest, redemption premiums, if any, and administration
18 costs; and

19 (b) The transfer will not create the need for issuance of any bonds.

20 (4) The director, with the approval of the State Treasurer, may establish separate and distinct
21 accounts within the sinking fund to accomplish the purpose of this section.

22 **SECTION 37.** ORS 470.310 is amended to read:

23 470.310. (1) If there are insufficient funds in the Small Scale Local Energy Project Adminis-
24 tration and Bond Sinking Fund to make the payments referred to in ORS 470.300 (1), the Director
25 of the [*State Department of Energy*] **Oregon Business Development Department** may request the
26 funds necessary for such payments from the Legislative Assembly or the Emergency Board.

27 (2) When the director determines that moneys in sufficient amount are available in the sinking
28 fund, the State Treasurer shall reimburse the General Fund without interest, in an amount equal to
29 the amount allocated by the Legislative Assembly or the Emergency Board pursuant to subsection
30 (1) of this section. The moneys used to reimburse the General Fund under this subsection shall not
31 be considered a budget item on which a limitation is otherwise fixed by law, but shall be in addition
32 to any specific appropriations or amounts authorized to be expended from continually appropriated
33 moneys.

34 **SECTION 38.** ORS 470.810 is amended to read:

35 470.810. (1) The State Department of Energy shall establish the clean energy deployment pro-
36 gram to provide grants and loans to support energy efficiency or clean energy projects in this state.
37 The department shall establish criteria for qualifications of the projects by rule.

38 (2)(a) The department may use funds from [*the Jobs, Energy and Schools Fund and*] the Clean
39 Energy Deployment Fund to provide loans and grants to school districts that have projects to
40 weatherize, upgrade and retrofit kindergarten through grade 12 public schools in this state, in order
41 to improve energy efficiency.

42 (b) A school district that finances a project through the clean energy deployment program may
43 not self-perform work constituting more than five percent of the total cost of the project being fi-
44 nanced.

45 (c) All school projects financed pursuant to paragraph (a) of this subsection through the clean

1 energy deployment program are deemed to be public works projects and are subject to the prevailing
2 wage requirements of ORS 279C.800 to 279C.870.

3 (3) The department may contract for the implementation of the clean energy deployment pro-
4 gram [in all or parts of this state with a sustainable energy project manager as defined in ORS
5 470.050].

6 **SECTION 39.** ORS 470.815 is amended to read:

7 470.815. (1) School districts that participate in the clean energy deployment program established
8 in ORS 470.810 may finance projects to:

9 (a) Weatherize, upgrade and retrofit kindergarten through grade 12 public schools;

10 (b) Retrofit school bus fleets to operate on compressed natural gas or other alternative fuels
11 such as propane or to operate with high-efficiency types of engines such as hybrid electric engines;
12 or

13 (c) Replace school bus fleets with school buses that operate on compressed natural gas or other
14 alternative fuels such as propane or that operate with high-efficiency types of engines such as hybrid
15 electric engines.

16 (2) The projects described in subsection (1) of this section shall be designed to improve energy
17 efficiency, decrease fuel costs, increase use of alternative fuels and decrease emissions of air con-
18 taminants.

19 (3) School districts may finance the projects described in subsection (1) of this section by:

20 (a) Paying directly for the projects;

21 (b) Receiving lower interest loans from the Clean Energy Deployment Fund or the Small Scale
22 Local Energy Project Loan Fund, supported by:

23 [(A) Grant moneys from the Jobs, Energy and Schools Fund;]

24 [(B)] (A) Public purpose charges directed to a school district in areas served by investor-owned
25 utilities under ORS 757.612;

26 [(C)] (B) Qualified Energy Conservation Bonds issued under the Energy Improvement and Ex-
27 tension Act of 2008 or other federal loan programs; or

28 [(D)] (C) Revenues generated by the savings in energy costs resulting from the energy efficiency
29 improvements;

30 (c) Issuing general obligation bonds, subject to the bond election requirements under ORS
31 328.210; or

32 (d) Using any other source of moneys.

33 **SECTION 40.** ORS 223.680 is amended to read:

34 223.680. (1) As used in this section:

35 (a) "Energy improvements" means energy efficiency and renewable energy improvements to
36 qualifying real property authorized by:

37 (A) A local government implementing a program established under this section; or

38 (B) The [State Department of Energy] **Oregon Infrastructure Finance Authority Board** for a
39 loan issued under subsection (10) of this section to a local government that establishes a program
40 in cooperation with a local government described in subparagraph (A) of this paragraph.

41 (b) "Local government" means cities and counties.

42 (c) "Qualifying real property" means multifamily residential dwellings or commercial or indus-
43 trial buildings that the local government has determined can be benefited by energy improvements.

44 (2)(a) Subject to subsection (3) of this section, a local government may establish a program to
45 assist owners of record of qualifying real property in financing cost-effective energy improvements

1 to the qualifying real property.

2 (b) A program established pursuant to this subsection may provide for the local government to:

3 (A) Make loans to owners financed with the net proceeds and interest earnings of revenue bonds
4 authorized by subsection (9) of this section;

5 (B) Facilitate private financing by the owners; or

6 (C) Make loans under subparagraph (A) of this paragraph and facilitate private financing under
7 subparagraph (B) of this paragraph.

8 (3) Before establishing a program under this section, the local government shall provide notice
9 to utilities that distribute electric energy or natural gas within the areas in which the local gov-
10 ernment will operate the program.

11 (4) A local government that establishes a program under this section may:

12 (a) Require performance of an energy audit on the qualifying real property before the local
13 government approves a loan for energy improvements to the property;

14 (b) Impose requirements intended to ensure that the costs of the improvements financed under
15 this section do not exceed the cumulative energy cost savings of the improvements over the useful
16 life of the improvements; and

17 (c) Impose requirements and conditions on loans or financing agreements that are designed to
18 ensure timely repayment.

19 (5)(a) If the owner of record of qualifying real property requests financing pursuant to a program
20 established under this section, subject to subsection (6) of this section, the local government imple-
21 menting the program may:

22 (A) Enter into a loan agreement with the owner, and any other person benefited by the loan;
23 or

24 (B) Facilitate a financing agreement for the owner, and any other person benefited by the fi-
25 nancing.

26 (b) A loan agreement or financing agreement entered into pursuant to paragraph (a) of this
27 subsection must be in a principal amount sufficient to pay:

28 (A) The costs of energy improvements the local government determines will benefit the qualify-
29 ing real property and the borrowers;

30 (B) The costs of the energy audit; and

31 (C) The costs and reserves of the program.

32 (c) A local government acting pursuant to paragraph (a) of this subsection may:

33 (A) If the local government makes a loan, charge the borrower an interest rate on the principal
34 amount that is sufficient to pay the financing costs of the loan program, including loan delinquen-
35 cies; and

36 (B) Charge periodic fees to pay for program costs.

37 (6) A local government may not enter into a loan agreement, or facilitate a financing agreement,
38 under subsection (5) of this section unless the owner has:

39 (a) Provided written notice to all mortgagees of the qualifying real property that the owner in-
40 tends to enter into a loan agreement or financing agreement under this section; and

41 (b) Received written consent from the mortgagees stating that the loan agreement or financing
42 agreement entered into under this section does not constitute an event of default or give rise to any
43 remedies under the terms of the mortgage loan agreements.

44 (7) The local government implementing a program established under this section may:

45 (a) Secure a loan or financing with a lien on the benefited qualifying real property in the man-

1 ner and with the same priority as a lien for assessments for local improvements authorized by ORS
2 223.393.

3 (b) Assess the benefited qualifying real property for the amounts due under a loan agreement
4 or financing agreement.

5 (c) Enforce a lien and collect an assessment authorized by this section as provided in ORS
6 223.505 to 223.650.

7 (d) Secure a loan or financing in any other manner that the local government determines is
8 reasonable.

9 (8)(a) In lieu of enforcing liens and collecting assessments as provided in subsection (7) of this
10 section, a local government may certify the assessment, in the manner provided in ORS 310.060, to
11 the county assessor of each county in which benefited qualifying real property is located.

12 (b) If the assessments are certified as provided in this subsection, the county assessor shall:

13 (A) Enter the assessment upon the county assessment roll against the property described in the
14 certificate, in the manner that other local government assessments are entered;

15 (B) Collect, account for and enforce the assessments in the manner that local government taxes
16 are collected, accounted for and enforced; and

17 (C) Transfer, as provided by law, the assessments collected to the local government that imposed
18 the assessment.

19 (9) A local government may issue revenue bonds pursuant to ORS 287A.150 to finance the costs
20 of a program established under this section, including the costs of making loans for energy im-
21 provements.

22 (10) The [*State Department of Energy*] **Oregon Business Development Department** may lend
23 money under the provisions of ORS 470.060 to 470.080 and 470.090 to a local government that es-
24 tablishes a program under this section in cooperation with a local government implementing a pro-
25 gram under this section.

26 **SECTION 41.** ORS 291.445 is amended to read:

27 291.445. (1) Before July 1 of each fiscal year, the Oregon Department of Administrative Services
28 shall request from the appropriate state agency a certificate as prescribed in this section. The re-
29 quest shall be made by letter to the agency.

30 (2) Each state agency authorized to issue general obligation bonds that are ordinarily to be re-
31 paid from other than General Fund appropriations shall, on or before August 15 of each fiscal year:

32 (a) Certify to the Director of the Oregon Department of Administrative Services that the
33 amounts available or that will become available during the current year to the bond program debt
34 service fund to pay bond principal and interest that has accrued or will accrue during the current
35 year are sufficient and will be sufficient to pay bond program principal and interest scheduled for
36 payment during the current year; or

37 (b) Certify to the Director of the Oregon Department of Administrative Services that the
38 amounts available or that will become available during the current year to the bond program debt
39 service fund will not be sufficient to pay bond program principal and interest scheduled for payment
40 during the current year. A certificate issued under this paragraph shall specify the amount of the
41 anticipated current year deficit. The Director of the Oregon Department of Administrative Services
42 shall review and confirm the correctness of each certification made under this paragraph.

43 (3) On or before August 15 of each fiscal year, the administrative division of the Oregon De-
44 partment of Administrative Services that has primary responsibility for accounting for each general
45 obligation bond program in which the bond principal and interest is ordinarily to be repaid from

1 General Fund appropriations shall:

2 (a) Certify to the Director of the Oregon Department of Administrative Services that the
3 amounts available or that will become available during the current year from General Fund appro-
4 priations to defray program bond principal and interest that has accrued or will accrue during the
5 current year are sufficient and will be sufficient to pay program bond principal and interest sched-
6 uled for payment during the current year; or

7 (b) Certify to the Director of the Oregon Department of Administrative Services that the
8 amounts available or that will become available during the current year from General Fund appro-
9 priations will not be sufficient to pay program bond principal and interest scheduled for payment
10 during the current year. A certificate issued under this paragraph shall specify the amount of the
11 anticipated current year deficit.

12 (4)(a) If a deficit in funds available to pay principal and interest in any general obligation bond
13 program is certified and confirmed under subsection (2) or certified under subsection (3) of this
14 section, the amount of the deficit, together with any deficit that is certified for any other general
15 obligation bond program shall upon certification constitute a state tax levy on property that shall
16 be apportioned among and charged to the several counties in that proportion which the total as-
17 sessed value of all the taxable property in each county bears to the total assessed value of all the
18 taxable property of the state as equalized.

19 (b) If any agency fails to make the certification under subsection (2) or (3) of this section with
20 respect to any general obligation bond fund program, the Oregon Department of Administrative
21 Services shall determine the amount of revenue and other funds that are available and the amount
22 of taxes, if any, that should be levied in addition to the revenues and funds, to pay bond principal
23 and interest under the program for the fiscal year in question. The additional amount so determined
24 shall thereupon constitute a state tax levy on property that shall be apportioned, certified, collected
25 and distributed as if determined and certified as a deficit by the agency. The Oregon Department
26 of Administrative Services shall charge the agency for cost recovery for time spent on that agency's
27 behalf.

28 (5) Immediately after the department has determined the amount of a state tax levy on property
29 in accordance with subsection (4) of this section, a certificate of levy, signed by the director of the
30 department, shall be filed in the office of the department. If no state levy is required for the fiscal
31 or tax year, a certificate so stating and signed by the director shall be filed in the office of the de-
32 partment.

33 (6) If, for any reason, after the close of any regular session of the Legislative Assembly, it be-
34 comes necessary to reduce General Fund appropriations, General Fund appropriations for a debt
35 service fund of a general obligation bond program described under subsection (3) of this section may
36 not be reduced.

37 (7) For purposes of this section:

38 (a) State agencies that are authorized to issue general obligation bonds ordinarily to be repaid
39 from other than General Fund appropriations include but are not limited to:

40 (A) The Director of Veterans' Affairs, as authorized by Article XI-A of the Oregon Constitution
41 and ORS chapter 407 (veterans loans).

42 (B) The Higher Education Coordinating Commission, for bonds authorized by Article XI-F(1) of
43 the Oregon Constitution and ORS 286A.833 (higher education building projects).

44 (C) The Department of Environmental Quality, as authorized by Article XI-H of the Oregon
45 Constitution and ORS 468.195 to 468.260 (pollution control).

1 (D) The Water Resources Commission and the Water Resources Director, as authorized by Ar-
2 ticle XI-I(1) of the Oregon Constitution and ORS 541.700 to 541.855 (water development).

3 (E) The Housing and Community Services Department, as authorized by Article XI-I(2) of the
4 Oregon Constitution and ORS 456.515 to 456.725 and 458.505 to 458.515 (housing).

5 (F) The Director of the [*State Department of Energy,*] **Oregon Business Development Depart-**
6 **ment** as authorized by Article XI-J of the Oregon Constitution and ORS 470.220 to 470.290 (small
7 scale energy projects).

8 (G) Other agencies as required by the Oregon Department of Administrative Services by rule
9 adopted using the criterion of this subsection.

10 (b) Each agency authorized to issue general obligation bonds that are ordinarily to be repaid
11 from other than General Fund appropriations shall determine the amount of revenues or other funds
12 that are available and the amount of taxes, if any, that should be levied for the ensuing year in the
13 manner required under rules adopted by the Oregon Department of Administrative Services and
14 make the certification required under subsection (2) of this section.

15 (8)(a) State agencies that are authorized to issue general obligation bonds that are ordinarily to
16 be repaid from General Fund appropriations include but are not limited to:

17 (A) The State Board of Forestry and the State Forester, as authorized by Article XI-E of the
18 Oregon Constitution and ORS 530.210 to 530.280 (state reforestation).

19 (B) The Higher Education Coordinating Commission, for bonds authorized by Article XI-G of the
20 Oregon Constitution and ORS 286A.848 (higher education and community colleges).

21 (C) Other agencies as required by the Oregon Department of Administrative Services by rule
22 adopted using the criterion of this subsection.

23 (b) Each agency authorized to issue general obligation bonds ordinarily to be repaid from Gen-
24 eral Fund appropriations shall furnish any data required by the Oregon Department of Administra-
25 tive Services to determine the amount of revenues or other funds that are available and the amount
26 of taxes, if any, that should be levied for the ensuing year and the administrative division of the
27 Oregon Department of Administrative Services that has primary responsibility for accounting shall
28 make the determination for purposes of the making of the certification required under subsection (3)
29 of this section.

30 **SECTION 42.** ORS 757.247 is amended to read:

31 757.247. (1) The Public Utility Commission may authorize a public utility, upon application of the
32 utility, to file and place into effect a tariff schedule establishing rates or charges for the cost of
33 energy resource measures provided to an individual property owner or customer pursuant to an
34 agreement entered into between the individual property owner or customer and the public utility.
35 Energy resource measures provided under this section may include:

36 (a) The installation of renewable energy generation facilities on the property of property owners
37 or the premises of customers;

38 (b) The implementation of energy conservation measures, including measures that are not cost-
39 effective;

40 (c) The installation of equipment or devices or the implementation of measures that enable de-
41 mand reduction, peak load reduction, improved integration of renewable energy generation or more
42 effective utilization of energy resources;

43 (d) Loans for the purposes described in paragraphs (a) to (c) of this subsection; and

44 (e) Direct payments to third parties for the purposes described in paragraphs (a) to (c) of this
45 subsection.

1 (2) Subject to the agreement entered into between the individual property owner or customer
2 and the public utility, a tariff schedule placed into effect under this section may include provisions
3 for:

4 (a) The payment of the rates or charges over a period of time;

5 (b) Except as provided in subsection (5) of this section, a reasonable rate of return on any in-
6 vestment made by the public utility;

7 (c) The application of any payment obligation to successive owners of the property to which the
8 energy resource measure is attached or to successive customers located at the premises to which
9 the energy resource measure is attached; and

10 (d) The application of the payment obligation to the current property owner or customer alone,
11 secured by methods agreed to by the property owner or customer and the public utility.

12 (3) Application of a tariff schedule under this section is subject to approval by the commission.

13 (4) If a payment obligation applies to successive property owners or customers as described in
14 subsection (2)(c) of this section, a public utility shall record a notice of the payment obligation in
15 the records maintained by the county clerk under ORS 205.130. The commission may prescribe by
16 rule other methods by which the public utility shall notify property owners or customers of such
17 payment obligations.

18 (5) A public utility may use moneys obtained through a rate established under ORS 757.603 (2)(a)
19 to provide a renewable energy generation facility to a property owner or customer under this sec-
20 tion. A public utility may not charge interest to a property owner or customer for a renewable en-
21 ergy generation facility acquired with moneys obtained through a rate established under ORS
22 757.603 (2)(a).

23 *[(6) Agreements entered into and tariff schedules placed into effect under this section are not sub-
24 ject to ORS 470.500 to 470.710, 757.612 or 757.689.]*

25
26 **TRANSFER OF MONEYS AND APPROPRIATIONS**

27
28 **SECTION 43. (1) The following funds are abolished on the operative date specified in
29 section 46 of this 2017 Act:**

30 (a) **The Energy Project Supplemental Fund;**

31 (b) **The Energy Revenue Bond Repayment Fund;**

32 (c) **The Energy Project Bond Loan Fund;**

33 (d) **The Alternative Fuel Vehicle Revolving Fund; and**

34 (e) **The Jobs, Energy and Schools Fund.**

35 (2) **Any moneys remaining in the funds specified in subsection (1)(a) to (d) of this section
36 on the operative date specified in section 46 of this 2017 Act that are unexpended, unobligated
37 and not subject to any conditions shall be transferred to the Small Scale Local Energy
38 Project Administration and Bond Sinking Fund established under ORS 470.300.**

39 (3) **Any moneys remaining in the fund specified in subsection (1)(e) of this section on the
40 operative date specified in section 46 of this 2017 Act that are unexpended, unobligated and
41 not subject to any conditions shall be transferred to the Clean Energy Deployment Fund es-
42 tablished under ORS 470.800.**

43 **SECTION 44. There is appropriated to the Oregon Business Development Department, for
44 the biennium beginning July 1, 2017, out of the General Fund, the amount of \$3,000,000 for
45 the purpose of carrying out the provisions of sections 5 to 15 of this 2017 Act and the**

1 amendments to statutes by sections 16 to 42 of this 2017 Act.

2
3 **REPEALS**

4
5 **SECTION 45.** ORS 469.960, 469.961, 469.962, 469.963, 469.964, 469.965, 469.966, 470.070,
6 470.500, 470.505, 470.510, 470.515, 470.520, 470.525, 470.530, 470.535, 470.540, 470.545, 470.550,
7 470.555, 470.560, 470.565, 470.570, 470.575, 470.580, 470.585, 470.590, 470.595, 470.600, 470.605,
8 470.610, 470.615, 470.620, 470.630, 470.635, 470.640, 470.645, 470.650, 470.655, 470.660, 470.665,
9 470.670, 470.675, 470.680, 470.685, 470.690, 470.695, 470.700, 470.710, 470.715, 470.720, 701.108 and
10 701.119 are repealed.

11
12 **OPERATIVE DATE**

13
14 **SECTION 46.** (1) Sections 2, 5 to 15, 43 and 44 of this 2017 Act, the amendments to stat-
15 utes by sections 1 and 16 to 42 of this 2017 Act and the repeal of statutes by section 45 of this
16 2017 Act become operative on January 1, 2018.

17 (2) The Oregon Business Development Department and the State Department of Energy
18 may take any action before the operative date specified in subsection (1) of this section that
19 is necessary to enable the Oregon Business Development Department and the State Depart-
20 ment of Energy to exercise, on and after the operative date specified in subsection (1) of this
21 section, all the duties, functions and powers conferred on the Oregon Business Development
22 Department and the State Department of Energy by sections 2, 5 to 15, 43 and 44 of this 2017
23 Act, the amendments to statutes by sections 1 and 16 to 42 of this 2017 Act and the repeal
24 of statutes by section 45 of this 2017 Act.

25
26 **UNIT CAPTIONS**

27
28 **SECTION 47.** The unit captions used in this 2017 Act are provided only for the conven-
29 ience of the reader and do not become part of the statutory law of this state or express any
30 legislative intent in the enactment of this 2017 Act.

31
32 **EFFECTIVE DATE**

33
34 **SECTION 48.** This 2017 Act takes effect on the 91st day after the date on which the 2017
35 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.