

# House Bill 3167

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 **as introduced**.

Establishes Oregon Energy Commission as policy and rulemaking body for State Department of Energy. Transfers certain duties of State Department of Energy and Director of State Department of Energy to commission.

Modifies state energy policy.

Modifies general duties of department.

Requires department to develop statewide strategic energy plan. Requires commission 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 commission to periodically review and update plan.

Requires department to provide biennial comprehensive energy report to Governor and Legislative Assembly.

Becomes operative January 1, 2018.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to the State Department of Energy; creating new provisions; amending ORS 183.530, 276.910, 276.915, 279C.528, 286A.630, 286A.718, 315.141, 315.144, 315.326, 316.116, 317.112, 469.010, 469.030, 469.040, 469.085, 469.110, 469.120, 469.150, 469.155, 469.255, 469.261, 469.310, 469.410, 469.424, 469.533, 469.534, 469.605, 469.677, 469.703, 469.754, 469.756, 469.880, 469.885, 469.890, 469.963, 469.966, 469A.020, 469A.025, 469B.103, 469B.106, 469B.112, 469B.130, 469B.136, 469B.139, 469B.145, 469B.148, 469B.154, 469B.157, 469B.161, 469B.164, 469B.253, 469B.256, 469B.259, 469B.262, 469B.265, 469B.273, 469B.276, 469B.279, 469B.285, 469B.288, 469B.291, 469B.294, 469B.303, 469B.306, 469B.323, 469B.326, 469B.329, 469B.332, 469B.335, 469B.347, 469B.400, 470.050, 470.080, 470.140, 470.150, 470.535, 470.540, 470.560, 470.600, 470.655, 470.665, 470.710, 470.720, 470.810, 701.532, 757.528, 757.533, 757.538, 757.600 and 757.612 and section 9, chapter 774, Oregon Laws 2013; repealing ORS 469.060 and 469.070; and declaring an emergency.

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

## ENERGY POLICY

**SECTION 1.** ORS 469.010 is amended to read:

469.010. The Legislative Assembly finds and declares that:

(1) Continued growth in demand for [*nonrenewable energy forms*] **energy, at affordable cost,** poses a serious and immediate, as well as future, **concern.** [*problem. It is essential that future generations not be left a legacy of vanished or depleted resources, resulting in massive environmental, social and financial impact.*]

(2) It is the goal of Oregon to promote the efficient use of energy resources [*and to develop permanently sustainable energy resources. The need exists for comprehensive state leadership in energy production, distribution and utilization.*] **consistent with state environmental policy.** It is, there-

**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 fore, the policy of Oregon:

2 (a) That **the** development and use of a diverse array of **affordable, sustainable energy re-**  
 3 **sources be encouraged.** [*permanently sustainable energy resources be encouraged utilizing to the*  
 4 *highest degree possible the private sector of our free enterprise system.*]

5 (b) That through state government example and **policy** [*other effective communications*], energy  
 6 conservation and elimination of wasteful and uneconomical uses of energy and materials be pro-  
 7 moted. [*This conservation must include, but not be limited to, resource recovery and materials recycl-*  
 8 *ing.*]

9 [*(c) That the basic human needs of every citizen, present and future, shall be given priority in the*  
 10 *allocation of energy resources, commensurate with perpetuation of a free and productive economy with*  
 11 *special attention to the preservation and enhancement of environmental quality.*]

12 [*(d) That state government assist every citizen and industry in adjusting to a diminished avail-*  
 13 *ability of energy.*]

14 [*(e) That energy-efficient modes of transportation for people and goods shall be encouraged, while*  
 15 *energy-inefficient modes of transportation shall be discouraged.*]

16 (c) **That energy-efficient modes of transportation shall be encouraged.**

17 [(f)] (d) That cost-effectiveness, **balanced with environmental policy considerations**, be con-  
 18 sidered in [*state*] agency decision-making relating to energy sources, facilities or conservation[, *and*  
 19 *that cost-effectiveness be considered in all agency decision-making relating to energy facilities*].

20 [(g)] (e) That state government shall provide a source of impartial and objective information in  
 21 order that this energy policy may be enhanced.

22  
 23 **PROVISIONS RELATING TO THE OREGON ENERGY COMMISSION**

24  
 25 **(Establishment)**

26  
 27 **SECTION 2. Sections 3 and 5 of this 2017 Act are added to and made a part of ORS 469.010**  
 28 **to 469.155.**

29 **SECTION 3. (1) There is created an Oregon Energy Commission. The commission shall**  
 30 **consist of five voting members, appointed by the Governor and subject to confirmation by**  
 31 **the Senate as provided in ORS 171.562 and 171.565.**

32 **(2) All voting members of the commission must be well informed in energy and climate**  
 33 **issues and shall be appointed as follows:**

34 **(a) One member shall be an economist;**

35 **(b) One member shall have a higher education background;**

36 **(c) One member shall represent residential energy users;**

37 **(d) One member shall represent commercial and industrial energy users; and**

38 **(e) One member shall have transportation expertise.**

39 **(3) No voting member of the commission shall:**

40 **(a) Hold any pecuniary interest in any business entity conducting operations that, if**  
 41 **conducted in this state, would be subject to the commission's regulatory jurisdiction; or**

42 **(b) Hold any pecuniary interest in, have any contract of employment with or have any**  
 43 **substantial voluntary transactions with any business or activity subject to the commission's**  
 44 **regulatory jurisdiction.**

45 **(4) One Oregon member of the Pacific Northwest Electric Power and Conservation Plan-**

ning Council shall serve as an ex officio, nonvoting member of the commission.

(5) The term of office of a voting member of the commission shall be four years, but the members of the commission may be removed by the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor to assume the duties of the member on July 1 of the next following year. A member shall be eligible for reappointment, but no member shall serve more than two consecutive terms. In case of a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(6) The commission shall select one of its members as chairperson and another as vice chairperson, for terms and with duties and powers necessary for the performance of the functions of the offices as the commission determines.

(7) A majority of the voting members of the commission constitutes a quorum for the transaction of business.

(8) A member of the commission is entitled to compensation and expenses as provided in ORS 292.495.

**SECTION 4.** Notwithstanding the term of office specified by section 3 of this 2017 Act, of the voting members first appointed to the Oregon Energy Commission:

- (1) One shall serve for a term ending January 1, 2019.
- (2) One shall serve for a term ending January 1, 2020.
- (3) One shall serve for a term ending January 1, 2021.
- (4) Two shall serve for terms ending January 1, 2022.

**(Functions, General Authority to Adopt Rules)**

**SECTION 5.** (1) It is the function of the Oregon Energy Commission to establish the policies for the operation of the State Department of Energy in a manner consistent with the policy stated in ORS 469.010.

(2) In accordance with applicable provisions of ORS chapter 183, the commission shall adopt rules and issue orders as necessary for the administration of the laws that the commission, the Director of the State Department of Energy and the department are charged with administering.

(3) Except as provided in ORS 183.335 (5), the commission shall cause a public hearing to be held on any proposed rule or standard prior to its adoption. The hearing may be before the commission, any designated member thereof or any person designated by and acting for the commission.

(4) This section does not limit the authority granted the Energy Facility Siting Council under ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

**TRANSFER OF RULEMAKING AUTHORITY FROM STATE  
DEPARTMENT OF ENERGY TO OREGON ENERGY COMMISSION**

**(Transfer)**

**SECTION 6.** (1) Except as provided in subsection (2) of this section, the duties, functions and powers of the State Department of Energy and the Director of the State Department of

1 Energy relating to the establishment of policy for the operations of the department and the  
2 adoption of rules are imposed upon, transferred to and vested in the Oregon Energy Com-  
3 mission.

4 (2) Subsection (1) of this section does not affect, alter, transfer or limit the authority  
5 granted to the Energy Facility Siting Council under ORS 469.300 to 469.563, 469.590 to 469.619,  
6 469.930 and 469.992, or the authority of the director granted under ORS 469.040 (1)(a) in  
7 supervising and facilitating the work and research on energy facility siting applications at  
8 the direction of the council.

9  
10 (Action, Proceeding, Prosecution)

11  
12 SECTION 7. The transfer of duties, functions and powers to the Oregon Energy Com-  
13 mission by section 6 of this 2017 Act does not affect any action, proceeding or prosecution  
14 involving or with respect to the duties, functions and powers begun before and pending at  
15 the time of the transfer, except that the Oregon Energy Commission is substituted for the  
16 State Department of Energy or the Director of the State Department of Energy in the  
17 action, proceeding or prosecution.

18  
19 (Liability, Duty, Obligation)

20  
21 SECTION 8. (1) Nothing in sections 2 to 10 or 14 to 17 of this 2017 Act, the amendments  
22 to statutes and session law by sections 1, 11, 12 and 18 to 105 of this 2017 Act or the repeal  
23 of statutes by section 13 of this 2017 Act relieves a person of a liability, duty or obligation  
24 accruing under or with respect to the duties, functions and powers transferred by section 6  
25 of this 2017 Act. The Oregon Energy Commission may undertake the collection or enforce-  
26 ment of any such liability, duty or obligation.

27 (2) The rights and obligations of the State Department of Energy legally incurred under  
28 contracts, leases and business transactions executed, entered into or begun before the op-  
29 erative date of section 6 of this 2017 Act accruing under or with respect to the duties, func-  
30 tions and powers transferred by section 6 of this 2017 Act are transferred to the Oregon  
31 Energy Commission. For the purpose of succession to these rights and obligations, the  
32 Oregon Energy Commission is a continuation of the State Department of Energy and the  
33 Director of the State Department of Energy and not a new authority.

34  
35 (Rules)

36  
37 SECTION 9. Notwithstanding the transfer of duties, functions and powers by section 6  
38 of this 2017 Act, the rules of the State Department of Energy and the Director of the State  
39 Department of Energy with respect to such duties, functions or powers that are in effect on  
40 the operative date of section 6 of this 2017 Act continue in effect until superseded or repealed  
41 by rules of the Oregon Energy Commission. References in the rules of the State Department  
42 of Energy to the State Department of Energy or an officer or employee of the State De-  
43 partment of Energy with respect to the duties, functions and powers transferred by section  
44 6 of this 2017 Act are considered to be references to the Oregon Energy Commission.

45 SECTION 10. Whenever, in any statutory or uncodified law or resolution of the Legisla-

1 **tive Assembly or in any rule, document, record or proceeding authorized by the Legislative**  
 2 **Assembly, in the context of the duties, functions and powers transferred by section 6 of this**  
 3 **2017 Act, reference is made to the State Department of Energy, the Director of the State**  
 4 **Department of Energy or an officer or employee of the State Department of Energy whose**  
 5 **duties, functions or powers are transferred by section 6 of this 2017 Act, the reference is**  
 6 **considered to be a reference to the Oregon Energy Commission or an officer or employee of**  
 7 **the Oregon Energy Commission who by this 2017 Act is charged with carrying out the duties,**  
 8 **functions and powers.**

9  
 10 **STATE DEPARTMENT OF ENERGY ADMINISTRATION**

11  
 12 **(Modification of General Duties)**

13  
 14 **SECTION 11.** ORS 469.030 is amended to read:

15 469.030. *[(1) There is created the State Department of Energy.]*

16 **(1) There is created under the Oregon Energy Commission a department to be known as**  
 17 **the State Department of Energy. The department shall consist of the Director of the State**  
 18 **Department of Energy and all personnel employed in the department. The primary purpose**  
 19 **of the department shall be to provide expert advice to the Governor and the Legislative As-**  
 20 **sembly on energy-related matters.**

21 **(2) Subject to the policy direction of the Oregon Energy Commission, and in furtherance**  
 22 **of the purpose stated in subsection (1) of this section, the State Department of Energy shall:**

23 **(a) [Be] Collect, compile and analyze energy data and serve as the central repository within**  
 24 **the state government for [the collection of data on energy resources;] energy information, to which**  
 25 **all agencies shall send information on all energy-related research;**

26 **(b) Monitor energy industry research and developments;**

27 *[(b) Endeavor to utilize all public and private sources to inform and educate the public about en-*  
 28 *ergy problems and ways in which the public can conserve energy resources;]*

29 **(c) Engage in research, but whenever possible, contract with appropriate public or private**  
 30 **agencies and dispense funds for research projects and other services related to energy resources,**  
 31 **except that the State Department of Energy shall endeavor to avoid duplication of research whether**  
 32 **completed or in progress;**

33 **(d) Qualify for, accept and disburse or utilize any private or federal moneys or services available**  
 34 **for the administration of ORS [176.820,] 192.501 to 192.505, [192.690,] 469.010 to 469.155, 469.300 to**  
 35 **469.563, 469.990, 757.710 and 757.720;**

36 **(e) Administer federal and state energy allocation and conservation programs and energy re-**  
 37 **search and development programs and apply for and receive available funds [therefor] for the pro-**  
 38 **grams;**

39 *[(f) Be a clearinghouse for energy research to which all agencies shall send information on all*  
 40 *energy related research;]*

41 *[(g) (f) Prepare contingent energy programs to include all forms of energy not otherwise pro-*  
 42 *vided pursuant to ORS 757.710 and 757.720;*

43 *[(h) Maintain an inventory of energy research projects in Oregon and the results thereof;]*

44 *[(i) Collect, compile and analyze energy statistics, data and information;]*

45 **(j) (g) Contract with public and private agencies for energy activities consistent with ORS**

1 469.010 and this section;

2 [(k)] (h) Upon request of the governing body of any affected jurisdiction, coordinate a public  
3 review of a proposed transmission line according to the provisions of ORS 469.442; and

4 [(L) Advise the Governor on energy-related matters.]

5 (i) **Provide staff support to the Oregon Hanford Cleanup Board, the Energy Facility Siting  
6 Council and the Oregon Global Warming Commission.**

7  
8 (Director)

9  
10 **SECTION 12.** ORS 469.040 is amended to read:

11 469.040. (1) The State Department of Energy shall be under the supervision of the Director of  
12 the State Department of Energy, who shall:

13 [(a) Supervise the day-to-day functions of the State Department of Energy;]

14 [(b)] (a) Supervise and facilitate the work and research on energy facility siting applications at  
15 the direction of the Energy Facility Siting Council; **and**

16 (b) **Subject to the direction of the Oregon Energy Commission:**

17 (A) **Supervise the day-to-day functions of the State Department of Energy; and**

18 [(c)] (B) Hire, assign, reassign and coordinate personnel of the State Department of Energy,  
19 prescribe their duties and fix their compensation, subject to the State Personnel Relations Law[;  
20 and].

21 [(d) Adopt rules and issue orders to carry out the duties of the director and the State Department  
22 of Energy in accordance with ORS chapter 183 and the policy stated in ORS 469.010.]

23 (2) The director may delegate to any officer or employee the exercise and discharge in the  
24 director's name of any power, duty or function of whatever character vested in the director by law.  
25 The official act of any person acting in the director's name and by the director's authority shall be  
26 considered an official act of the director.

27 (3) The director shall be appointed by the [Governor] **Oregon Energy Commission, subject to  
28 confirmation by the Senate in the manner provided by ORS 171.562 and 171.565.**

29  
30 (Statewide Strategic Energy Plan)

31  
32 **SECTION 13.** ORS 469.060 and 469.070 are repealed.

33 **SECTION 14.** Sections 15 and 17 of this 2017 Act are added to and made a part of ORS  
34 469.010 to 469.155.

35 **SECTION 15.** (1) The State Department of Energy shall develop a statewide strategic  
36 energy plan to implement the energy policies stated in ORS 469.010 and 469.310 in a manner  
37 that:

38 (a) **Takes a balanced approach to addressing the competing interests affected by the  
39 policies stated in ORS 469.010 and 469.310; and**

40 (b) **Provides for transparency and accountability in the actions of the department and the  
41 Oregon Energy Commission.**

42 (2) **The statewide strategic energy plan shall include:**

43 (a) **A description of this state's long-term energy needs;**

44 (b) **The objectives of the plan;**

45 (c) **Actions that are designed to achieve the objectives of the plan;**

1 (d) Plans related to the challenges presented by climate change;

2 (e) Provisions to ensure communication and partnership with key stakeholders;

3 (f) Quantitative and qualitative metrics for assessing the performance of the commission  
4 and the department in implementing the plan, which shall include, but need not be limited  
5 to, metrics related to:

6 (A) The consumption, generation, transmission and production of energy, including fuel  
7 energy;

8 (B) Energy costs;

9 (C) Energy sectors, markets, technologies, resources and facilities;

10 (D) Energy efficiency and conservation; and

11 (E) The effects of energy use, including effects related to greenhouse gas emissions;

12 (g) Specific functions and roles to be performed by other state agencies in coordinating  
13 with the department to ensure a unified, statewide approach to addressing the energy needs  
14 and goals of this state consistent with state environmental policy and the policies set forth  
15 in ORS 469.010 and 469.310; and

16 (h) Public policy options and recommendations.

17 (3) The statewide strategic energy plan shall take effect upon adoption by the commis-  
18 sion.

19 (4) The commission shall periodically review and update the statewide strategic energy  
20 plan. The review required by this section shall include an analysis of how each of the pro-  
21 grams of the department contributes to meeting the goals of the statewide strategic energy  
22 plan and how each program can most effectively be administered in furtherance of the plan.  
23 Revisions of the plan shall take effect upon the commission's adoption of the revised plan  
24 by reference in rule.

25 **SECTION 16.** (1) The Oregon Energy Commission shall initially adopt the statewide  
26 strategic energy plan required by section 15 of this 2017 Act no later than January 1, 2020.

27 (2) The State Department of Energy shall prepare a draft statewide strategic energy plan  
28 and a report, that may include recommendations for legislation, on the draft plan. The de-  
29 partment shall, no later than September 15, 2019, submit the draft plan and the report to the  
30 appropriate interim committees of the Legislative Assembly in the manner provided under  
31 ORS 192.245.

32 **SECTION 17.** (1) No later than November 1 of every even-numbered year, the State De-  
33 partment of Energy shall transmit to the Governor and the Legislative Assembly a compre-  
34 hensive report on energy resources, policies, trends and forecasts in Oregon. The purposes  
35 of the report shall be to inform local, state, regional and federal energy policy development,  
36 energy planning and energy investments and to identify opportunities to further the energy  
37 policies stated in ORS 469.010 and 469.310 in conformance with the statewide strategic energy  
38 plan required under section 15 of this 2017 Act.

39 (2) Consistent with the legislatively approved budget, the report shall include, but need  
40 not be limited to:

41 (a) Information on and analysis of the state's progress toward achieving the goals of the  
42 statewide strategic energy plan required by section 15 of this 2017 Act and on the effective-  
43 ness of the department's programs in contributing to meeting the goals of the plan.

44 (b) Information on the impact of activities carried out by the Oregon Energy Commission  
45 and the department on achieving the greenhouse gas emissions reduction goals set forth in

1 **ORS 468A.205.**

2 (c) **Data and information on:**

3 (A) **The consumption, generation, transmission and production of energy, including fuel**  
 4 **energy;**

5 (B) **Energy costs;**

6 (C) **Energy sectors, markets, technologies, resources and facilities;**

7 (D) **Energy efficiency and conservation;**

8 (E) **The effects of energy use, including effects related to greenhouse gas emissions;**

9 (F) **Local, state, regional and federal regulations, policies and planning activities related**  
 10 **to energy; and**

11 (G) **Emerging energy opportunities, challenges and impacts.**

12 (3) **The report may include, but need not be limited to:**

13 (a) **Recommendations for the development and maximum use of cost-effective conserva-**  
 14 **tion methods and renewable resources, consistent with the statewide strategic energy plan,**  
 15 **the energy policies stated in ORS 469.010 and 469.310 and, where appropriate, the energy plan**  
 16 **and fish and wildlife program adopted by the Pacific Northwest Electric Power and Conser-**  
 17 **vation Planning Council pursuant to P.L. 96-501; and**

18 (b) **Recommendations for proposed research, development and demonstration projects**  
 19 **and programs necessary to further the purposes of the statewide strategic energy plan and**  
 20 **energy policies stated in ORS 469.010 and 469.310.**

21 (4) **The report shall be compiled by collecting, organizing and refining data and informa-**  
 22 **tion:**

23 (a) **Acquired by the department in the performance of the department's existing duties;**  
 24 **or**

25 (b) **Required by the commission by rule to be submitted to the department for purposes**  
 26 **of compiling the report.**

27 (5) **Upon request from the department, other agencies shall assist the department in the**  
 28 **performance of the department's duties under this section.**

29 (6) **The department shall seek public input and provide opportunities for public comment**  
 30 **during the development of the report.**

31  
 32 **(Other State Department of Energy Administrative Provisions)**

33  
 34 **SECTION 18.** ORS 469.085 is amended to read:

35 469.085. (1) Except as otherwise provided in this section, civil penalties under ORS 469.992 shall  
 36 be imposed as provided in ORS 183.745.

37 (2) Notwithstanding ORS 183.745 (2), the notice to the person against whom a civil penalty is  
 38 to be imposed shall reflect a complete statement of the consideration given to the factors listed in  
 39 subsection (7) of this section. The notice may be served by either the [*Director of the State Depart-*  
 40 *ment of Energy*] **Oregon Energy Commission** or the Energy Facility Siting Council.

41 (3) Notwithstanding ORS 183.745, if a hearing is not requested or if the person requesting a  
 42 hearing fails to appear, a final order shall be entered upon a prima facie case made on the record  
 43 of the agency.

44 (4) The provisions of this section are in addition to and not in lieu of any other penalty or  
 45 sanction provided by law. An action taken by the [*director*] **commission** or the council under this



1 section may be joined by the [*director*] **commission** or the council with any other action against the  
 2 same person under this chapter.

3 (5) Any civil penalty recovered under this section shall be paid into the General Fund.

4 (6) The [*director*] **commission** or the council shall adopt by rule a schedule of the amount of  
 5 civil penalty that may be imposed for a particular violation.

6 (7) In imposing a penalty under ORS 469.992, the [*director*] **commission** or the council shall  
 7 consider:

8 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures  
 9 necessary or appropriate to correct or prevent any violation;

10 (b) Any prior violations of ORS chapter 469 or rules, orders or permits relating to the alleged  
 11 violation;

12 (c) The impact of the violation on public health and safety or public interests in fishery, navi-  
 13 gation and recreation;

14 (d) Any other factors determined by the [*director*] **commission** or the council to be relevant;  
 15 and

16 (e) The alleged violator's cooperativeness and effort to correct the violation.

17 (8) The penalty imposed under ORS 469.992 may be remitted or mitigated upon such terms and  
 18 conditions as the [*director*] **commission** or council determines to be proper. Upon the request of the  
 19 person incurring the penalty, the [*director*] **commission** or council shall consider evidence of the  
 20 economic and financial condition of the person in determining whether a penalty shall be remitted  
 21 or mitigated.

22 **SECTION 19.** ORS 469.110 is amended to read:

23 469.110. (1) At the direction of the [*Director of the State Department of Energy*] **Oregon Energy**  
 24 **Commission**, the State Department of Energy may represent the state's energy-related interests in  
 25 any matter involving the federal government, its departments or agencies, which is within the scope  
 26 of the power and duties of the State Department of Energy, and may, upon request, represent the  
 27 interest of a county, city, state agency, federally recognized Native American or American Indian  
 28 tribe, special district or owner or operator of an energy facility.

29 (2) At the direction of the [*director*] **commission**, the department may intervene in any pro-  
 30 ceeding undertaken by an agency for the purpose of expressing its views as to the effect of an  
 31 agency action, upon state energy resources and state energy policy.

32 **SECTION 20.** ORS 469.120 is amended to read:

33 469.120. (1) The State Department of Energy Account is established.

34 (2) The account shall consist of all funds received by the State Department of Energy pursuant  
 35 to law. All moneys in the account are continuously appropriated to the State Department of Energy  
 36 for payment of expenses of the department, **the Oregon Energy Commission** and [*of*] the Energy  
 37 Facility Siting Council.

38 (3) Moneys collected under ORS 469.421 (8) may be expended only for the purposes of programs  
 39 and activities that the **commission, the** council and the department are charged with administering  
 40 and authorized to conduct under the laws of this state, including those enumerated in ORS 469.030.

41 (4) The Director of the State Department of Energy shall keep a record of all moneys deposited  
 42 in the account. The record shall indicate by special cumulative accounts the source from which  
 43 moneys are derived and the individual activity or program, including any activities described in ORS  
 44 469.424, against which each withdrawal is charged. On or after October 1 of each year, the director  
 45 shall make available, upon request, the record for the prior fiscal year to any energy resource sup-

1 plier that has paid the assessment imposed under ORS 469.421 (8). The director shall make the re-  
 2 cord available within 30 days of receiving the request.

3  
 4 **CONFORMING AMENDMENTS**

5  
 6 **SECTION 21.** ORS 183.530 is amended to read:

7 183.530. A housing cost impact statement shall be prepared upon the proposal for adoption or  
 8 repeal of any rule or any amendment to an existing rule by:

- 9 (1) The Oregon Housing Stability Council;
- 10 (2) A building codes division of the Department of Consumer and Business Services or any board
- 11 associated with the department with regard to rules adopted under ORS 455.610 to 455.630;
- 12 (3) The Land Conservation and Development Commission;
- 13 (4) The Environmental Quality Commission;
- 14 (5) The Construction Contractors Board;
- 15 (6) The Occupational Safety and Health Division of the Department of Consumer and Business
- 16 Services; or
- 17 (7) The [*State Department of Energy*] **Oregon Energy Commission.**

18 **SECTION 22.** ORS 276.910 is amended to read:

19 276.910. (1) Before constructing or renovating a major facility, an authorized state agency shall,  
 20 after comparing various equipment options and to the greatest extent practicable, use fuel cell  
 21 power systems for emergency backup power applications and for critical power applications in lieu  
 22 of other equipment options.

23 (2)(a) The [*State Department of Energy*] **Oregon Energy Commission** shall, in consultation with  
 24 the Oregon Department of Administrative Services, adopt rules establishing criteria for the com-  
 25 parison of fuel cell power systems and other equipment options required by subsection (1) of this  
 26 section.

27 (b) Criteria to be established under this subsection must address:

- 28 (A) The impact of emissions, including but not limited to nitrous oxide, sulfur oxide, carbon
- 29 monoxide, carbon dioxide and particulates, from various equipment options, on the environment, re-  
 30 gardless of whether the equipment is installed indoors or installed outdoors;
- 31 (B) Life cycle costs, including but not limited to acquisition costs, installation and commission-
- 32 ing costs, siting and permitting costs, maintenance costs and fueling and decommissioning costs; and
- 33 (C) The complexity of equipment options and any ancillary equipment.

34 **SECTION 23.** ORS 276.915 is amended to read:

35 276.915. (1) An authorized state agency may construct or renovate a facility only if the author-  
 36 ized state agency determines that the design incorporates all reasonable cost-effective energy con-  
 37 servation measures and alternative energy systems. The determination by the authorized state  
 38 agency shall include consideration of indoor air quality issues and operation and maintenance costs.

39 (2) Whenever an authorized state agency determines that a major facility is to be constructed  
 40 or renovated, the authorized state agency shall cause to be included in the design phase of the  
 41 construction or renovation a provision that requires an energy consumption analysis to be prepared  
 42 for the facility under the direction of a professional engineer or registered architect or under the  
 43 direction of a person that is prequalified in accordance with this section. The authorized state  
 44 agency and the State Department of Energy shall agree to the list of energy conservation measures  
 45 and alternative energy systems that the energy consumption analysis will include. The energy con-

1 sumption analysis and facility design shall be delivered to the State Department of Energy during  
2 the design development phase of the facility design. The State Department of Energy shall review  
3 the energy consumption analysis and forward its findings to the authorized state agency within 10  
4 working days after receiving the energy consumption analysis, if practicable.

5 (3) The [*State Department of Energy*] **Oregon Energy Commission**, in consultation with au-  
6 thorized state agencies, shall adopt rules to carry out the provisions of ORS 276.900 to 276.915.  
7 These rules shall:

8 (a) Include a simplified and usable method for determining which energy conservation measures  
9 and alternative energy systems are cost-effective. The method shall reflect the energy costs of the  
10 utility serving the facility.

11 (b) Prescribe procedures for determining if a facility design incorporates all reasonable cost-  
12 effective energy conservation measures and alternative energy systems.

13 (c) Establish fees through which an authorized state agency will reimburse the State Department  
14 of Energy for the department's review of energy consumption analyses and facility designs and the  
15 department's reporting tasks. The fees imposed may not exceed 0.2 percent of the capital con-  
16 struction cost of the facility and must be included in the energy consumption analysis required in  
17 subsection (2) of this section. The State Department of Energy may provide for a waiver of fees and  
18 reviews if the authorized state agency demonstrates that the facility will be designed and con-  
19 structed in a manner that incorporates only cost-effective energy conservation measures or in a  
20 manner that exceeds the energy conservation provisions of the state building code by 20 percent or  
21 more.

22 (d) Periodically define highly efficient facilities. A facility constructed or renovated after June  
23 30, 2001, shall exceed the energy conservation provisions of the state building code by 20 percent  
24 or more, unless otherwise required by rules adopted under this section.

25 (e) Establish guidelines for implementing subsection (4) of this section.

26 (f) Establish guidelines for incorporating energy efficiency requirements into lease agreements  
27 of 10 or more years to be phased in as current lease agreements expire or as new lease agreements  
28 are entered into, allowing reasonable time for the owner to implement the requirements of this  
29 section.

30 (g) Establish criteria by which the State Department of Energy determines that a person is  
31 prequalified to perform work in accordance with this section.

32 (4) Before June 30, 2015, an authorized state agency shall reduce the total amount of energy the  
33 authorized state agency uses in the authorized state agency's owned facilities by at least 20 percent  
34 from a baseline amount the [*State Department of Energy*] **commission** determines by rule based on  
35 usage in calendar year 2000.

36 (5) An authorized state agency shall report annually to the State Department of Energy con-  
37 cerning energy use in the authorized state agency's facilities. The [*State Department of Energy*]  
38 **commission** shall specify by rule the form and content of and deadlines for the reports.

39 (6) An authorized state agency that fails to achieve and maintain a 20 percent reduction in en-  
40 ergy use on and after June 30, 2015, shall submit biennial energy conservation plans to the State  
41 Department of Energy. The [*State Department of Energy*] **commission** shall specify by rule the form  
42 and content of and deadlines for the energy conservation plans.

43 (7) The [*State Department of Energy*] **commission** by rule may require mandatory prequalifica-  
44 tion as a condition for a person to submit a bid or proposal to perform the following work for an  
45 authorized state agency:

1 (a) Direct an energy consumption analysis for an authorized state agency under subsection (2)  
 2 of this section, unless the person is a professional engineer or a registered architect;

3 (b) Enter into an energy savings performance contract; or

4 (c) Perform energy audits, building commissioning, monitoring and verification services and  
 5 other services related to the operation and management of a facility's energy systems, except for  
 6 architectural, engineering, photogrammetric mapping, transportation planning or land surveying  
 7 services as defined in ORS 279C.100.

8 (8) The State Department of Energy may recover from authorized state agencies the costs as-  
 9 sociated with administering the provisions of this section, including costs associated with *[adopting*  
 10 *rules]* **the adoption of rules by the commission**, maintaining a state energy use database and  
 11 prequalifying a person under this section.

12 (9) The State Department of Energy and the Oregon Department of Administrative Services shall  
 13 jointly prepare a biennial report summarizing the progress toward achieving the goals of this sec-  
 14 tion. The biennial report shall be made available to the public.

15 **SECTION 24.** ORS 279C.528 is amended to read:

16 279C.528. (1) Each contracting agency, in soliciting, awarding and administering public im-  
 17 provement contracts that are subject to ORS 279C.527, is subject to rules **adopted by** the *[State*  
 18 *Department of Energy]* **Oregon Energy Commission** *[adopts]* that include, but are not limited to,  
 19 requirements and specifications for:

20 (a) Using particular green energy technologies in public improvements;

21 (b) Determining the cost-effectiveness of green energy technologies;

22 (c) Submitting documents required under ORS 279C.527 to the *[department]* **State Department**  
 23 **of Energy** for review; and

24 (d) Determining whether a structure is a public building subject to the requirements of ORS  
 25 279C.527.

26 (2)(a) Each contracting agency shall collect and maintain information concerning the contract-  
 27 ing agency's compliance with ORS 279C.527, which must include, at a minimum:

28 (A) Records that show how the contracting agency spent moneys the contracting agency used  
 29 in including appropriate green energy technology as part of constructing, reconstructing or per-  
 30 forming a major renovation of a public building;

31 (B) An identification of each public improvement contract for which the contracting agency  
 32 spent moneys to include appropriate green technology as part of constructing, reconstructing or  
 33 performing a major renovation of a public building;

34 (C) An identification of each public improvement contract for which the contracting agency de-  
 35 termined that including green technology as part of constructing, reconstructing or performing a  
 36 major renovation of a public building was not appropriate;

37 (D) The total amount the contracting agency would have spent on each public improvement  
 38 contract identified in subparagraph (C) of this paragraph and the total aggregated amount that the  
 39 contracting agency must spend to include green energy technology as part of constructing, recon-  
 40 structing or performing a major renovation of a future public building; and

41 (E) An identification of each public improvement contract that uses moneys the contracting  
 42 agency did not spend in a previous public improvement contract for including appropriate green  
 43 energy technology as part of constructing, reconstructing or performing a major renovation of a  
 44 public building.

45 (b) Each contracting agency shall compile the information the contracting agency collected un-

1 der paragraph (a) of this subsection and report the information to the department at times, in a  
2 manner and on forms that the [department] **commission** specifies by rule.

3 (c) The department shall:

4 (A) Compile and summarize the information the department receives under paragraph (b) of this  
5 subsection and, in the department's compilation and summary, specifically:

6 (i) Identify contracting agencies that have not complied with the requirements of ORS 279C.527  
7 or the reporting requirements set forth in this section;

8 (ii) Identify public improvement contracts for which contracting agencies have determined that  
9 including green energy technology as part of constructing, reconstructing or performing a major  
10 renovation of a public building was not appropriate; and

11 (iii) Identify public improvement contracts that use moneys a contracting agency did not spend  
12 in a previous public improvement contract on including appropriate green energy technology as part  
13 of constructing, reconstructing or performing a major renovation of a public building.

14 (B) Deliver annually to the Legislative Assembly, on or before the date on which each regular  
15 session of the Legislative Assembly begins, a report concerning contracting agency compliance with  
16 this section and ORS 279C.527 that includes the compilation and summary the department prepared  
17 under subparagraph (A) of this paragraph.

18 **SECTION 25.** ORS 286A.630 is amended to read:

19 286A.630. (1) The Legislative Assembly finds that the American Recovery and Reinvestment Act  
20 of 2009 (P.L. 111-5) provides that the State of Oregon may receive, allocate and reallocate the au-  
21 thority to issue certain kinds of state and local government bonds that qualify for tax credits, fed-  
22 eral subsidies or exclusion of bond interest from gross income under the United States Internal  
23 Revenue Code of 1986, as amended.

24 (2) As described in subsections (3) to (6) of this section, state agencies and the Private Activity  
25 Bond Committee may allocate and reallocate or take any additional actions that are desirable to  
26 maximize the benefits of bonding programs created or expanded by the American Recovery and Re-  
27 investment Act of 2009 (P.L. 111-5).

28 (3) The Department of Education, with the approval of the Governor, may allocate, reallocate  
29 and otherwise manage this state's qualified school construction bonding authority.

30 (4) The Oregon Business Development Department may allocate, reallocate and otherwise man-  
31 age this state's recovery zone economic development bonding authority and this state's recovery  
32 zone facility bonding authority.

33 (5) The State Department of Energy may allocate, reallocate and otherwise manage this state's  
34 qualified energy conservation bonding authority.

35 (6) The Private Activity Bond Committee may allocate, reallocate and otherwise manage any  
36 bonding authority that is created or expanded by the American Recovery and Reinvestment Act of  
37 2009 (P.L. 111-5) if that responsibility is not assigned to a state agency by this section, or if an  
38 agency that is assigned that responsibility requests the Private Activity Bond Committee to allocate  
39 that authority on behalf of that agency.

40 (7) The Department of Education, the Oregon Business Development Department, the [State De-  
41 partment of Energy] **Oregon Energy Commission** and the Private Activity Bond Committee may  
42 adopt rules to implement the provisions of this section including, but not limited to, rules prescrib-  
43 ing:

44 (a) Application processes and requirements to receive a subsequent allocation or reallocation;

45 (b) Standards upon which an allocation or reallocation may be based; and

1 (c) Any conditions that must be met to receive an allocation or reallocation of the bonding au-  
 2 thority or to receive the benefits of such bonding authority.

3 **SECTION 26.** ORS 286A.718 is amended to read:

4 286A.718. (1) The Renewable Energy Fund is established in the State Treasury, separate and  
 5 distinct from the General Fund. Amounts in the fund may be invested as provided in ORS 293.701  
 6 to 293.857, and interest earned on the fund must be credited to the fund. Amounts credited to the  
 7 fund are continuously appropriated to the State Department of Energy for the purpose described in  
 8 ORS 286A.712 (2)(a) and for the purpose of paying bond-related costs. The department shall deposit  
 9 in the fund:

10 (a) The net proceeds of Article XI-D bonds transferred pursuant to ORS 286A.712 (4);

11 (b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the  
 12 fund; and

13 (c) Gifts, grants or contributions received by the department for the purpose described in ORS  
 14 286A.712 (2)(a).

15 (2) The State Department of Energy may create separate accounts in the Renewable Energy  
 16 Fund as appropriate for the management of moneys in the fund.

17 (3) The State Department of Energy and any other state agency or other entity receiving or  
 18 holding net proceeds of Article XI-D bonds shall, at the direction of the Oregon Department of Ad-  
 19 ministrative Services, take action necessary to maintain the excludability of interest on Article XI-D  
 20 bonds from gross income under the Internal Revenue Code.

21 (4) If at any time the Oregon Department of Administrative Services or the State Department  
 22 of Energy determines that there are moneys in the Renewable Energy Fund in excess of the amounts  
 23 necessary for the purpose described in ORS 286A.712 (2)(a), the Oregon Department of Administra-  
 24 tive Services or the State Department of Energy may transfer the excess amounts to the Article  
 25 XI-D Bond Fund or to the Article XI-D Bond Administration Fund.

26 (5) The [*State Department of Energy*] **Oregon Energy Commission** may adopt rules to carry out  
 27 this section, including procedures for distributing and monitoring the use of moneys from the  
 28 Renewable Energy Fund.

29 **SECTION 27.** ORS 315.141 is amended to read:

30 315.141. (1) As used in this section:

31 (a) “Agricultural producer” means a person that produces biomass in Oregon that is used, in  
 32 Oregon, as biofuel or to produce biofuel.

33 (b) “Biofuel” means liquid, gaseous or solid fuels, derived from biomass, that have been con-  
 34 verted into a processed fuel ready for use as energy by a biofuel producer’s customers or for direct  
 35 biomass energy use at the biofuel producer’s site.

36 (c) “Biofuel producer” means a person that through activities in Oregon:

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

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

39 (C) Uses biomass in Oregon to produce energy.

40 (d) “Biomass” means organic matter that is available on a renewable or recurring basis and that  
 41 is derived from:

42 (A) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest  
 43 or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

44 (B) Wood material from hardwood timber described in ORS 321.267 (3);

45 (C) Agricultural residues;

- 1 (D) Offal and tallow from animal rendering;
- 2 (E) Food wastes collected as provided under ORS chapter 459 or 459A;
- 3 (F) Wood debris collected as provided under ORS chapter 459 or 459A;
- 4 (G) Wastewater solids; or
- 5 (H) Crops grown solely to be used for energy.
- 6 (e) “Biomass” does not mean wood that has been treated with creosote, pentachlorophenol, in-
- 7 organic arsenic or other inorganic chemical compounds or waste, other than matter described in
- 8 paragraph (d) of this subsection.
- 9 (f) “Biomass collector” means a person that collects biomass in Oregon to be used, in Oregon,
- 10 as biofuel or to produce biofuel.
- 11 (g) “Canola” means plants of the genus Brassica:
- 12 (A) In which seeds having a high oil content are the primary economically valuable product; and
- 13 (B) That have a high erucic acid content suitable for industrial uses or a low erucic acid content
- 14 suitable for edible oils.
- 15 (h) “Oilseed processor” means a person that receives agricultural oilseeds and separates them
- 16 into meal and oil by mechanical or chemical means.
- 17 (i) “Willamette Valley” means Clackamas, Linn, Marion, Multnomah, Polk, Washington and
- 18 Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast
- 19 Range.
- 20 (2) The [*Director of the State Department of Energy*] **Oregon Energy Commission** may adopt
- 21 rules to define criteria, only as the criteria apply to organic biomass, to determine additional char-
- 22 acteristics of biomass for purposes of this section.
- 23 (3)(a) An agricultural producer or biomass collector shall be allowed a credit against the taxes
- 24 that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS
- 25 chapter 317 or 318 for:
- 26 (A) The production of biomass in Oregon that is used, in Oregon, as biofuel or to produce
- 27 biofuel; or
- 28 (B) The collection of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.
- 29 (b) A credit under this section may be claimed in the tax year in which the credit is certified
- 30 under subsection (5) of this section.
- 31 (c) A taxpayer may be allowed a credit under this section for more than one of the roles defined
- 32 in subsection (1) of this section, but a biofuel producer that is not also an agricultural producer or
- 33 a biomass collector may not claim a credit under this section.
- 34 (d) A credit under this section may be claimed only once for each unit of biomass.
- 35 (e) Notwithstanding paragraph (a) of this subsection, a tax credit:
- 36 (A) Is not allowed for canola grown, collected or produced in the Willamette Valley; and
- 37 (B) Is not allowed for grain corn, but a tax credit shall be allowed for other corn material.
- 38 (4) The amount of the credit shall equal the amount certified under subsection (5) of this section.
- 39 (5)(a) The [*State Department of Energy*] **Oregon Energy Commission** may establish by rule
- 40 procedures and criteria for determining the amount of the tax credit to be certified under this sec-
- 41 tion, consistent with ORS 469B.403. The [*department*] **State Department of Energy** shall provide
- 42 written certification to taxpayers that are eligible to claim the credit under this section.
- 43 (b) The State Department of Energy may charge and collect a fee from taxpayers for certifica-
- 44 tion of credits under this section. The fee may not exceed the cost to the department of determining
- 45 the amount of certified cost.

1 (c) The State Department of Energy shall provide to the Department of Revenue a list, by tax  
2 year, of taxpayers for which a credit is certified under this section, upon request of the Department  
3 of Revenue.

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

6 (7) Each agricultural producer or biomass collector shall maintain the written documentation  
7 of the amount certified for tax credit under this section in its records for a period of at least five  
8 years after the tax year in which the credit is claimed and provide the written documentation to the  
9 Department of Revenue upon request.

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

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

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

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

22 (b) If a change in the status of the taxpayer from resident to nonresident or from nonresident  
23 to resident occurs, the credit allowed by this section shall be determined in a manner consistent  
24 with ORS 316.117.

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

28 **SECTION 28.** ORS 315.144 is amended to read:

29 315.144. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit  
30 to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

31 (2) A tax credit allowed under ORS 315.141 may be transferred on or before the date on which  
32 the return is due for the tax year in which the credit may first be claimed. After that date, no  
33 portion of a credit allowed under ORS 315.141 may be transferred.

34 (3) To transfer the tax credit, the taxpayer earning the credit and the taxpayer that will claim  
35 the credit shall, on or before the date prescribed in subsection (2) of this section, jointly file a notice  
36 of tax credit transfer with the Department of Revenue. The notice shall be given on a form pre-  
37 scribed by the department that contains all of the following:

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

39 (b) The amount of the tax credit that is being transferred;

40 (c) The amount of the tax credit that is being retained by the transferor; and

41 (d) Any other information required by the department.

42 (4) The [*State Department of Energy*] **Oregon Energy Commission** may establish by rule a  
43 minimum discounted value of a tax credit under this section.

44 (5) The Department of Revenue, in consultation with the [*State Department of Energy*] **com-**  
45 **mission**, may by rule establish procedures for the transfer of tax credits provided by this section.



**SECTION 29.** ORS 315.326 is amended to read:

315.326. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified renewable energy development contributions made by the taxpayer during the tax year to the Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in ORS 470.800.

(2)(a) The Department of Revenue shall, in cooperation with the State Department of Energy, conduct an auction of tax credits under this section. The auction may be conducted no later than April 15 following December 31 of any tax year for which the credit is allowed. The department may conduct the auction in the manner that it determines is best suited to maximize the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the Department of Revenue for the actual costs incurred by the department in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The Department of Revenue shall deposit net receipts from the auction required under this section in the Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in ORS 470.800. Net receipts from the auction required under this section shall be used only for purposes related to renewable energy development.

(b) The [*State Department of Energy*] **Oregon Energy Commission** shall adopt rules in order to achieve the following goals:

(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of \$1.5 million are certified for each fiscal year;

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

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

(3) Contributions made under this section shall be deposited in the Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in ORS 470.800.

(4)(a) Upon receipt of a contribution, the State Department of Energy shall, except as provided in ORS 315.329, issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed \$1.5 million for the fiscal year in which certification is made.

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

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

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

1 be carried forward for any tax year thereafter.

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

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

7 **SECTION 30.** ORS 316.116, as amended by section 4, chapter 29, Oregon Laws 2016, is amended  
8 to read:

9 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due  
10 under this chapter for costs paid or incurred for construction or installation of each of one or more  
11 alternative energy devices in or at a dwelling.

12 (b) A credit against the taxes otherwise due under this chapter is not allowed for an alternative  
13 energy device that does not meet or exceed all applicable federal, state and local requirements for  
14 energy efficiency, including equipment codes, state and federal appliance standards, the state build-  
15 ing code, specialty codes and any other standards.

16 (2)(a) For each category one alternative energy device other than an alternative fuel device or  
17 an alternative energy device that uses solar radiation for domestic water heating or swimming pool  
18 heating, the credit allowed under this section may not exceed the lesser of 50 percent of the cost  
19 of the alternative energy device or \$1,500, and shall be computed as follows:

20 (A) For a category one alternative energy device that is not an alternative fuel device, the  
21 credit shall be based upon the first year energy yield of the alternative energy device that qualifies  
22 under ORS 469B.100 to 469B.118. The amount of the credit shall be the same whether for collective  
23 or noncollective investment.

24 (B) For each category one alternative energy device for a dwelling, the credit shall be based  
25 upon the first year energy yield in kilowatt hours per year multiplied by 60 cents per dwelling uti-  
26 lizing the alternative energy device used for space heating, cooling, electrical energy or domestic  
27 water heating.

28 (C) Except as provided in paragraph (c) of this subsection, for each category one alternative  
29 energy device used for swimming pool, spa or hot tub heating, the credit shall be based upon the  
30 first year energy yield in kilowatt hours per year multiplied by 15 cents.

31 (b) For each alternative fuel device, the credit allowed under this section may not exceed the  
32 lesser of 50 percent of the cost of the alternative fuel device or \$750.

33 (c) For each category one alternative energy device that uses solar radiation for:

34 (A) Domestic water heating, the credit allowed under this section shall be based upon 50 percent  
35 of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by \$2,  
36 whichever is lower, up to \$6,000.

37 (B) Swimming pool heating, the credit allowed under this section shall be based upon 50 percent  
38 of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by 20  
39 cents, whichever is lower, up to \$2,500.

40 (d)(A) For each category two alternative energy device that is a solar electric system or fuel  
41 cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of in-  
42 stalled output or \$6,000.

43 (B) For each category two alternative energy device that is a wind electric system, the credit  
44 allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield in  
45 kilowatt hours per year multiplied by \$2.

1 (3)(a) Notwithstanding subsection (2)(a), (c) or (d) of this section, the total amount of the credits  
 2 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each al-  
 3 ternative energy device, whichever is less. Unused credit amounts may be carried forward as pro-  
 4 vided in subsection (8) of this section, but may not be carried forward to a tax year that is more  
 5 than five tax years following the first tax year for which any credit was allowed with respect to the  
 6 category two alternative energy device that is the basis for the credit.

7 (b) Notwithstanding subsection (2)(d) of this section, the total amount of the credit for each de-  
 8 vice allowed under subsection (2)(d) of this section may not exceed 50 percent of the total installed  
 9 cost of the category two alternative energy device.

10 (4) The [*State Department of Energy*] **Oregon Energy Commission** may by rule provide for a  
 11 lesser amount of incentive for each type of alternative energy device as market conditions warrant.

12 (5) To qualify for a credit under this section, all of the following are required:

13 (a) The alternative energy device must be purchased, constructed, installed and operated in ac-  
 14 cordance with ORS 469B.100 to 469B.118 and a certificate issued thereunder.

15 (b) The taxpayer who is allowed the credit must be the owner or contract purchaser of the  
 16 dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the  
 17 contract purchaser and must:

18 (A) Use the dwelling or dwellings served by the alternative energy device as a principal or  
 19 secondary residence; or

20 (B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant  
 21 who uses the dwelling or dwellings as a principal or secondary residence.

22 (c) The credit must be claimed for the tax year in which the alternative energy device was  
 23 purchased if the device is operational by April 1 of the next following tax year.

24 (6) The credit provided by this section does not affect the computation of basis under this  
 25 chapter.

26 (7) The total credits allowed under this section in any one year may not exceed the tax liability  
 27 of the taxpayer.

28 (8) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
 29 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
 30 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
 31 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
 32 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
 33 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
 34 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried  
 35 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year  
 36 thereafter.

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

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

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

45 (12) Spouses in a marriage who file separate returns for a taxable year may each claim a share

1 of the tax credit that would have been allowed on a joint return in proportion to the contribution  
 2 of each. However, a spouse living in a separate principal residence may claim the tax credit in the  
 3 same amount as permitted a single person.

4 (13) As used in this section, unless the context requires otherwise:

5 (a) "Collective investment" means an investment by two or more taxpayers for the acquisition,  
 6 construction and installation of an alternative energy device for one or more dwellings.

7 (b) "Noncollective investment" means an investment by an individual taxpayer for the acquisi-  
 8 tion, construction and installation of an alternative energy device for one or more dwellings.

9 (c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 (8).

10 (14) Notwithstanding any provision of subsections (1) to (4) of this section, the sum of the credit  
 11 allowed under subsection (1) of this section plus any similar credit allowed for federal income tax  
 12 purposes may not exceed the cost for the acquisition, construction and installation of the alternative  
 13 energy device.

14 **SECTION 31.** ORS 317.112 is amended to read:

15 317.112. (1) A credit against taxes otherwise due under this chapter for the taxable year shall  
 16 be allowed to a commercial lending institution in an amount equal to the difference between:

17 (a) The amount of finance charge charged during the taxable year including interest on the loan  
 18 and interest on any loan fee financed at an annual rate of six and one-half percent, by the lending  
 19 institution to a dwelling owner who is or who rents to a residential fuel oil customer, or who is or  
 20 who rents to a wood heating resident for the purpose of financing energy conservation measures;  
 21 and

22 (b) The amount of finance charge that would have been charged during the taxable year, in-  
 23 cluding interest on the loan and interest on any loan fee financed by the lending institution for the  
 24 loan for energy conservation measures at an annual rate that is the lesser of the following:

25 (A) The annual rate charged by the commercial lending institution for nonsubsidized loans made  
 26 under like terms and conditions at the time the loan for energy conservation measures is made; or

27 (B) An upper limit established by rule by the *[Director of the State Department of Energy]*

28 **Oregon Energy Commission.**

29 (2) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
 30 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
 31 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
 32 forward and used in the second succeeding tax year, and likewise until the 15th succeeding tax year.  
 33 The credit may not be carried forward beyond the 15th succeeding tax year.

34 (3) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan  
 35 shall:

36 (a) Be made only to an owner of an oil-heated or wood-heated dwelling who presents the results  
 37 of an energy audit pursuant to ORS 469.631 to 469.645, 469.649 to 469.659, 469.673 to 469.683 or  
 38 469.685 that is conducted by a fuel oil dealer, investor-owned utility or publicly owned utility or  
 39 through the State Department of Energy, regardless of whether that fuel oil dealer or utility pro-  
 40 vides the dwelling's space heating energy.

41 (b) Be subject to an annual rate not to exceed six and one-half percent and have a term not  
 42 exceeding 10 years.

43 (c) Not finance any materials installed in the construction of a new dwelling, additions to ex-  
 44 isting structures or remodeling that adds living space.

45 (d) Finance only those energy conservation measures that are recommended as cost-effective in

1 the energy audit, and any loan fee that is included in the body of the loan.

2 (4) The credit allowed under this section may not be allowed to the extent that the loan exceeds  
3 \$5,000 for a single dwelling unit, or, if the dwelling owner is a corporation described in ORS 307.375,  
4 to the extent that the loan exceeds \$2,000 for a single dwelling unit.

5 (5) A commercial lending institution may charge, finance and collect a nonrefundable front-end  
6 loan fee, and such a fee does not affect the eligibility of the loan for a tax credit under this section.  
7 The fee, if any, may not exceed that charged by the lending institution for nonsubsidized loans made  
8 under like terms and conditions at the time the loan for energy conservation measures is made.

9 (6) Nothing in this section or in rules adopted under this section shall be construed to cause a  
10 loan to violate the usury laws of this state.

11 (7) As used in this section, “annual rate,” “commercial lending institution,” “cost-effective,”  
12 “dwelling,” “dwelling owner,” “energy audit,” “energy conservation measures,” “finance charge,”  
13 “fuel oil dealer,” “residential fuel oil customer,” “space heating” and “wood heating resident” have  
14 the meaning given those terms in ORS 469.710.

15 **SECTION 32.** ORS 469.150 is amended to read:

16 469.150. (1) As used in this section “energy conservation services” means services provided by  
17 energy suppliers to educate and inform customers and the public about energy conservation. Such  
18 services include but are not limited to providing answers to questions concerning energy saving  
19 devices and providing inspections and making suggestions concerning the construction and siting  
20 of buildings and residences.

21 (2) Energy suppliers other than public utilities as defined in ORS 757.005, that produce, transmit,  
22 deliver or furnish heat, light or power shall establish energy conservation services and shall provide  
23 energy conservation information to customers and to the public. The services shall be performed in  
24 accordance with such guidelines as the [*Director of the State Department of Energy*] **Oregon Energy**  
25 **Commission** may by rule prescribe.

26 (3) As used in this section “energy supplier” means a publicly owned utility or fuel oil dealer  
27 which supplies electricity or fuel oil for the space heating of dwellings.

28 **SECTION 33.** ORS 469.155 is amended to read:

29 469.155. (1) As used in this section:

30 (a) “Dwelling” means real or personal property inhabited as the principal residence of an owner  
31 or renter. “Dwelling” includes a manufactured dwelling as defined in ORS 446.003, a floating home  
32 as defined in ORS 830.700 and multiple unit residential housing. “Dwelling” does not include a rec-  
33 reational vehicle as defined in ORS 446.003.

34 (b) “Energy conservation standards” means standards for the efficient use of energy for space  
35 and water heating in a dwelling.

36 (2) The [*Director of the State Department of Energy*] **Oregon Energy Commission** shall establish  
37 advisory energy conservation standards for existing dwellings. The standards shall be adopted by  
38 rule in accordance with ORS 183.310 to 183.410. The standards:

39 (a) Shall take cost-effectiveness into account; and

40 (b) Shall be compatible with and further the state’s incentive programs for residential energy  
41 conservation.

42 (3) The [*director*] **commission** shall publicize the energy conservation standards and encourage  
43 home owners to voluntarily comply with the standards.

44 **SECTION 34.** ORS 469.255 is amended to read:

45 469.255. (1) A manufacturer of a product specified in ORS 469.238 that is sold or offered for sale,

1 or installed or offered for installation, in this state shall test samples of the manufacturer's products  
2 in accordance with the test methods specified in ORS 469.233 or, if more stringent, those specified  
3 in the state building code.

4 (2) If the test methods for products required to be tested under this section are not provided for  
5 in ORS 469.233 or in the state building code, the State Department of Energy shall adopt test  
6 methods for these products. The department shall use test methods approved by the United States  
7 Department of Energy or, in the absence of federal test methods, other appropriate nationally re-  
8 cognized test methods for guidance in adopting test methods. The State Department of Energy may  
9 periodically review and revise its test methods.

10 (3) A manufacturer of a product regulated pursuant to ORS 469.229 to 469.261, except for man-  
11 ufacturers of single-voltage external AC to DC power supplies, walk-in refrigerators and walk-in  
12 freezers, shall certify to the State Department of Energy that the products are in compliance with  
13 the minimum energy efficiency standards specified in ORS 469.233. The *[department]* **Oregon Energy**  
14 **Commission** shall establish rules governing the certification of these products and may coordinate  
15 with the certification and testing programs of other states and federal agencies with similar stan-  
16 dards.

17 (4)(a) The *[department]* **commission** shall establish rules governing the identification of the  
18 products that comply with the minimum energy efficiency standards specified in ORS 469.233. The  
19 rules shall be coordinated to the greatest extent practicable with the labeling programs of other  
20 states and federal agencies with equivalent efficiency standards.

21 (b) Identification required under paragraph (a) of this subsection shall be by means of a mark,  
22 label or tag on the product and packaging at the time of sale or installation.

23 (c) The *[department]* **commission** shall waive marking, labeling or tagging requirements for  
24 products marked, labeled or tagged in compliance with federal requirements or for products certified  
25 pursuant to subsection (3) of this section, unless the *[department]* **commission** determines that state  
26 marking, labeling or tagging is required to provide adequate energy efficiency information to the  
27 consumer.

28 **SECTION 35.** ORS 469.261 is amended to read:

29 469.261. (1)(a) Notwithstanding ORS 469.233, the State Department of Energy shall periodically  
30 review the minimum energy efficiency standards specified in ORS 469.233.

31 (b) After the review pursuant to paragraph (a) of this subsection, the *[Director of the State De-*  
32 *partment of Energy]* **Oregon Energy Commission** may adopt rules to update the minimum energy  
33 efficiency standards specified in ORS 469.233 if the *[director]* **commission** determines that the  
34 standards need to be updated:

35 (A) To promote energy conservation in the state;

36 (B) To achieve cost-effectiveness for consumers; or

37 (C) Due to federal action or to the outcome of collaborative consultations with manufacturers  
38 and the energy departments of other states.

39 (c)(A) In addition to the rules adopted under paragraph (b) of this subsection, the *[director]*  
40 **commission** may postpone by rule the operative date of any of the minimum energy efficiency  
41 standards specified in ORS 469.233 if the *[director]* **commission** determines that:

42 (i) Adjoining states with similar minimum energy efficiency standards have postponed the oper-  
43 ative date of their corresponding minimum energy efficiency standards; or

44 (ii) Failure to modify the operative date of any of the minimum energy efficiency standards  
45 would impose a substantial hardship on manufacturers, retailers or the public.

1 (B)(i) The [*director*] **commission** may not postpone the operative date of a minimum energy ef-  
2 ficiency standard under subparagraph (A) of this paragraph for more than one year.

3 (ii) If at the end of the first postponement period the [*director*] **commission** determines that  
4 adjoining states have further postponed the operative date of minimum energy efficiency standards  
5 and the requirements of subparagraph (A) of this paragraph continue to be met, the [*director*]  
6 **commission** may postpone the operative date for not more than one additional year.

7 (d) After the review pursuant to paragraph (a) of this subsection, the [*director*] **commission** may  
8 adopt rules to establish new minimum energy efficiency standards if the [*director*] **commission** de-  
9 termines that new standards are needed:

10 (A) To promote energy conservation in the state;

11 (B) To achieve cost-effectiveness for consumers; or

12 (C) Due to federal action or to the outcome of collaborative consultations with manufacturers  
13 and the energy departments of other states.

14 (e) If the [*director*] **commission** adopts rules under paragraph (b) of this subsection to update  
15 the minimum energy efficiency standards specified in ORS 469.233 or under paragraph (d) of this  
16 subsection to establish new minimum energy efficiency standards:

17 (A) The rules may not take effect until one year following their adoption by the [*director*]  
18 **commission**; and

19 (B) The Governor shall cause to be introduced at the next Legislative Assembly a bill to con-  
20 form the statutory minimum energy efficiency standards to the minimum energy efficiency standards  
21 adopted by the [*director*] **commission** by rule.

22 (2) If the [*director*] **Director of the State Department of Energy** determines that implemen-  
23 tation of a state minimum energy efficiency standard requires a waiver of federal preemption, the  
24 director shall apply for a waiver of federal preemption pursuant to 42 U.S.C. 6297(d).

25 **SECTION 36.** ORS 469.310 is amended to read:

26 469.310. In the interests of the public health and the welfare of the people of this state, it is the  
27 declared public policy of this state that the siting, construction and operation of energy facilities  
28 shall be accomplished in a manner consistent with protection of the public health and safety and in  
29 compliance with the energy policy and air, water, solid waste, land use and other environmental  
30 protection policies of this state. It is, therefore, the purpose of ORS 469.300 to 469.563, 469.590 to  
31 469.619, 469.930 and 469.992 to exercise the jurisdiction of the State of Oregon to the maximum ex-  
32 tent permitted by the United States Constitution and to establish in cooperation with the federal  
33 government a comprehensive system for the siting, monitoring and regulating of the location, con-  
34 struction and operation of all energy facilities in this state. It is furthermore the policy of this state,  
35 notwithstanding ORS 469.010 [(2)(f)] **(2)(d)** and the definition of cost-effective in ORS 469.020, that  
36 the need for new generating facilities, as defined in ORS 469.503, is sufficiently addressed by reli-  
37 ance on competition in the market rather than by consideration of cost-effectiveness and shall not  
38 be a matter requiring determination by the Energy Facility Siting Council in the siting of a gener-  
39 ating facility, as defined in ORS 469.503.

40 **SECTION 37.** ORS 469.410 is amended to read:

41 469.410. (1) Any applicant for a site certificate for an energy facility shall be deemed to have  
42 met all the requirements of ORS 176.820, 192.501 to 192.505, 192.690, 469.010 to 469.155, 469.300 to  
43 469.563, 469.990, 757.710 and 757.720 relating to eligibility for a site certificate and a site certificate  
44 shall be issued by the Energy Facility Siting Council for:

45 (a) Any transmission lines for which application has been filed with the federal government and

1 the Public Utility Commission of Oregon prior to July 2, 1975; and

2 (b) Any energy facility under construction on July 2, 1975.

3 (2) Each applicant for a site certificate under this section shall pay the fees required by ORS  
4 469.421 (2) to (9), if applicable, and shall execute a site certificate in which the applicant agrees:

5 (a) To abide by the conditions of all licenses, permits and certificates required by the State of  
6 Oregon or any subdivision in the state to operate the energy facility and issued prior to July 2, 1975;  
7 and

8 (b) On and after July 2, 1975, to abide by the rules of the [*Director of the State Department of*  
9 *Energy adopted pursuant to ORS 469.040 (1)(d)*] **Oregon Energy Commission adopted pursuant**  
10 **to section 5 of this 2017 Act** and rules of the council adopted pursuant to ORS 469.300 to 469.563,  
11 469.590 to 469.619 and 469.930.

12 (3) The council has continuing authority over the site for which the site certificate is issued and  
13 may inspect, or direct the State Department of Energy to inspect, or request another state agency  
14 or local government to inspect, the site at any time in order to ensure that the facility is being  
15 operated consistently with the terms and conditions of the site certificate and any applicable health  
16 or safety standards.

17 (4) The council shall establish programs for monitoring the environmental and ecological effects  
18 of the operation and the decommissioning of energy facilities subject to site certificates issued prior  
19 to July 2, 1975, to ensure continued compliance with the terms and conditions of the site certificate  
20 and any applicable health or safety standards.

21 (5) Site certificates executed by the Governor under ORS 469.400 (1991 Edition) prior to July  
22 2, 1975, shall bind successor agencies created hereunder in accordance with the terms of such site  
23 certificates. Any holder of a site certificate issued prior to July 2, 1975, shall abide by the rules of  
24 the [*director adopted pursuant to ORS 469.040 (1)(d)*] **Oregon Energy Commission adopted pursu-**  
25 **ant to section 5 of this 2017 Act** and rules of the council adopted pursuant to ORS 469.300 to  
26 469.563, 469.590 to 469.619, 469.930 and 469.992.

27 **SECTION 38.** ORS 469.424 is amended to read:

28 469.424. (1) As used in this section, “energy resource supplier” has the meaning given that term  
29 in ORS 469.421.

30 (2)(a) If the State Department of Energy submits comments or written or oral testimony in a  
31 rulemaking, contested case, ratemaking or other proceeding conducted by another agency, as defined  
32 in ORS 183.310, and if the comment or testimony is about a substantive matter at issue in the pro-  
33 ceeding, the department shall provide, once for each proceeding, notice to energy resource suppliers  
34 as described in this section.

35 (b) If the department submits written comments or intervenes in a proceeding conducted by a  
36 federal agency, the department shall provide, once for each proceeding, notice to energy resource  
37 suppliers as described in this section.

38 (c) This section does not apply to:

39 (A) The department’s participation in a procedural matter related to a proceeding described in  
40 paragraph (a) or (b) of this subsection;

41 (B) The department’s participation in a federal facility siting proceeding;

42 (C) The department’s work with the Energy Facility Siting Council;

43 (D) The department’s work on nuclear safety and emergency preparedness; or

44 (E) Federal judicial or legislative proceedings.

45 (3) The department shall create and maintain a list of energy resource suppliers that request to



1 receive notice described in subsection (2) of this section. The department may create separate lists  
2 for the different types of proceedings.

3 (4) Notice provided under this section may be provided by electronic mail and must include a  
4 description of the department's interest in the proceeding.

5 (5) Except as provided in subsection (6) of this section, notice must be provided under this sec-  
6 tion:

7 (a) No later than seven days before submitting initial comments on a substantive matter at issue  
8 in a rulemaking proceeding described in subsection (2)(a) of this section or a proceeding involving  
9 the adoption of federal regulations;

10 (b) No later than 15 days before submitting initial comments or written or oral testimony on a  
11 substantive matter at issue in a contested case, ratemaking or other proceeding described in sub-  
12 section (2)(a) of this section; or

13 (c) No later than 15 days before submitting initial written comments or written testimony on a  
14 substantive matter at issue in a proceeding conducted by a federal agency other than a proceeding  
15 involving the adoption of federal regulations.

16 (6) If providing notice in accordance with subsection (5) of this section is prejudicial to the  
17 department's ability to participate in a rulemaking, contested case, ratemaking or other proceeding  
18 described in subsection (2) of this section, the department may provide notice as soon as it is prac-  
19 ticable to provide notice. If the department provides notice as described in this subsection, the de-  
20 partment shall include in the notice an explanation of why providing notice in accordance with  
21 subsection (5) of this section is prejudicial to the department.

22 (7) The *[department]* **Oregon Energy Commission** may adopt rules as necessary to implement  
23 this section.

24 **SECTION 39.** ORS 469.533 is amended to read:

25 469.533. Notwithstanding ORS chapter 401, the *[State Department of Energy]* **Oregon Energy**  
26 **Commission** in cooperation with the Oregon Health Authority and the Office of Emergency Man-  
27 agement shall establish rules for the protection of health and procedures for the evacuation of peo-  
28 ple and communities who would be affected by radiation in the event of an accident or a catastrophe  
29 in the operation of a nuclear power plant or nuclear installation.

30 **SECTION 40.** ORS 469.534 is amended to read:

31 469.534. Each county in this state that has a nuclear-fueled thermal power plant located within  
32 county boundaries and each county within this state that has any portion of its area located within  
33 50 miles of a site within this state of a nuclear-fueled thermal power plant shall develop written  
34 procedures that are compatible with the rules adopted by the *[State Department of Energy]* **Oregon**  
35 **Energy Commission** under ORS 469.533. The *[department]* **commission** shall review the county  
36 procedures to determine whether they are compatible with the rules of the *[department]*  
37 **commission**.

38 **SECTION 41.** ORS 469.605 is amended to read:

39 469.605. (1) No person shall ship or transport radioactive material identified by the Energy Fa-  
40 cility Siting Council by rule as posing a significant hazard to public health and safety or the envi-  
41 ronment if improperly transported into or within the State of Oregon without first obtaining a  
42 permit from the State Department of Energy.

43 (2) Such permit shall be issued for a period not to exceed one year and shall be valid for all  
44 shipments within that period of time unless specifically limited by permit conditions.

45 (3) Application for a permit under this section shall be made in a form and manner prescribed

1 by the Director of the State Department of Energy and may include:

- 2 (a) A description of the kind, quantity and radioactivity of the material to be transported;
- 3 (b) A description of the route or routes proposed to be taken and the transport schedule;
- 4 (c) A description of any mode of transportation; and
- 5 (d) Other information required by the director to evaluate the application.

6 (4) The director shall collect a fee from all applicants for permits under this section in an  
7 amount reasonably calculated to provide for the costs to the department of performing the duties  
8 of the department under ORS 469.550 (3), 469.563, 469.603 to 469.619 and 469.992. Fees collected un-  
9 der this subsection shall be deposited in the State Department of Energy Account established under  
10 ORS 469.120.

11 (5) The director shall issue a permit only if the application demonstrates that the proposed  
12 transportation will comply with all applicable rules adopted under ORS 469.603 to 469.619 and if the  
13 proposed route complies with federal law as provided in ORS 469.606.

14 (6) The director may delegate the authority to issue permits for the transportation of radioactive  
15 material to the Department of Transportation. In exercising such authority, the Department of  
16 Transportation shall comply with the applicable provisions of ORS 469.603 to 469.619 and rules  
17 adopted by the [*director*] **Oregon Energy Commission** or the Energy Facility Siting Council under  
18 ORS 469.603 to 469.619. Permits issued by the Department of Transportation under this subsection  
19 shall be enforced according to the provisions of ORS 825.258. The director also may delegate other  
20 authority granted under ORS 469.605 to 469.619 to other state agencies if the delegation will main-  
21 tain or enhance the quality of the transportation safety program.

22 **SECTION 42.** ORS 469.677 is amended to read:

23 469.677. (1) The Director of the State Department of Energy shall contract and a fuel oil dealer  
24 may rely upon the director to contract for the information, assistance and technical advice required  
25 to be provided by a fuel oil dealer under ORS 469.675.

26 (2) The [*director*] **Oregon Energy Commission** shall adopt standards for energy audits required  
27 under ORS 469.675 by rule in accordance with the rulemaking provisions of ORS chapter 183.

28 **SECTION 43.** ORS 469.703 is amended to read:

29 469.703. (1) As used in this section:

30 (a) "Home energy assessor" has the meaning given that term in ORS 701.527.

31 (b) "Home energy audit" means the evaluation or testing of components or systems in a resi-  
32 dential building for the purpose of identifying options for increasing energy conservation and energy  
33 efficiency.

34 (c) "Home energy performance score" has the meaning given that term in ORS 701.527.

35 (2) In consultation with the Public Utility Commission, the [*State Department of Energy*] **Oregon**  
36 **Energy Commission** shall adopt by rule a home energy performance score system by which a per-  
37 son may assign a residential building a home energy performance score for the purpose of evaluating  
38 the energy conservation and energy efficiency of the building.

39 (3) The [*department*] **Oregon Energy Commission** shall designate by rule programs for the  
40 training of home energy assessors. Programs designated by the [*department*] **commission** under this  
41 subsection must ensure competency in conducting home energy audits and assigning home energy  
42 performance scores.

43 (4) Subject to subsection (5) of this section, the [*department*] **Oregon Energy Commission** may  
44 adopt by rule requirements under which home energy assessors who are certified under ORS 701.532  
45 must report to the [*department*] **State Department of Energy** the home energy performance scores

1 assigned by the home energy assessors. The department shall keep and maintain a database of in-  
2 formation reported to the department under this subsection.

3 (5) Rules adopted under subsection (4) of this section may not allow for the reporting of indi-  
4 vidual addresses of residential structures or the names of individual homeowners, but may allow for  
5 the reporting of information regarding the jurisdiction in which a residential structure is located  
6 and the utility services provided, any specific energy efficiency features of the residential structure  
7 or other general information that allows the department to make any aggregated evaluations of  
8 savings attributable to energy efficiency.

9 **SECTION 44.** ORS 469.754 is amended to read:

10 469.754. (1) State agencies are authorized to enter into such contractual and other arrangements  
11 as may be necessary or convenient to design, develop, operate and finance projects on-site at state  
12 owned or state rented facilities. In developing such projects, state agencies shall offer a right of first  
13 refusal of two months for conservation and direct use renewable resources and three months for  
14 cogeneration and generating renewable resources to each local utility providing utility service to  
15 the agency to jointly develop, finance, operate and otherwise act together in the development and  
16 operation of such projects. The [*State Department of Energy*] **Oregon Energy Commission** shall  
17 adopt rules to establish the procedure by which the right of first refusal shall be administered. In  
18 adopting the rules, the [*department*] **commission** shall insure that the local utility providing utility  
19 service to the state agency is entitled to the first right to negotiate with the state agency and that  
20 the utility is entitled to match any offer made by any other entity to participate in the project. The  
21 [*department*] **commission** also shall adopt procedures that insure that the right to first negotiate  
22 and the right to match any offer applies to the sale of electrical or steam output from the project.

23 (2)(a) For as long as a project established under ORS 469.752 to 469.756 produces savings:

24 (A) A state agency's budget shall not be cut because of savings due to the project; and

25 (B) A state agency shall retain 50 percent of the net savings to the state agency after any  
26 project debt service.

27 (b) Savings from a project shall be deposited in a revolving fund administered by the state  
28 agency.

29 (3) A state agency shall spend the savings under subsection (2) of this section to increase pro-  
30 ductivity through:

31 (a) Energy efficiency projects;

32 (b) High-tech improvements, such as the purchase or installation of new desktop or laptop com-  
33 puters or the linkage of computers into systems or networks; or

34 (c) Infrastructure improvements.

35 (4) The moneys credited to the revolving fund may be invested and reinvested as provided in  
36 ORS 293.701 to 293.790. Notwithstanding ORS 293.105 (3) or any other provision of law, interest or  
37 other earnings on moneys in the revolving fund shall be credited to the revolving fund.

38 (5) The remaining 50 percent of net savings to the state agency after any project debt service  
39 shall be deposited in the General Fund.

40 (6) Nothing in ORS 469.752 to 469.756 authorizes a state agency to sell electricity to an entity  
41 other than an investor owned utility, a publicly owned utility, an electric cooperative utility or the  
42 Bonneville Power Administration.

43 (7) Nothing in ORS 469.752 to 469.756 limits the authority of a state agency conferred by any  
44 other provision of law, or affects any authority, including the authority of a municipality, to regulate  
45 utility service under existing law.

1        **SECTION 45.** ORS 469.756 is amended to read:

2        469.756. The [*State Department of Energy*] **Oregon Energy Commission** in consultation with  
3 other state agencies and utilities shall adopt rules, guidelines and procedures that are necessary to  
4 establish savings for projects and to implement other provisions of ORS 469.752 to 469.756, including,  
5 but not limited to, rules prescribing the procedures to be followed by an agency in negotiating with  
6 local utilities to develop agreements suitable for the joint development of projects, and procedures  
7 to determine which local utility, if any, shall be chosen to jointly develop the project. The [*depart-*  
8 *ment*] **State Department of Energy** may enter into agreements under ORS chapter 190 with state  
9 agencies to provide technical assistance in selecting appropriate projects and to evaluate and de-  
10 termine energy and cost savings.

11        **SECTION 46.** ORS 469.880 is amended to read:

12        469.880. Each publicly owned utility serving Oregon shall, either independently or as part of an  
13 association, provide an energy audit program for its commercial customers. The [*Director of the State*  
14 *Department of Energy*] **Oregon Energy Commission** shall adopt rules governing the commercial  
15 energy audit program established under this section and may provide for coordination among elec-  
16 tric utilities and gas utilities that serve the same commercial building.

17        **SECTION 47.** ORS 469.885 is amended to read:

18        469.885. (1) Within 180 days after the adoption of rules by the [*Director of the State Department*  
19 *of Energy*] **Oregon Energy Commission** under ORS 469.880, each publicly owned utility shall  
20 present for the [*director's*] approval **of the Director of the State Department of Energy** a com-  
21 mercial energy audit program that shall, to the director's satisfaction:

22        (a) Make information about energy conservation available to any commercial building customer  
23 of the publicly owned utility, upon request;

24        (b) Regularly notify all customers in commercial buildings of the availability of the services de-  
25 scribed in this section;

26        (c) Provide to any commercial building customer of the publicly owned utility, upon request, an  
27 on-site energy audit of the customer's commercial building, including, but not limited to, an estimate  
28 of the cost of the energy conservation measures; and

29        (d) Set a reasonable time schedule for effective implementation of the elements set forth in this  
30 section.

31        (2) The commercial energy audit program submitted under subsection (1) of this section shall  
32 specify whether the publicly owned utility proposes to charge the customer a fee for the energy  
33 audit and, if so, the fee amount.

34        **SECTION 48.** ORS 469.890 is amended to read:

35        469.890. (1) Within 365 days after November 1, 1981, the [*Director of the State Department of*  
36 *Energy*] **Oregon Energy Commission** shall adopt rules governing energy conservation programs  
37 prescribed by ORS 469.895 and 469.900 (3) and this section and may provide for coordination among  
38 electric utilities and gas utilities that serve the same commercial building. Within 180 days of the  
39 adoption of rules by the [*director*] **commission**, each covered publicly owned utility shall present for  
40 the [*director's*] approval **of the Director of the State Department of Energy** a commercial energy  
41 conservation services program that shall, to the director's satisfaction:

42        (a) Make information about energy conservation available to all commercial building customers  
43 of the covered publicly owned utility, upon request;

44        (b) Regularly notify all customers in commercial buildings of the availability of the services de-  
45 scribed in this section; and

1 (c) Provide to any commercial building customer of the covered publicly owned utility, upon  
2 request, an on-site energy audit of the customer's commercial building, including, but not limited to,  
3 an estimate of the cost of energy conservation measures.

4 (2) The programs submitted and approved under this section shall include a reasonable time  
5 schedule for effective implementation of the elements set forth in subsection (1) of this section in  
6 the service areas of the covered publicly owned utility.

7 (3) The commercial energy conservation services program submitted under subsections (1) and  
8 (2) of this section shall specify whether the covered publicly owned utility proposes to charge the  
9 customer a fee for the energy audit and, if so, the fee amount.

10 **SECTION 49.** ORS 469.963 is amended to read:

11 469.963. (1) In administering the Alternative Fuel Vehicle Revolving Fund, the State Department  
12 of Energy shall:

13 (a) Allocate funds for loans in accordance with procedures adopted by the [*department*] **Oregon**  
14 **Energy Commission** by rule.

15 (b) Use accounting, auditing and fiscal procedures that conform to generally accepted govern-  
16 ment accounting standards.

17 (c) Seek to maximize the ability of the Alternative Fuel Vehicle Revolving Fund to operate on  
18 a self-sustaining basis and to maintain a perpetual source of financing to provide loans as described  
19 in ORS 469.962.

20 (2) In connection with the loan program, the department may:

21 (a) Establish requirements for loans made from the Alternative Fuel Vehicle Revolving Fund to  
22 ensure that adequate funds will be available in the fund to pay the costs of administering the fund  
23 and the loan program.

24 (b) Exercise any remedies available to the department in connection with defaults on loans of  
25 advanced funds made to private entities, public bodies and tribes.

26 **SECTION 50.** ORS 469.966 is amended to read:

27 469.966. (1) The [*State Department of Energy*] **Oregon Energy Commission** shall establish by  
28 rule policies for establishing loan terms and interest rates for loans made from the Alternative Fuel  
29 Vehicle Revolving Fund that ensure that the objectives of ORS 469.960 to 469.966 are met and that  
30 adequate funds are maintained in the Alternative Fuel Vehicle Revolving Fund to meet future needs.  
31 In establishing the policy, the [*department*] **commission** shall take into consideration at least the  
32 following factors:

33 (a) The ability of a private entity, public body or tribe to repay a loan.

34 (b) Current market rates of interest.

35 (2) The [*department*] **State Department of Energy** may establish an interest rate ranging from  
36 zero to the market rate. The department may establish the loan term, provided that the loan is fully  
37 amortized not later than six years after the purchase of a new alternative fuel vehicle or the con-  
38 version of a vehicle that uses gasoline or diesel to an alternative fuel vehicle.

39 (3) The [*department*] **commission** shall adopt by rule any procedures or standards necessary to  
40 carry out the provisions of ORS 469.960 to 469.966.

41 **SECTION 51.** ORS 469A.020, as amended by section 4, chapter 28, Oregon Laws 2016, is  
42 amended to read:

43 469A.020. (1) Except as provided in this section, electricity may be used to comply with a  
44 renewable portfolio standard only if the electricity is generated by a facility that becomes opera-  
45 tional on or after January 1, 1995.

1 (2) Electricity from a generating facility, other than a hydroelectric facility, that became oper-  
 2 ational before January 1, 1995, may be used to comply with a renewable portfolio standard if the  
 3 electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

4 (3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may  
 5 be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency  
 6 upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power  
 7 Administration facility, only that portion of the electricity generation attributable to Oregon's share  
 8 of the electricity may be used to comply with a renewable portfolio standard.

9 (4) Subject to the limit imposed by ORS 469A.025 (5), electricity from a hydroelectric facility  
 10 that became operational before January 1, 1995, may be used to comply with a renewable portfolio  
 11 standard if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995,  
 12 by a national certification organization recognized by the [State Department of Energy] **Oregon**  
 13 **Energy Commission** by rule, and if the facility is either:

14 (a) Owned by an electric utility; or

15 (b) Not owned by an electric utility and located in Oregon and licensed by the Federal Energy  
 16 Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such  
 17 license.

18 (5) Electricity from a generating facility located in this state that uses biomass and that became  
 19 operational before January 1, 1995, may be used to comply with a renewable portfolio standard if  
 20 the facility meets the requirements of the federal Public Utility Regulatory Policies Act of 1978 (P.L.  
 21 95-617) on March 4, 2010.

22 (6) A facility located in this state that generates electricity from direct combustion of municipal  
 23 solid waste and that became operational before January 1, 1995, may be used to comply with a  
 24 renewable portfolio standard for up to 11 average megawatts of electricity generated per calendar  
 25 year.

26 **SECTION 52.** ORS 469A.025 is amended to read:

27 469A.025. (1) Electricity generated utilizing the following types of energy may be used to comply  
 28 with a renewable portfolio standard:

29 (a) Wind energy.

30 (b) Solar photovoltaic and solar thermal energy.

31 (c) Wave, tidal and ocean thermal energy.

32 (d) Geothermal energy.

33 (2) Except as provided in subsection (3) of this section, electricity generated from biomass and  
 34 biomass by-products may be used to comply with a renewable portfolio standard, including but not  
 35 limited to electricity generated from:

36 (a) Organic human or animal waste;

37 (b) Spent pulping liquor;

38 (c) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest  
 39 or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire risk;

40 (d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);

41 (e) Agricultural residues;

42 (f) Dedicated energy crops; and

43 (g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or  
 44 municipal solid waste.

45 (3) Electricity generated from the direct combustion of biomass may not be used to comply with

1 a renewable portfolio standard if any of the biomass combusted to generate the electricity includes  
2 wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or  
3 chromated copper arsenate.

4 (4) Electricity generated by a hydroelectric facility may be used to comply with a renewable  
5 portfolio standard only if:

6 (a) The facility is located outside any protected area designated by the Pacific Northwest Elec-  
7 tric Power and Conservation Planning Council as of July 23, 1999, or any area protected under the  
8 federal Wild and Scenic Rivers Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805  
9 to 390.925; or

10 (b) The electricity is attributable to efficiency upgrades made to the facility on or after January  
11 1, 1995.

12 (5)(a) Up to 50 average megawatts of electricity per year generated by an electric utility from  
13 certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(a) may be used to comply  
14 with a renewable portfolio standard, without regard to the number of certified facilities operated  
15 by the electric utility or the generating capacity of those facilities. A hydroelectric facility described  
16 in this paragraph is not subject to the requirements of subsection (4) of this section.

17 (b) Up to 40 average megawatts of electricity per year generated by certified low-impact hy-  
18 droelectric facilities described in ORS 469A.020 (4)(b) may be used to comply with a renewable  
19 portfolio standard, without regard to the number of certified facilities or the generating capacity  
20 of those facilities. A hydroelectric facility described in this paragraph is not subject to the require-  
21 ments of subsection (4) of this section.

22 (6)(a) Direct combustion of municipal solid waste in a generating facility located in this state  
23 may be used to comply with a renewable portfolio standard. The qualification of a municipal solid  
24 waste facility for use in compliance with a renewable portfolio standard has no effect on the quali-  
25 fication of the facility for a tax credit under ORS 469B.130 to 469B.169.

26 (b) The total amount of electricity generated in this state by direct combustion of municipal  
27 solid waste by generating facilities that became operational in this state on or after January 1, 1995,  
28 may not exceed nine average megawatts per year for the purpose of complying with a renewable  
29 portfolio standard.

30 (7) Electricity generated from hydrogen gas, including electricity generated by hydrogen power  
31 stations using anhydrous ammonia as a fuel source, may be used to comply with a renewable port-  
32 folio standard if:

33 (a) The electricity is derived from:

34 (A) Any source of energy described in subsection (1) or (2) of this section; or

35 (B) A hydroelectric facility that complies with subsection (4) of this section and that is certified  
36 as a low-impact hydroelectric facility as described in ORS 469A.020 (4); and

37 (b) The output of the original source of energy is not also used to comply with a renewable  
38 portfolio standard.

39 (8) If electricity generation employs multiple energy sources, that portion of the electricity  
40 generated that is attributable to energy sources described in this section may be used to comply  
41 with a renewable portfolio standard.

42 (9) The [*State Department of Energy*] **Oregon Energy Commission** by rule may approve energy  
43 sources other than those described in this section that may be used to comply with a renewable  
44 portfolio standard. The [*department*] **commission** may not approve petroleum, natural gas, coal or  
45 nuclear fission as an energy source that may be used to comply with a renewable portfolio standard.

**SECTION 53.** ORS 469B.103 is amended to read:

469B.103. (1) For the purposes of carrying out ORS 469B.100 to 469B.118, the [*State Department of Energy*] **Oregon Energy Commission** may adopt rules prescribing minimum performance criteria for alternative energy devices for dwellings. The [*department*] **commission** may, in prescribing criteria, rely on applicable federal, state and local requirements for energy efficiency, including the state building code, state and federal appliance standards and any specialty codes and any code adopted by the Building Codes Division of the Department of Consumer and Business Services.

(2) The [*department*] **commission** shall take into consideration evolving market conditions in prescribing minimum performance criteria for alternative energy devices and in determining credit amounts, consistent with ORS 316.116.

(3) The [*department*] **commission**, in adopting rules under this section for solar heating and cooling systems, shall take into consideration applicable standards of federal performance criteria prescribed pursuant to the provisions of the Solar Heating and Cooling Demonstration Act of 1974, 42 U.S.C. 5506.

(4) The [*Director of the State Department of Energy*] **commission** shall adopt rules governing the determination of eligibility, verification and certification of an alternative fuel device for purposes of the tax credits granted under ORS 316.116, including but not limited to rules that further define an alternative fuel device and that govern the computation of costs eligible for credit.

(5) The [*department*] **commission** shall by rule establish policies and procedures for the administration and enforcement of the provisions of ORS 316.116 and 469B.100 to 469B.118.

**SECTION 54.** ORS 469B.106 is amended to read:

469B.106. (1) Subject to the limitations in section 75, chapter 730, Oregon Laws 2011, any person may claim a tax credit under ORS 316.116 if the person:

- (a) Meets the requirements of ORS 316.116;
- (b) Meets the requirements of ORS 469B.100 to 469B.118; and
- (c) Pays, subject to subsection (9) of this section, all or a portion of the costs of an alternative energy device.

(2) In order to be eligible for a tax credit under ORS 316.116, a person claiming a tax credit for construction or installation of an alternative energy device shall have the device certified by the State Department of Energy or constructed or installed by a contractor certified by the department under subsection (4) of this section.

(3) Verification of the purchase, construction or installation of an alternative energy device shall be made in writing on a form provided by the Department of Revenue and, if applicable, shall contain:

- (a) The location of the alternative energy device;
- (b) A description of the type of device;
- (c) If the device was constructed or installed by a contractor, evidence that the contractor has any license, bond, insurance and permit required to sell and construct or install the alternative energy device;
- (d) If the device was constructed or installed by a contractor, a statement signed by the contractor that the applicant has received:
  - (A) A statement of the reasonably expected energy savings of the device;
  - (B) A copy of consumer information published by the State Department of Energy;
  - (C) An operating manual for the alternative energy device; and
  - (D) A copy of the contractor's certification certificate or alternative energy device system cer-



1 tificate for the alternative energy device, as appropriate;

2 (e) If the device was not constructed or installed by a contractor, evidence that:

3 (A) The State Department of Energy has issued an alternative energy device system certificate  
4 for the alternative energy device; and

5 (B) The taxpayer has obtained all building permits required for construction or installation of  
6 the device;

7 (f) A statement, signed by both the taxpayer claiming the credit and the contractor if the device  
8 was constructed or installed by a contractor, that the construction or installation meets all the re-  
9 quirements of ORS 469B.100 to 469B.118;

10 (g) The date the alternative energy device was purchased by the residential property owner, or,  
11 for a third-party alternative energy device installation, the date that the residential property owner  
12 and the alternative energy device owner signed a contract;

13 (h) The date the alternative energy device was placed in service; and

14 (i) Any other information that the Director of the State Department of Energy or the Depart-  
15 ment of Revenue determines is necessary.

16 (4)(a) When the State Department of Energy finds that an alternative energy device can meet  
17 the standards adopted under ORS 469B.103, the Director of the State Department of Energy may  
18 issue a contractor system certification to the person selling and constructing or installing the al-  
19 ternative energy device.

20 (b) Any person who sells or installs more than 12 alternative energy devices in one year shall  
21 apply for a contractor system certification. An application for a contractor system certification shall  
22 be made in writing on a form provided by the State Department of Energy and shall contain:

23 (A) A statement that the contractor has any license, bonding, insurance and permit that is re-  
24 quired for the sale and construction or installation of the alternative energy device;

25 (B) A specific description of the alternative energy device, including, but not limited to, the  
26 material, equipment and mechanism used in the device, operating procedure, sizing and siting  
27 method and construction or installation procedure;

28 (C) The addresses of three installations of the device that are available for inspection by the  
29 State Department of Energy;

30 (D) The range of installed costs to purchasers of the device;

31 (E) Any important construction, installation or operating instructions; and

32 (F) Any other information that the State Department of Energy determines is necessary.

33 (c) A new application for contractor system approval shall be filed when there is a change in  
34 the information supplied under paragraph (b) of this subsection.

35 (d) The State Department of Energy may issue contractor system certificates to each contractor  
36 who on October 3, 1989, has a valid dealer system certification, which shall authorize the sale and  
37 installation of the same domestic water heating alternative energy devices authorized by the dealer  
38 certification.

39 (e) If the State Department of Energy finds that an alternative energy device can meet the  
40 standards adopted under ORS 469B.103, the Director of the State Department of Energy may issue  
41 an alternative energy device system certificate to the taxpayer constructing or installing or having  
42 an alternative energy device constructed or installed.

43 (f) An application for an alternative energy device system certificate shall be made in writing  
44 on a form provided by the State Department of Energy and shall contain:

45 (A) A specific description of the alternative energy device, including, but not limited to, the

1 material, equipment and mechanism used in the device, operating procedure, sizing, siting method  
 2 and construction or installation procedure;

3 (B) The constructed or installed cost of the device; and

4 (C) A statement that the taxpayer has all permits required for construction or installation of the  
 5 device.

6 (5) Prior to commencing installation of alternative energy devices, installers of third-party al-  
 7 ternative energy device installations must apply to the State Department of Energy to reserve  
 8 credits on behalf of owners of residential property. Installers may reserve credit for no more than  
 9 25 installations under this subsection in one application.

10 (6) To claim the tax credit, the verification form described in subsection (3) of this section shall  
 11 be submitted with the taxpayer's tax return for the year the alternative energy device is placed in  
 12 service or the immediately succeeding tax year. A copy of the contractor's certification certificate  
 13 or alternative energy device system certificate also shall be submitted.

14 (7) The verification form and contractor's certificate or alternative energy device system certif-  
 15 icate described under this section shall be effective for purposes of tax relief allowed under ORS  
 16 316.116.

17 (8) The verification form and contractor's certificate described under this section may be  
 18 transferred to the first purchaser of a dwelling who intends to use the dwelling as a principal or  
 19 secondary residence.

20 (9) Any person that pays the present value of the tax credit for an alternative energy device  
 21 provided under ORS 316.116 and 469B.100 to 469B.118 to the person who constructs or installs the  
 22 alternative energy device shall be entitled to claim the credit in the manner and subject to rules  
 23 adopted by the Department of Revenue to carry out the purposes of this subsection. The [*State De-*  
 24 *partment of Energy*] **Oregon Energy Commission** may establish by rule uniform discount rates to  
 25 be used in calculating the present value of a tax credit under this subsection.

26 **SECTION 55.** ORS 469B.112 is amended to read:

27 469B.112. The following devices are not eligible for the tax credit under ORS 316.116:

28 (1) Standard efficiency furnaces;

29 (2) Air conditioning systems;

30 (3) Boilers;

31 (4) Standard back-up heating systems;

32 (5) Woodstoves or wood furnaces, or any part of a heating system that burns wood, unless the  
 33 woodstove, furnace or system constitutes a premium efficiency biomass combustion device described  
 34 in ORS 469B.100 (3)(i);

35 (6) Heat pump water heaters that are part of a geothermal heat pump space heating system;

36 (7) Structures that cover or enclose a swimming pool;

37 (8) Swimming pools, hot tubs or spas used to store heat;

38 (9) Above ground, uninsulated swimming pools, hot tubs or spas;

39 (10) Photovoltaic systems installed on recreational vehicles;

40 (11) Conversion of an existing alternative energy device to another type of alternative energy  
 41 device;

42 (12) Repair or replacement of an existing alternative energy device;

43 (13) A category two alternative energy device, if the equipment or other property that comprises  
 44 the category two alternative energy device is the basis for an allowed credit for a category one al-  
 45 ternative energy device under ORS 316.116;

1 (14) A category one alternative energy device, if the equipment or other property that comprises  
2 the category one alternative energy device is also the basis for an allowed credit for a category two  
3 alternative energy device under ORS 316.116; or

4 (15) Any other device identified by the [*State Department of Energy*] **Oregon Energy Commis-**  
5 **sion**. The [*department*] **commission** may adopt rules defining standards for eligible and ineligible  
6 devices under this section.

7 **SECTION 56.** ORS 469B.130 is amended to read:

8 469B.130. As used in ORS 469B.130 to 469B.169 and 469B.171:

9 (1) "Alternative fuel vehicle" means a vehicle as defined by the [*Director of the State Department*  
10 *of Energy*] **Oregon Energy Commission** by rule that is used primarily in connection with the con-  
11 duct of a trade or business and that is manufactured or modified to use an alternative fuel, including  
12 but not limited to electricity, ethanol, methanol, gasohol and propane or natural gas, regardless of  
13 energy consumption savings.

14 (2) "Car sharing facility" means the expenses of operating a car sharing program, including but  
15 not limited to the fair market value of parking spaces used to store the fleet of cars available for  
16 a car sharing program, but does not include the costs of the fleet of cars.

17 (3) "Car sharing program" means a program in which drivers pay to become members in order  
18 to have joint access to a fleet of cars from a common parking area on an hourly basis. "Car sharing  
19 program" does not include operations conducted by car rental agencies.

20 (4) "Cost" means the capital costs and expenses necessarily incurred in the erection, con-  
21 struction, installation and acquisition of a facility, including site development costs and expenses for  
22 a sustainable building practices facility.

23 (5) "Energy facility" means any capital investment for which the first year energy savings yields  
24 a simple payback period of greater than one year. An energy facility includes:

25 (a) Any land, structure, building, installation, excavation, machinery, equipment or device, or  
26 any addition to, reconstruction of or improvement of, land or an existing structure, building, instal-  
27 lation, excavation, machinery, equipment or device necessarily erected, constructed, installed or  
28 acquired by any person in connection with the conduct of a trade or business and actually used in  
29 the processing or utilization of renewable energy resources to:

30 (A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

31 (B) Provide the initial use of energy where electricity, petroleum or natural gas would have been  
32 used;

33 (C) Generate electricity to replace an existing source of electricity or to provide a new source  
34 of electricity for sale by or use in the trade or business;

35 (D) Perform a process that obtains energy resources from material that would otherwise be solid  
36 waste as defined in ORS 459.005; or

37 (E) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol,  
38 methanol, gasohol or biodiesel.

39 (b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing  
40 structure, building, installation, excavation, machinery, equipment or device necessarily erected,  
41 constructed, installed or acquired by any person in connection with the conduct of a trade or busi-  
42 ness in order to substantially reduce the consumption of purchased energy.

43 (c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is  
44 defined by ORS 469B.100, that causes that building or dwelling to exceed an energy performance  
45 standard in the state building code.

1 (d) The replacement of an electric motor with another electric motor that substantially reduces  
2 the consumption of electricity.

3 (6) "Facility" means an energy facility, recycling facility, transportation facility, car sharing  
4 facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to op-  
5 erate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling  
6 station, a high-efficiency combined heat and power facility, a high-performance home or a  
7 homebuilder-installed renewable energy system.

8 (7) "High-efficiency combined heat and power facility" means a device or equipment that simul-  
9 taneously produces heat and electricity from a single source of fuel and that meets the criteria es-  
10 tablished for a high-efficiency combined heat and power facility under ORS 469B.139.

11 (8) "High-performance home" means a new single-family dwelling that:

12 (a) Is designed and constructed to reduce net purchased energy through use of both energy ef-  
13 ficiency and on-site renewable energy resources; and

14 (b) Meets the criteria established for a high-performance home under ORS 469B.139.

15 (9) "Homebuilder-installed renewable energy system" means a renewable energy resource system  
16 that:

17 (a) Meets the criteria established for a renewable energy resource system under ORS 469B.139;  
18 and

19 (b) Is installed in a new single-family dwelling by, or at the direction of, the homebuilder con-  
20 structing the dwelling.

21 (10) "Qualified transit pass contract" means a purchase agreement entered into between a  
22 transportation provider and a person, the terms of which obligate the person to purchase transit  
23 passes on behalf or for the benefit of employees, students, patients or other individuals over a  
24 specified period of time.

25 (11) "Recycling facility" means equipment used by a trade or business solely for recycling:

26 (a) Including:

27 (A) Equipment used solely for hauling and refining used oil;

28 (B) New vehicles or modifications to existing vehicles used solely to transport used recyclable  
29 materials that cannot be used further in their present form or location such as glass, metal, paper,  
30 aluminum, rubber and plastic;

31 (C) Trailers, racks or bins that are used for hauling used recyclable materials and are added to  
32 or attached to existing waste collection vehicles; and

33 (D) Any equipment used solely for processing recyclable materials such as balers, flatteners,  
34 crushers, separators and scales.

35 (b) But not including equipment used for transporting or processing scrap materials that are  
36 recycled as a part of the normal operation of a trade or business as defined by the [*director*] **com-**  
37 **mission.**

38 (12)(a) "Renewable energy resource" includes, but is not limited to:

39 (A) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant  
40 or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal  
41 energy;

42 (B) A hydroelectric generating facility that obtains all applicable permits and complies with all  
43 state and federal statutory requirements for the protection of fish and wildlife and that:

44 (i) Does not exceed 10 megawatts of installed capacity; or

45 (ii) Qualifies as a research, development or demonstration facility; or

1 (C) A renewable energy storage device as defined by the [*director*] **commission** by rule.

2 (b) “Renewable energy resource” does not include a hydroelectric generating facility that is not  
3 described in paragraph (a) of this subsection.

4 (13) “Sustainable building practices facility” means a commercial building in which building  
5 practices that reduce the amount of energy, water or other resources needed for construction and  
6 operation of the building are used. “Sustainable building practices facility” may be further defined  
7 by the [*State Department of Energy*] **commission** by rule, including rules that establish traditional  
8 building practice baselines in energy, water or other resource usage for comparative purposes for  
9 use in determining whether a facility is a sustainable building practices facility.

10 (14) “Transportation facility” means a transportation project that reduces energy use during  
11 commuting to and from work or school, during work-related travel, or during travel to obtain med-  
12 ical or other services, and may be further defined by the [*department*] **commission** by rule.  
13 “Transportation facility” includes, but is not limited to:

14 (a) A qualified transit pass contract or a transportation services contract; or

15 (b) The purchase of efficient truck technology and related truck trailers, as defined in ORS  
16 801.580, for commercial motor vehicles, as defined in ORS 801.208, that are registered under ORS  
17 803.420, or for commercial motor vehicles that are proportionally registered under ORS 826.009 or  
18 826.011.

19 (15) “Transportation provider” means a public, private or nonprofit entity that provides trans-  
20 portation services to members of the public.

21 (16) “Transportation services contract” means a contract that is related to a transportation fa-  
22 cility, and may be further defined by the [*department*] **commission** by rule.

23 **SECTION 57.** ORS 469B.136 is amended to read:

24 469B.136. (1) In determining the eligibility of any facility for tax credits, preference shall be  
25 given to those projects that:

26 (a) Provide energy savings for real or personal property within the state inhabited as the prin-  
27 cipal residence of a tenant, including:

28 (A) Nonowner occupied single family dwellings; and

29 (B) Multiple unit residential housing; or

30 (b) Provide long-term energy savings from the use of renewable resources or conservation of  
31 energy resources.

32 (2) The [*Director of the State Department of Energy*] **Oregon Energy Commission** shall establish  
33 by rule a tiered priority system to be used in evaluating applicants for certification of facilities us-  
34 ing or producing renewable energy resources. The tier system shall be based upon the projected  
35 costs of facilities. In determining the eligibility for tax credits and in allocating the available certi-  
36 fied cost pursuant to section 2 (1), chapter 76, Oregon Laws 2010, among facilities, the [*director*]  
37 **commission** shall subject facilities with higher projected costs to closer scrutiny, shall compare  
38 projects of similar costs against each other and may certify less than the total cost of any facility  
39 based on this evaluation. The [*director*] **commission** may employ criteria including the following  
40 factors as defined by rule:

41 (a) Technology-specific energy production standards;

42 (b) Market sector;

43 (c) Delivery of energy into existing distribution and transmission network;

44 (d) Investment payback period;

45 (e) Expected lifespan of the facility;

- 1 (f) Potential for long-term viability;
- 2 (g) Environmental standards established by the [*director*] **commission**;
- 3 (h) Potential to create and sustain new jobs;
- 4 (i) Projected siting in a location that is geographically or socioeconomically advantageous;
- 5 (j) Demonstrated readiness to begin implementation;
- 6 (k) Amount and quality of energy generated;
- 7 (L) Strength of business plan;
- 8 (m) Provision of operations and maintenance data, with appropriate protections for trade secrets
- 9 consistent with ORS chapter 192;
- 10 (n) Connection to existing infrastructure;
- 11 (o) Third-party review of the applicant's business plan; or
- 12 (p) Data related to projected return on investment.

13 **SECTION 58.** ORS 469B.139 is amended to read:

14 469B.139. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish  
 15 all of the following criteria:

16 (1) For a high-performance home, the minimum design and construction standards that must be  
 17 met or exceeded for a dwelling to be considered a high-performance home, including but not limited  
 18 to standards for the building envelope, HVAC systems, lighting, appliances, water conservation  
 19 measures, use of sustainable building materials and on-site renewable energy systems. The criteria  
 20 must also establish the minimum reduction in estimated net purchased energy that a dwelling must  
 21 achieve to be considered a high-performance home.

22 (2) For a homebuilder-installed renewable energy system, the minimum performance and effi-  
 23 ciency standards that a solar electric system, solar domestic water heating system, passive solar  
 24 space heating system, wind power system, geothermal heating system, fuel cell system or other sys-  
 25 tem utilizing renewable resources must achieve to be considered a homebuilder-installed renewable  
 26 energy system.

27 (3) For a high-efficiency combined heat and power facility, the minimum performance and effi-  
 28 ciency standards that the facility must achieve to be considered a high-efficiency combined heat and  
 29 power facility.

30 (4) For a facility using or producing renewable energy resources, standards relating to criteria  
 31 required under ORS 469B.136 (2).

32 (5) Standards, consistent with the definitions in ORS 469B.130, relating to what constitutes a  
 33 single facility.

34 **SECTION 59.** ORS 469B.145 is amended to read:

35 469B.145. (1) Prior to erection, construction, installation or acquisition of a proposed facility,  
 36 any person may apply to the State Department of Energy for preliminary certification under ORS  
 37 469B.157 if:

38 (a) The erection, construction, installation or acquisition of the facility is to be commenced on  
 39 or after October 3, 1979;

40 (b) The facility complies with the standards or rules adopted by the [*Director of the State De-*  
 41 *partment of Energy*] **Oregon Energy Commission**; and

42 (c) The applicant meets one of the following criteria:

43 (A) The applicant is a person to whom a tax credit for the facility has been transferred; or

44 (B) The applicant will be the owner, contract purchaser or lessee of the facility at the time of  
 45 erection, construction, installation or acquisition of the proposed facility, and:

1 (i) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to  
 2 utilize the facility in connection with Oregon property; or

3 (ii) The applicant is the owner, contract purchaser or lessee of a trade or business that plans  
 4 to lease the facility to a person that will utilize the facility in connection with Oregon property.

5 (2) An application for preliminary certification shall be made in writing on a form prepared by  
 6 the department and shall contain:

7 (a) A statement that the applicant or the lessee of the applicant's facility:

8 (A) Intends to convert from a purchased energy source to a renewable energy resource;

9 (B) Plans to acquire, construct or install a facility that will use a renewable energy resource  
 10 or solid waste instead of electricity, petroleum or natural gas;

11 (C) Plans to use a renewable energy resource in the generation of electricity for sale or to re-  
 12 place an existing or proposed use of an existing source of electricity;

13 (D) Plans to acquire, construct or install a facility that substantially reduces the consumption  
 14 of purchased energy;

15 (E) Plans to acquire, construct or install equipment for recycling as described in ORS 469B.130  
 16 (11);

17 (F) Plans to acquire an alternative fuel vehicle or to convert an existing vehicle to an alterna-  
 18 tive fuel vehicle;

19 (G) Plans to acquire, construct or install a facility necessary to operate alternative fuel vehicles;

20 (H) Plans to acquire transit passes for use by individuals specified by the applicant;

21 (I) Plans to acquire, construct or install a transportation facility;

22 (J) Plans to acquire a sustainable building practices facility;

23 (K) Plans to acquire a car sharing facility and operate a car sharing program;

24 (L) Plans to construct a high-efficiency combined heat and power facility;

25 (M) Is a homebuilder and plans to construct a homebuilder-installed renewable energy system;  
 26 or

27 (N) Is a homebuilder and plans to construct a high-performance home.

28 (b) A detailed description of the proposed facility and its operation and information showing that  
 29 the facility will operate as represented in the application and remain in operation for at least five  
 30 years, unless the [director] **commission** by rule specifies a shorter period of operation.

31 (c) Information on the amount by which consumption of electricity, petroleum or natural gas by  
 32 the applicant or the lessee of the applicant's facility will be reduced, and on the amount of energy  
 33 that will be produced for sale, as the result of using the facility or, if applicable, information about  
 34 the expected level of sustainable building practices facility performance.

35 (d) The projected cost of the facility.

36 (e) If applicable, a copy of the proposed qualified transit pass contract, transportation services  
 37 contract or contract for lease of parking spaces for a car sharing facility.

38 (f) Information on the number and type of jobs that will be created, the number of jobs sustained  
 39 throughout the construction, installation and operation of the facility and the benefits of the facility  
 40 with regard to overall economic activity in this state.

41 (g) Information demonstrating that the proposed facility will comply with applicable state and  
 42 local laws and regulations and obtain required licenses and permits.

43 (h) Information relating to the criteria required under ORS 469B.136.

44 (i) Any other information the [director] **commission** considers necessary to determine whether  
 45 the proposed facility is in accordance with the provisions of ORS 469B.130 to 469B.169, and any

1 applicable rules or standards adopted by the [*director*] **commission**.

2 (3) An application for preliminary certification shall be accompanied by a fee established under  
3 ORS 469B.164. The Director **of the State Department of Energy** may refund all or a portion of  
4 the fee if the application for certification is rejected.

5 (4) The director may allow an applicant to file the preliminary application or a reapplication  
6 under subsection (6) of this section after the start of erection, construction, installation or acquisi-  
7 tion of the facility if the director finds:

8 (a) Filing the application before the start of erection, construction, installation or acquisition is  
9 inappropriate because special circumstances render filing earlier unreasonable; and

10 (b) The facility would otherwise qualify for tax credit certification pursuant to ORS 469B.130 to  
11 469B.169.

12 (5) A preliminary certification of a sustainable building practices facility shall be applied for and  
13 issued as prescribed by the [*department*] **commission** by rule.

14 (6) A preliminary certification shall remain valid for a period of three calendar years after the  
15 date the preliminary certification is issued by the director. The director may extend the three-year  
16 period for two additional calendar years upon reapplication and submission of the fee required by  
17 this section.

18 **SECTION 60.** ORS 469B.148 is amended to read:

19 469B.148. (1) The owner of a facility may transfer a tax credit for the facility in exchange for  
20 a cash payment equal to the present value of the potential tax credit, as determined at the time of  
21 the application for preliminary certification.

22 (2) The [*State Department of Energy*] **Oregon Energy Commission** shall establish by rule a  
23 formula to be employed **by the State Department of Energy** in the determination of prices of  
24 credits transferred under this section. In establishing the formula the [*department*] **commission** shall  
25 incorporate inflation projections and market real rate of return.

26 (3) The department shall recalculate credit transfer prices quarterly, employing the formula es-  
27 tablished under subsection (2) of this section.

28 (4) Notwithstanding any other provision of law, a tax credit transferred pursuant to this section  
29 does not decrease the amount of taxes required to be reported by a public utility.

30 **SECTION 61.** ORS 469B.154 is amended to read:

31 469B.154. (1) The owner of a rental housing unit may transfer a tax credit for energy conser-  
32 vation measures installed in rental housing units under ORS 469B.151 in exchange for a cash pay-  
33 ment equal to the present value of the tax credit. To be eligible for a transfer, the energy  
34 conservation measures must have been recommended in an energy audit as provided in ORS 469.633,  
35 469.651 or 469.675.

36 (2) The [*State Department of Energy*] **Oregon Energy Commission** may establish by rule uni-  
37 form discount rates to be used in calculating the present value of a tax credit under this section.

38 **SECTION 62.** ORS 469B.157 is amended to read:

39 469B.157. (1) The Director of the State Department of Energy may require the submission of  
40 plans, specifications and contract terms, and after examination thereof, may request corrections and  
41 revisions of the plans, specifications and terms.

42 (2) If the director determines that the proposed acquisition, erection, construction or installation  
43 is technically feasible and should operate in accordance with the representations made by the ap-  
44 plicant, and is in accordance with the provisions of ORS 469B.130 to 469B.169 and any applicable  
45 rules or standards adopted by the [*director*] **Oregon Energy Commission**, the director shall issue



1 a preliminary certificate approving the acquisition, erection, construction or installation of the fa-  
 2 cility. The certificate shall indicate the potential amount of tax credit allowable and shall list any  
 3 conditions for claiming the credit.

4 (3) The director may issue an order altering, conditioning, suspending or denying preliminary  
 5 certification if the director determines that:

6 (a) The acquisition, erection, construction or installation does not comply with the provisions  
 7 of ORS 469B.130 to 469B.169 and applicable rules and standards;

8 (b) The applicant has previously received preliminary or final certification for the same costs;

9 (c) The applicant is unable to demonstrate that the facility would be economically viable without  
 10 the allowance of additional credits under ORS 315.354;

11 (d) The applicant was directly involved in an act for which the director has levied civil penalties  
 12 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169; or

13 (e) The applicant or the principal, director, officer, owner, majority shareholder or member of  
 14 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in  
 15 arrears for payments owed to any government agency while in any capacity with direct or indirect  
 16 control over a business.

17 **SECTION 63.** ORS 469B.161 is amended to read:

18 469B.161. (1) A final certification may not be issued by the Director of the State Department of  
 19 Energy under this section unless:

20 (a) The facility was acquired, erected, constructed or installed under a preliminary certificate  
 21 of approval issued under ORS 469B.157;

22 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.145  
 23 (2) and does not violate any condition that may be imposed as described in ORS 469B.157 (3); and

24 (c) The facility was acquired, erected, constructed or installed in accordance with the applicable  
 25 provisions of ORS 469B.130 to 469B.169 and any applicable rules or standards adopted by the [*di-*  
 26 *rector*] **Oregon Energy Commission**.

27 (2) Any person may apply to the State Department of Energy for final certification of a facility:

28 (a) If the department issued preliminary certification for the facility under ORS 469B.157; and

29 (b)(A) After completion of erection, construction, installation or acquisition of the proposed fa-  
 30 cility or, if the facility is a qualified transit pass contract, after entering into the contract with a  
 31 transportation provider; or

32 (B) After transfer of the facility, as provided in ORS 315.354 (5).

33 (3) An application for final certification shall be made in writing on a form prepared by the  
 34 department and shall contain:

35 (a) A statement that the conditions of the preliminary certification have been complied with;

36 (b) The actual cost of the facility certified to by a certified public accountant who is not an  
 37 employee of the applicant or, if the actual cost of the facility is less than \$50,000, copies of receipts  
 38 for purchase and installation of the facility;

39 (c) The amount of the credit under ORS 315.354 that is to be claimed;

40 (d) The number and type of jobs created by the operation and maintenance of the facility over  
 41 the five-year period beginning with the year of preliminary certification under ORS 469B.157 and  
 42 information on the benefits of the facility with regard to overall economic activity in this state;

43 (e) Information sufficient to demonstrate that the facility will remain in operation for at least  
 44 five years, unless the [*director*] **Oregon Energy Commission** by rule specifies a shorter period of  
 45 operation;

1 (f) Information sufficient to demonstrate, in the case of a research, development or demon-  
 2 stration facility that is not in operation, that the applicant has made reasonable efforts to make the  
 3 facility operable and meet the requirements of the preliminary certificate;

4 (g) Documentation of compliance with applicable state and local laws and regulations and li-  
 5 censing and permitting requirements as defined by the [*director*] **Oregon Energy Commission**; and

6 (h) Any other information determined by the [*director*] **Oregon Energy Commission** to be nec-  
 7 essary prior to issuance of a final certificate, including inspection of the facility by the department.

8 (4) The director shall act on an application for certification before the 60th day after the filing  
 9 of the application under this section. The director may issue the certificate, or certificates for effi-  
 10 cient truck technology within a transportation facility, together with such conditions as the director  
 11 determines are appropriate to promote the purposes of ORS 315.354, 469B.130 to 469B.169 and  
 12 469B.171. If the applicant is an entity subject to regulation by the Public Utility Commission, the  
 13 director may consult with the **Public Utility Commission** prior to issuance of the certificate. The  
 14 action of the director shall include certification of the actual cost of the facility. However, the di-  
 15 rector may not certify an amount for tax credit purposes that is more than the amount approved in  
 16 the preliminary certificate issued for the facility.

17 (5) If the director rejects an application for final certification, or certifies a lesser actual cost  
 18 of the facility than was claimed in the application, the director shall send to the applicant written  
 19 notice of the action, together with a statement of the findings and reasons therefor, by certified mail,  
 20 before the 60th day after the filing of the application. Failure of the director to act constitutes re-  
 21 jection of the application.

22 (6) Upon approval of an application for final certification of a facility, the director shall certify  
 23 the facility. Each certificate shall bear a separate serial number for each device. Where one or  
 24 more devices constitute an operational unit, the director may certify the operational unit under one  
 25 certificate.

26 (7) The [*director*] **Oregon Energy Commission** may establish by rule timelines and intermediate  
 27 deadlines for submission of application materials.

28 **SECTION 64.** ORS 469B.164 is amended to read:

29 469B.164. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**  
 30 **Energy Commission** may adopt a schedule of reasonable fees which the State Department of En-  
 31 ergy may require of applicants for preliminary or final certification under ORS 469B.130 to 469B.169.  
 32 Before the adoption or revision of the fees, the department shall estimate the total cost of the pro-  
 33 gram to the department. The fees shall be used to recover the anticipated cost of filing, investigat-  
 34 ing, granting and rejecting applications for certification and shall be designed not to exceed the  
 35 total cost estimated by the department. Any excess fees shall be held by the department and shall  
 36 be used by the department to reduce any future fee increases. The fee may vary according to the  
 37 size and complexity of the facility. The fee shall not be considered as part of the cost of the facility  
 38 to be certified.

39 **SECTION 65.** ORS 469B.253 is amended to read:

40 469B.253. (1) Prior to the installation or construction of a renewable energy production system,  
 41 any person may apply to the State Department of Energy for a grant under ORS 469B.256 if:

42 (a) The applicant will be the owner, contract purchaser or lessee of the system at the time of  
 43 installation or construction of the proposed system;

44 (b) The system does not exceed 35 megawatts of nameplate capacity;

45 (c) The system is located in Oregon; and

1 (d) The system complies with the standards or rules adopted by the [*Director of the State De-*  
2 *partment of Energy*] **Oregon Energy Commission**.

3 (2) An application for a grant under ORS 469B.256 shall be made in writing on a form prepared  
4 by the department and shall contain:

5 (a) A detailed description of the system and its operation and information showing that the  
6 system will operate as represented in the application and remain in operation for at least five years,  
7 unless the [*director*] **commission** by rule specifies another period of operation.

8 (b) The anticipated total system cost.

9 (c) Information on the number and type of jobs, directly connected to the awarding of the grant,  
10 that will be:

11 (A) Created by the system; and

12 (B) Sustained throughout the construction, installation and operation of the system.

13 (d) Information demonstrating that the system will comply with applicable state and local laws  
14 and regulations and obtain required licenses and permits.

15 (e) Any other information the [*director*] **commission** considers necessary to determine whether  
16 the system is in accordance with the provisions of ORS 469B.250 to 469B.265, and any applicable  
17 rules or standards adopted by the [*director*] **commission**.

18 (3) An application for a grant shall be accompanied by a fee established under ORS 469B.259.  
19 The [*director*] **commission** may refund all or a portion of the fee if the application for a grant is  
20 rejected.

21 (4) The [*director*] **commission** may allow an applicant to file the application for a grant after  
22 the start of installation or construction of the system if the [*director*] **commission** finds that:

23 (a) Filing the application before the start of installation or construction is inappropriate because  
24 special circumstances render filing earlier unreasonable; and

25 (b) The system would otherwise qualify for a grant under ORS 469B.250 to 469B.265.

26 **SECTION 66.** ORS 469B.256 is amended to read:

27 469B.256. (1) The Director of the State Department of Energy may require an applicant for a  
28 grant under this section for a renewable energy production system to submit plans, specifications  
29 and contract terms, and after examination of the plans, specifications and terms may request cor-  
30 rections and revisions.

31 (2) If the director determines that the system is technically feasible and should operate in ac-  
32 cordance with the representations made by the applicant, and is in accordance with the provisions  
33 of ORS 469B.250 to 469B.265 and any applicable rules or standards adopted by the [*director*] **Oregon**  
34 **Energy Commission**, the director may enter into a performance agreement with the applicant and  
35 award a grant under this section to the applicant. The grant provided for in the performance  
36 agreement may not exceed 35 percent of the cost of the project and may not exceed \$250,000 per  
37 system. If construction does not begin within 12 months of an award under this section, the per-  
38 formance agreement shall be void and the State Department of Energy shall revoke the grant.

39 (3) The director may, in accordance with ORS chapter 183, deny a grant under this section if  
40 the director determines that:

41 (a) The system does not comply with the provisions of ORS 469B.250 to 469B.265 and applicable  
42 rules and standards;

43 (b) The applicant was directly involved in an act for which the director has levied civil penalties  
44 or revoked, canceled or suspended any certification under ORS 315.326 or 469B.130 to 469B.169, or  
45 any grant under ORS 469B.250 to 469B.265; or

1 (c) The applicant or the principal, director, officer, owner, majority shareholder or member of  
2 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in  
3 arrears for payments owed to any government agency while in any capacity with direct or indirect  
4 control over a business.

5 (4) The department shall reduce the amount of grant allowable to an applicant if, when combined  
6 with other government incentives or grants available to the applicant, the amount calculated under  
7 subsection (2) of this section exceeds 75 percent of the total system cost calculated under this sec-  
8 tion.

9 (5) Upon determination by the director that the applicant has violated the provisions of the  
10 performance agreement or ORS 469B.250 to 469B.265, the applicant will be liable to the department  
11 for all grant moneys disbursed to the applicant.

12 **SECTION 67.** ORS 469B.259 is amended to read:

13 469B.259. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**  
14 **Energy Commission** may adopt a schedule of reasonable fees that the State Department of Energy  
15 may require of applicants for a grant for a renewable energy production system under ORS 469B.250  
16 to 469B.265 or for tax credit certification under ORS 315.326. Before the adoption or revision of the  
17 fees, the department shall estimate the total cost of the program to the department. The fees shall  
18 be used to recover the anticipated cost of administering and enforcing the provisions of ORS  
19 469B.250 to 469B.265, including filing, investigating, granting and rejecting applications for grant  
20 or tax credit certification and ensuring compliance with ORS 315.326, 315.329 and 469B.250 to  
21 469B.265 and shall be designed not to exceed the total cost estimated by the department. Any excess  
22 fees shall be held by the department and shall be used by the department to reduce any future fee  
23 increases. The fee may vary according to the size and complexity of the system. The fee is not  
24 considered part of the cost of the system for which a grant is being sought.

25 **SECTION 68.** ORS 469B.262 is amended to read:

26 469B.262. (1) The total amount of potential tax credits for certified renewable energy develop-  
27 ment contributions in this state may not, at the time of certification under ORS 315.326, exceed:

28 (a) \$3 million for any biennium; or

29 (b) \$750,000 for the six months beginning July 1, 2017, and ending December 31, 2017.

30 (2) In the event that the Director of the State Department of Energy receives applications for  
31 grants under ORS 469B.256 in excess of the contributions received pursuant to ORS 315.326, the  
32 director shall allocate the issuance of grants according to standards and criteria established by rule  
33 by the [*director*] **Oregon Energy Commission**.

34 **SECTION 69.** ORS 469B.265 is amended to read:

35 469B.265. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish  
36 policies and procedures for the administration and enforcement of the provisions of ORS 315.326,  
37 315.329 and 469B.250 to 469B.265, including standards for what constitutes a single renewable en-  
38 ergy production system.

39 **SECTION 70.** ORS 469B.273 is amended to read:

40 469B.273. (1) In determining the priority of any energy conservation project for tax credits,  
41 preference shall be given to those projects that have the highest energy savings over the five-year  
42 credit allowance period per tax credit dollar.

43 (2) In administering this section, the Director of the State Department of Energy shall compare  
44 projects of similar technology types against each other, take into account the amount of energy  
45 saved over the life of the equipment, market or industry sector, expected lifespan of the project

1 compared to the simple payback period, whether the energy savings of the project benefit a party  
2 other than the owner and any other factors defined in [*State Department of Energy*] rule **by the**  
3 **Oregon Energy Commission**. The **State Department of Energy** may certify less than the total cost  
4 of any project based on this evaluation.

5 **SECTION 71.** ORS 469B.276 is amended to read:

6 469B.276. (1) The owner of a project may transfer a tax credit for the project in exchange for  
7 a cash payment equal to the present value of the potential tax credit, as determined at the time of  
8 the application for preliminary certification. If the tax credit is subject to recertification, only that  
9 portion of the tax credit that has been recertified may be transferred.

10 (2) The [*State Department of Energy*] **Oregon Energy Commission** shall establish by rule a  
11 formula to be employed **by the State Department of Energy** in the determination of prices of  
12 credits transferred under this section. In establishing the formula the [*department*] **commission** shall  
13 incorporate inflation projections and market real rate of return.

14 (3) The department shall recalculate credit transfer prices quarterly, employing the formula es-  
15 tablished **by the commission** under subsection (2) of this section.

16 **SECTION 72.** ORS 469B.279 is amended to read:

17 469B.279. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish  
18 the following standards relating to energy conservation projects:

19 (1) In consultation with the Department of Consumer and Business Services Building Codes Di-  
20 vision, standards relating to energy savings in new construction.

21 (2) Standards relating to what constitutes a replacement of inefficient equipment.

22 (3) Standards for the determination of total project cost.

23 (4) Standards for the application of third party review of research and development projects by  
24 a qualified third party selected by the Director of the State Department of Energy, as required in  
25 ORS 469B.285.

26 **SECTION 73.** ORS 469B.285 is amended to read:

27 469B.285. (1) Prior to the installation or construction of an energy conservation project, any  
28 person may apply to the State Department of Energy for preliminary certification under ORS  
29 469B.288 if:

30 (a) The project complies with the standards adopted by the [*Director of the State Department of*  
31 *Energy*] **Oregon Energy Commission**; and

32 (b) The applicant will be the owner, contract purchaser or lessee of the project at the time of  
33 installation or construction of the project.

34 (2) An application for preliminary certification shall be made in writing on a form prepared by  
35 the department and shall contain:

36 (a) A statement that the applicant plans to acquire, construct or install a project that substan-  
37 tially reduces the consumption of purchased energy or uses energy more efficiently.

38 (b) A detailed description of the project and its operation and information showing that the  
39 project will operate as represented in the application and remain in operation for at least five years,  
40 unless the [*director*] **commission** by rule specifies another period of operation.

41 (c) Information on the amount by which consumption of purchased energy by the applicant will  
42 be reduced, and, if applicable, information about the expected level of sustainable building practices  
43 project performance.

44 (d) The anticipated total project cost.

45 (e) Information on the number and type of jobs, directly connected to the allowance of the

1 credit, that will be:

2 (A) Created by the project; and

3 (B) Sustained throughout the construction, installation and operation of the project.

4 (f) Information demonstrating that the project will comply with applicable state and local laws  
5 and regulations and obtain required licenses and permits.

6 (g) Information relating to the standards described in ORS 469B.279.

7 (h) A recommendation for a research and development project as demonstrative of innovation  
8 that has been made by a qualified third party selected by the [*director*] **Director of the State De-**  
9 **partment of Energy**.

10 (i) Any other information the [*director*] **commission** considers necessary to determine whether  
11 the project is in accordance with the provisions of ORS 469B.270 to 469B.306, and any applicable  
12 rules or standards adopted by the [*director*] **commission**.

13 (3) An application for preliminary certification shall be accompanied by a fee established under  
14 ORS 469B.294. The director may refund all or a portion of the fee if the application for certification  
15 is rejected.

16 (4) The director may allow an applicant to file the application for preliminary certification after  
17 the start of installation or construction of the project if the director finds that:

18 (a) Filing the application before the start of installation or construction is inappropriate because  
19 special circumstances render filing earlier unreasonable; and

20 (b) The project would otherwise qualify for certification under ORS 469B.270 to 469B.306.

21 (5) The [*director*] **commission** may, by rule, waive preliminary certification under ORS 469B.288,  
22 or may establish an informational filing system in place of preliminary certification, for projects  
23 that:

24 (a) Have eligible costs of less than \$20,000;

25 (b) Consist of measures that the director determines to be eligible for waiver of preliminary  
26 certification; and

27 (c) Comply with any other requirements established by the [*director*] **commission**.

28 (6) A preliminary certification shall remain valid for a period of three calendar years after the  
29 date on which the preliminary certification is issued by the director, after which the certification  
30 becomes invalid even if:

31 (a) The applicant is awaiting identification of a pass-through partner; or

32 (b) The preliminary certification has been amended.

33 **SECTION 74.** ORS 469B.288 is amended to read:

34 469B.288. (1) The Director of the State Department of Energy may require an applicant for  
35 certification of an energy conservation project to submit plans, specifications and contract terms,  
36 and after examination of the plans, specifications and terms may request corrections and revisions.

37 (2) If the director determines that the project is technically feasible and should operate in ac-  
38 cordance with the representations made by the applicant, and is in accordance with the provisions  
39 of ORS 469B.270 to 469B.306 and any applicable rules or standards adopted by the [*director*] **Oregon**  
40 **Energy Commission**, the director may issue a preliminary certificate approving the installation or  
41 construction of the project. The certificate shall indicate the potential amount of tax credit allow-  
42 able and shall list any conditions for claiming the credit.

43 (3) In accordance with ORS chapter 183, the director may issue an order altering, conditioning,  
44 suspending or denying preliminary certification if the director determines that:

45 (a) The project does not comply with the provisions of ORS 469B.270 to 469B.306 and applicable

1 rules and standards;

2 (b) The applicant has previously received preliminary or final certification for the project;

3 (c) The applicant was directly involved in an act for which the director has levied civil penalties  
4 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169 or 469B.270 to  
5 469B.306; or

6 (d) The applicant or the principal, director, officer, owner, majority shareholder or member of  
7 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in  
8 arrears for payments owed to any government agency while in any capacity with direct or indirect  
9 control over a business.

10 **SECTION 75.** ORS 469B.291 is amended to read:

11 469B.291. (1) The Director of the State Department of Energy may issue a final certification for  
12 an energy conservation project under this section only if:

13 (a) The project was installed or constructed under a preliminary certificate of approval issued  
14 under ORS 469B.288, unless preliminary certification is waived under ORS 469B.285 (5);

15 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.285  
16 (2) and does not violate any condition that may be imposed as described in subsections (4) and (5)  
17 of this section; and

18 (c) The project was installed or constructed in accordance with the applicable provisions of ORS  
19 469B.270 to 469B.306 and any applicable rules or standards adopted by the *[director]* **Oregon Energy**  
20 **Commission.**

21 (2) Any person may apply to the State Department of Energy for final certification of a project:

22 (a) If the person received preliminary certification for the project under ORS 469B.288; and

23 (b) After completion of the installation or construction of the project.

24 (3) An application for final certification shall be made in writing on a form prepared by the  
25 department and shall contain:

26 (a) A statement that the conditions of the preliminary certification have been complied with;

27 (b) The actual cost of the project attested to by a certified public accountant who is not an  
28 employee of the applicant or, if the actual cost of the project is less than \$50,000, copies of receipts  
29 for purchase and installation of the project;

30 (c) The amount of the credit under ORS 315.331 that is to be claimed;

31 (d) The number and type of jobs, directly connected to the allowance of the credit, that will be  
32 created by the operation and maintenance of the project over the five-year period beginning with  
33 the year of preliminary certification under ORS 469B.288;

34 (e) Information sufficient to demonstrate that the project will remain in operation for at least  
35 five years, unless the *[director]* **Oregon Energy Commission** by rule specifies another period of  
36 operation;

37 (f) Documentation of compliance with applicable state and local laws and regulations and li-  
38 censing and permitting requirements as defined by the *[director]* **Oregon Energy Commission**;

39 (g) Information, if applicable, pertaining to prior recommendation of the project by a qualified  
40 third party selected by the *[director]* **commission**; and

41 (h) Any other information determined by the director to be necessary prior to issuance of a final  
42 certificate, including inspection of the project by the department.

43 (4) As part of the final certification process, the director may require the applicant to enter into  
44 a performance agreement with the department. The performance agreement may include a recertif-  
45 ication requirement under ORS 469B.298 and any additional requirements that the director deter-

1 mines are appropriate to promote the purposes of ORS 315.331 and 469B.270 to 469B.306.

2 (5) After the filing of the application under this section, the director may issue the certificate  
3 together with any conditions, including conditions imposed by a performance agreement, that the  
4 director determines are appropriate to promote the purposes of ORS 315.331 and 469B.270 to  
5 469B.306. If the applicant is an entity subject to regulation by the Public Utility Commission, the  
6 director may consult with the **Public Utility** Commission prior to issuance of the certificate. The  
7 action of the director shall include certification of the actual cost of the project. However, the di-  
8 rector may not certify an amount for tax credit purposes that is more than the amount approved in  
9 the preliminary certificate issued for the project.

10 (6) Except as otherwise provided in ORS 469B.298, if the director rejects an application for final  
11 certification, or certifies a lesser amount of credit than was claimed in the application, the director  
12 shall send to the applicant written notice of the action, together with a statement of the findings  
13 and reasons for the action, by certified mail, before the 60th day after the filing of the application.  
14 Failure of the director to act constitutes rejection of the application.

15 (7) Upon approval of an application for final certification of a project, the director shall certify  
16 the project. The final certification shall indicate the amount of projected energy savings attributable  
17 to the project and the total project cost.

18 (8) The [*director*] **Oregon Energy Commission** may establish by rule timelines and intermediate  
19 deadlines for submission of application materials.

20 **SECTION 76.** ORS 469B.294 is amended to read:

21 469B.294. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**  
22 **Energy Commission** may adopt a schedule of reasonable fees that the State Department of Energy  
23 may require of applicants for preliminary or final certification or recertification of an energy con-  
24 servation project under ORS 469B.270 to 469B.306. Before the adoption or revision of the fees, the  
25 department shall estimate the total cost of the program to the department. The fees shall be used  
26 to recover the anticipated cost of administering and enforcing the provisions of ORS 469B.270 to  
27 469B.306, including filing, investigating, granting and rejecting applications for certification or re-  
28 certification and ensuring compliance with ORS 469B.270 to 469B.306 and shall be designed not to  
29 exceed the total cost estimated by the department. Any excess fees shall be held by the department  
30 and shall be used by the department to reduce any future fee increases. The fee may vary according  
31 to the size and complexity of the project. The fee is not considered part of the cost of the project  
32 to be certified.

33 **SECTION 77.** ORS 469B.303 is amended to read:

34 469B.303. (1) The total amount of potential tax credits for all energy conservation projects in  
35 this state may not, at the time of preliminary certification under ORS 469B.288, exceed:

36 (a) \$28 million for any biennium; or

37 (b) \$7.5 million for the six months beginning July 1, 2017, and ending December 31, 2017.

38 (2) In the event that the Director of the State Department of Energy receives applications for  
39 preliminary certification with a total amount of certified costs for potential tax credits in excess of  
40 the limitations in subsection (1) of this section, the director shall allocate the issuance of prelimi-  
41 nary certifications according to standards and criteria established by rule by the [*director*] **Oregon**  
42 **Energy Commission**.

43 **SECTION 78.** ORS 469B.306 is amended to read:

44 469B.306. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish  
45 policies and procedures for the administration and enforcement of the provisions of ORS 315.331 and



1 469B.270 to 469B.306 and section 36, chapter 730, Oregon Laws 2011, including standards for what  
2 constitutes a single energy conservation project.

3 **SECTION 79.** ORS 469B.323 is amended to read:

4 469B.323. (1) The owner of a transportation project may transfer a tax credit for the project in  
5 exchange for a cash payment equal to the present value of the tax credit.

6 (2) The [*State Department of Energy*] **Oregon Energy Commission** shall establish by rule a  
7 formula to be employed in the determination of prices of credits transferred under this section. In  
8 establishing the formula the [*department*] **commission** shall incorporate inflation projections and  
9 market real rate of return.

10 (3) The [*department*] **State Department of Energy** shall recalculate credit transfer prices  
11 quarterly, employing the formula established by the **commission** under subsection (2) of this sec-  
12 tion.

13 **SECTION 80.** ORS 469B.326 is amended to read:

14 469B.326. (1) Prior to the acquisition or performance of a transportation project, a person may  
15 apply to the State Department of Energy for preliminary certification for the project under ORS  
16 469B.329 if:

17 (a) The project complies with the standards adopted by the [*Director of the State Department of*  
18 *Energy*] **Oregon Energy Commission**; and

19 (b) The applicant will be the owner, contract purchaser or lessee of the project at the time of  
20 acquisition or performance of the project.

21 (2) An application for preliminary certification shall be made in writing on a form prepared by  
22 the department and shall contain:

23 (a) A statement that the applicant plans to acquire or perform a project that substantially re-  
24 duces the consumption of purchased petroleum energy.

25 (b) A detailed description of the project and its operation and information showing that the  
26 project will operate as represented in the application and remain in operation for at least five years,  
27 unless the [*director*] **commission** by rule specifies another period of operation.

28 (c) Information on the amount by which consumption of purchased petroleum energy by the ap-  
29 plicant will be reduced, and, if applicable, information about the expected level of project perform-  
30 ance.

31 (d) The anticipated total project cost.

32 (e) Information on the number and types of jobs, directly connected to the allowance of the  
33 credit, that will be:

34 (A) Created by the project; and

35 (B) Sustained throughout the acquisition and performance of the project.

36 (f) Information demonstrating that the project will comply with applicable state and local laws  
37 and regulations and obtain required licenses and permits.

38 (g) Any other information the [*director*] **commission** considers necessary to determine whether  
39 the project is in accordance with the provisions of ORS 469B.320 to 469B.347, and any applicable  
40 rules or standards adopted by the [*director*] **commission**.

41 (3) An application for preliminary certification shall be accompanied by a fee established under  
42 ORS 469B.335. The Director of the **State Department of Energy** may refund all or a portion of  
43 the fee if the application for certification is rejected.

44 (4) The director may allow an applicant to file the application for preliminary certification after  
45 the start of acquisition or performance of the project if the director finds that:

1 (a) Filing the application before the start of acquisition or performance is inappropriate because  
 2 special circumstances render filing earlier unreasonable; and

3 (b) The project would otherwise qualify for certification under ORS 469B.320 to 469B.347.

4 (5) A preliminary certification shall remain valid for a period of three calendar years after the  
 5 date on which the preliminary certification is issued by the director, after which the certification  
 6 becomes invalid even if:

7 (a) The applicant is awaiting identification of a pass-through partner; or

8 (b) The preliminary certification has been amended.

9 **SECTION 81.** ORS 469B.329 is amended to read:

10 469B.329. (1) The Director of the State Department of Energy may require an applicant for  
 11 certification of a transportation project to submit plans, specifications and contract terms, and after  
 12 examination of the plans, specifications and terms may request corrections and revisions.

13 (2) If the director determines that the project is technically feasible and should operate in ac-  
 14 cordance with the representations made by the applicant, and is in accordance with the provisions  
 15 of ORS 469B.320 to 469B.347 and any applicable rules or standards adopted by the [director] **Oregon**  
 16 **Energy Commission**, the director may issue a preliminary certificate approving the acquisition or  
 17 performance of the project. The certificate shall indicate the potential amount of tax credit allow-  
 18 able and shall list any conditions for claiming the credit.

19 (3) In accordance with ORS chapter 183, the director may issue an order altering, conditioning,  
 20 suspending or denying preliminary certification if the director determines that:

21 (a) The project does not comply with the provisions of ORS 469B.320 to 469B.347 and applicable  
 22 rules and standards;

23 (b) The applicant has previously received preliminary or final certification for the project;

24 (c) The applicant was directly involved in an act for which the director has levied civil penalties  
 25 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169 or 469B.320 to  
 26 469B.347; or

27 (d) The applicant or the principal, director, officer, owner, majority shareholder or member of  
 28 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in  
 29 arrears for payments owed to any government agency while in any capacity with direct or indirect  
 30 control over a business.

31 **SECTION 82.** ORS 469B.332 is amended to read:

32 469B.332. (1) A final certification for a transportation project may not be issued by the Director  
 33 of the State Department of Energy under this section unless:

34 (a) The project was acquired or performed under a preliminary certificate of approval issued  
 35 under ORS 469B.329;

36 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.326  
 37 (2) and does not violate any condition that may be imposed as described in subsection (4) of this  
 38 section; and

39 (c) The project was acquired or performed in accordance with the applicable provisions of ORS  
 40 469B.320 to 469B.347 and any applicable rules or standards adopted by the [director] **Oregon Energy**  
 41 **Commission**.

42 (2) A person may apply to the State Department of Energy for final certification of a project:

43 (a) If the person received preliminary certification for the project under ORS 469B.329; and

44 (b) After completion of the acquisition or performance of the project.

45 (3) An application for final certification shall be made in writing on a form prepared by the

1 department and shall contain:

2 (a) A statement that the conditions of the preliminary certification have been complied with;

3 (b)(A) The actual cost of the project attested to by a certified public accountant who is not an  
4 employee of the applicant or the applicant's completed audit in compliance with federal Office of  
5 Management and Budget Circular A-133; or

6 (B) If the actual cost of the project is less than \$50,000, copies of receipts for acquisition and  
7 performance of the project;

8 (c) The amount of the credit under ORS 315.336 that is to be claimed;

9 (d) The number and types of jobs, directly connected to the allowance of the credit, created by  
10 the acquisition and performance of the project over the five-year period beginning on the date of  
11 issuance of the preliminary certification under ORS 469B.329;

12 (e) Information sufficient to demonstrate that the project will remain in operation for at least  
13 five years, unless the [*director*] **Oregon Energy Commission** by rule specifies another period of  
14 operation;

15 (f) Documentation of compliance with applicable state and local laws and regulations and li-  
16 censing and permitting requirements as defined by the [*director*] **Oregon Energy Commission**; and

17 (g) Any other information determined by the director to be necessary prior to issuance of a final  
18 certificate, including inspection of the project by the department.

19 (4) After the filing of the application under this section, the director may issue the certificate  
20 together with any conditions that the director determines are appropriate to promote the purposes  
21 of ORS 315.336 and 469B.320 to 469B.347. If the applicant is an entity subject to regulation by the  
22 Public Utility Commission, the director may consult with the **Public Utility** Commission prior to  
23 issuance of the certificate. The action of the director shall include certification of the actual cost  
24 of the project. However, the director may not certify an amount for tax credit purposes that is more  
25 than the amount of credit approved in the preliminary certificate issued for the project.

26 (5) If the director rejects an application for final certification, or certifies a lesser amount of  
27 credit than was claimed in the application, the director shall send to the applicant written notice  
28 of the action, together with a statement of the findings and reasons for the action, by certified mail,  
29 before the 60th day after the filing of the application. Failure of the director to act constitutes re-  
30 jection of the application.

31 (6) Upon approval of an application for final certification of a project, the director shall certify  
32 the project. The final certification shall indicate the amount of projected energy savings attributable  
33 to the project and the certified cost of the project.

34 (7) The [*director*] **Oregon Energy Commission** may establish by rule timelines and intermediate  
35 deadlines for submission of application materials.

36 **SECTION 83.** ORS 469B.335 is amended to read:

37 469B.335. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**  
38 **Energy Commission** may adopt a schedule of reasonable fees that the State Department of Energy  
39 may require of applicants for preliminary or final certification of a transportation project under ORS  
40 469B.320 to 469B.347. Before the adoption or revision of the fees, the department shall estimate the  
41 total cost of the program to the department. The fees shall be used to recover the anticipated cost  
42 of administering and enforcing the provisions of ORS 469B.320 to 469B.347, including filing, investi-  
43 gating, granting and rejecting applications for certification and ensuring compliance with ORS  
44 469B.320 to 469B.347 and shall be designed not to exceed the total cost estimated by the department.  
45 Any excess fees shall be held by the department and shall be used by the department to reduce any

1 future fee increases. The fee may vary according to the size and complexity of the project. The fee  
 2 is not considered part of the cost of the project to be certified.

3 **SECTION 84.** ORS 469B.347 is amended to read:

4 469B.347. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish  
 5 policies and procedures for the administration and enforcement of the provisions of ORS 315.336 and  
 6 469B.320 to 469B.347, including standards for what constitutes a single transportation project.

7 **SECTION 85.** ORS 469B.400 is amended to read:

8 469B.400. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule identify  
 9 categories of fuel blend and solid biofuel that qualify for the personal income tax credit allowed  
 10 under ORS 315.465.

11 **SECTION 86.** ORS 470.050 is amended to read:

12 470.050. As used in this chapter, unless the context requires otherwise:

13 (1) "Alternative fuel project" means:

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

16 (A) Uses an alternative fuel including electricity, biofuel, gasohol with at least 20 percent de-  
 17 naturated alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other  
 18 fuel approved by the Director of the State Department of Energy; and

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

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

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

24 (3) "Base efficiency package" means the package of energy efficiency upgrades or renewable  
 25 energy projects for a property that, when energy savings, project repayment costs, tax or other in-  
 26 centives, loan offset grants and other relevant economic factors are considered, is estimated to not  
 27 increase the utility bill of the customer over the loan repayment term.

28 (4) "Committee" means the Small Scale Local Energy Project Advisory Committee created under  
 29 ORS 470.070.

30 (5) "Cooperative" means a cooperative corporation organized under ORS chapter 62.

31 (6) "Director" means the Director of the State Department of Energy appointed under ORS  
 32 469.040.

33 (7) "Eligible federal agency" means a federal agency or public corporation created by the federal  
 34 government that proposes to use a loan for a small scale local energy project. "Eligible federal  
 35 agency" does not include a federal agency or public corporation created by the federal government  
 36 that proposes to use a loan for a small scale local energy project to generate electricity for sale.

37 (8) "Eligible state agency" means a state officer, board, commission, department, institution,  
 38 branch or agency of the state whose costs are paid wholly or in part from funds held in the State  
 39 Treasury.

40 (9) "Energy efficiency and sustainable technology loan" means a loan for a small scale local  
 41 energy project that is repayable by means of:

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

43 (b) An alternative repayment method identified by the department and the borrower and speci-  
 44 fied in the loan agreement.

45 (10) "Energy Project Bond Loan Fund" means the fund established under ORS 470.580.

- 1 (11) “Energy Project Supplemental Fund” means the fund established under ORS 470.570.
- 2 (12) “Energy Revenue Bond Repayment Fund” means the fund established under ORS 470.585.
- 3 (13) “Energy savings projection” means an examination of the energy performance and site  
4 characteristics of a property that, at a minimum, identifies:
- 5 (a) A base efficiency package; and
- 6 (b) Any additional optional measures that a customer is able to repay and that the sustainable  
7 energy project manager believes to be feasible for the site.
- 8 (14) “Jobs, Energy and Schools Fund” means the fund established under ORS 470.575.
- 9 (15) “Loan” includes the purchase or other acquisition of evidence of indebtedness and money  
10 used for the purchase or other acquisition of evidence of indebtedness.
- 11 (16) “Loan contract” means the evidence of indebtedness and all instruments used in the pur-  
12 chase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or mu-  
13 nicipal corporations that are tax exempt entities, a loan contract may include a lease purchase  
14 agreement with respect to personal property.
- 15 (17) “Loan offset grant” means moneys from the Jobs, Energy and Schools Fund that are used  
16 to help offset the initial project costs or loan payments for energy efficiency, renewable energy and  
17 energy conservation projects.
- 18 (18) “Loan repayment charge” means an amount charged to a utility customer account through  
19 on-bill financing as a mechanism for the repayment of an energy efficiency and sustainable tech-  
20 nology loan.
- 21 (19) “Municipal corporation” has the meaning given in ORS 297.405 and also includes any Indian  
22 tribe or authorized Indian tribal organization or any combination of two or more of these tribes or  
23 organizations acting jointly in connection with a small scale local energy project.
- 24 (20) “On-bill financing” means a mechanism for collecting the repayment of an energy efficiency  
25 and sustainable technology loan through a utility customer account billing system.
- 26 (21) “Optional package” means measures for promoting energy efficiency or the use of renewable  
27 energy:
- 28 (a) That are in addition to the measures described in the customer’s base efficiency package;
- 29 (b) For which a customer has the ability to repay; and
- 30 (c) That the sustainable energy project manager believes to be feasible for the site.
- 31 (22) “Oregon business” means a sole proprietorship, partnership, company, cooperative, corpo-  
32 ration or other form of business entity that is organized or authorized to do business under Oregon  
33 law for profit.
- 34 (23) “Primary contractor” means a contractor that:
- 35 (a) Has entered into a contract with an owner of property for which a proposed small scale local  
36 energy project will be located;
- 37 (b) Is responsible for the completion of the small scale local energy project;
- 38 (c) Undertakes to complete the small scale local energy project; and
- 39 (d) Is responsible for any subcontractors performing work on the small scale local energy  
40 project.
- 41 (24) “Public Purpose Fund Administrator” means the entity designated by the Public Utility  
42 Commission to administer moneys collected by a company through the public purpose charge de-  
43 scribed under ORS 757.612.
- 44 (25) “Recycling project” means a facility or equipment that converts waste into a new and usa-  
45 ble product.

- 1 (26) “Small business” means:
- 2 (a) An Oregon business that is:
- 3 (A) A retail or service business employing 50 or fewer persons at the time the loan is made; or
- 4 (B) An industrial or manufacturing business employing 200 or fewer persons at the time the loan
- 5 is made; or
- 6 (b) An Oregon subsidiary of a sole proprietorship, partnership, company, cooperative, corpo-
- 7 ration or other form of business entity for which the total number of employees for both the sub-
- 8 sidiary and the parent sole proprietorship, partnership, company, cooperative, corporation or other
- 9 form of business entity at the time the loan is made is:
- 10 (A) Fifty or fewer persons if the subsidiary is a retail or service business; and
- 11 (B) Two hundred or fewer if the subsidiary is an industrial or manufacturing business.
- 12 (27) “Small scale local energy program loan” means a loan for a small scale local energy project
- 13 other than an energy efficiency and sustainable technology loan.
- 14 (28) “Small scale local energy project” means any of the following:
- 15 (a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or
- 16 indirectly uses or enables the use of, by the applicant or another person, renewable resources in-
- 17 cluding, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to
- 18 produce energy, including heat, electricity and substitute fuels, to meet a local community or re-
- 19 gional energy need in this state.
- 20 (b) A system, mechanism or series of mechanisms located primarily in Oregon or providing
- 21 substantial benefits to Oregon that directly or indirectly conserves energy or enables the conserva-
- 22 tion of energy by the applicant or another person, including energy used in transportation.
- 23 (c) A recycling project.
- 24 (d) An alternative fuel project.
- 25 (e) An improvement that increases the production or efficiency, or extends the operating life,
- 26 of a system, mechanism, series of mechanisms or project otherwise described in this subsection, in-
- 27 cluding but not limited to restarting a dormant project.
- 28 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility
- 29 that directly or indirectly reduces the amount of energy needed for the construction and operation
- 30 of the facility and that meets the sustainable building practices standard established by the [*State*
- 31 *Department of Energy*] **Oregon Energy Commission** by rule. For purposes of this paragraph, “sys-
- 32 tem, mechanism or series of mechanisms” includes related and integrated upgrades to attain com-
- 33 pliance with standards set in the State of Oregon Structural Specialty Code and Fire and Life Safety
- 34 Code, and seismic safety upgrades.
- 35 (g) A project described in paragraphs (a) to (f) of this subsection, whether or not the existing
- 36 project was originally financed under this chapter, together with any refinancing necessary to re-
- 37 move prior liens or encumbrances against the existing project.
- 38 (h) A project described in paragraphs (a) to (g) of this subsection that conserves energy or
- 39 produces energy by generation or by processing or collection of a renewable resource.
- 40 (29) “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the fund
- 41 created under ORS 470.300.
- 42 (30) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Article XI-J
- 43 of the Oregon Constitution and appropriated to the State Department of Energy under ORS 470.130.
- 44 (31) “Sustainable energy project manager” means the organization responsible for promoting the
- 45 energy efficiency and sustainable technology loan program or the clean energy deployment program

1 and related incentives for energy efficiency and renewable energy at the neighborhood and commu-  
2 nity level.

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

6 **SECTION 87.** ORS 470.080 is amended to read:

7 470.080. (1) After consultation with the Small Scale Local Energy Project Advisory Committee,  
8 the [*Director of the State Department of Energy*] **Oregon Energy Commission** shall establish by rule  
9 standards and criteria for small scale local energy projects to be funded under this chapter other  
10 than projects funded through energy efficiency and sustainable technology loans. The standards and  
11 criteria shall operate to encourage diversity in projects funded, give preference to the maximum  
12 extent practical to projects proposed by individuals and small businesses, ensure acceptability of  
13 environmental impacts and shall require consideration of the potential contribution of a project if  
14 developed at other suitable locations to meeting the energy needs of this state. The standards and  
15 criteria shall give the least preference to projects proposed by an eligible federal agency.

16 (2) All applications submitted under ORS 470.060 shall be reviewed by the State Department of  
17 Energy. The department may request that the applicant submit additional information or revise the  
18 application. The department shall:

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

21 (b) Recommend approval or denial of the loan application, and if approval is recommended in  
22 what amount the loan should be made.

23 (3) After concluding its review, unless the application meets the criteria established by the  
24 committee under subsection (4) of this section, the department shall refer the application and its  
25 findings and recommendation to the committee for its review. The department shall notify the ap-  
26 plicant of the date, time and place of any oral presentation to the committee on the application. The  
27 committee shall review the application and the department’s findings and recommendations and ad-  
28 vise the Director **of the State Department of Energy** whether the proposed small scale local en-  
29 ergy project meets the criteria established by the [*director*] **commission** under subsection (1) of this  
30 section, whether the project should be financed with moneys from the Small Scale Local Energy  
31 Project Loan Fund and in what amount the loan should be made if approved.

32 (4) The committee may provide for direct referral of an application by the department to the  
33 director if the application meets criteria established by the committee.

34 **SECTION 88.** ORS 470.140 is amended to read:

35 470.140. (1) In accordance with the applicable provisions of ORS chapter 183, the [*Director of the*  
36 *State Department of Energy*] **Oregon Energy Commission** may adopt rules considered necessary to  
37 carry out the purposes of this chapter.

38 (2) The Director **of the State Department of Energy** shall submit to the Legislative Assembly  
39 and the Governor a biennial report of the transactions of the Small Scale Local Energy Project Loan  
40 Fund and the Small Scale Local Energy Project Administration and Bond Sinking Fund in such de-  
41 tail as will accurately indicate the condition of the funds.

42 **SECTION 89.** ORS 470.150 is amended to read:

43 470.150. Except as provided in ORS 470.155 and 470.170, if the Director of the State Department  
44 of Energy approves the financing of a small scale local energy project, the director, on behalf of the  
45 state, and the applicant may enter into a loan contract, secured by a first lien or by other good and

1 sufficient collateral in the manner provided in ORS 470.155 to 470.210. For purposes of this section,  
2 the interest of the State Department of Energy under a lease purchase contract entered into with  
3 an eligible federal or state agency or a municipal corporation may constitute good and sufficient  
4 collateral. The contract:

5 (1) May provide that the director, on behalf of the state, must approve the arrangements made  
6 by the applicant for the development, operation and maintenance of the small scale local energy  
7 project, using moneys in the Small Scale Local Energy Project Loan Fund for the project develop-  
8 ment.

9 (2) Shall provide a plan for repayment by the applicant of moneys borrowed from the loan fund  
10 used for the development of the small scale local energy project and interest on those moneys used  
11 at a rate of interest the director determines is necessary to provide adequate funds to recover the  
12 administrative expenses incurred in connection with the loan. The director shall set the interest rate  
13 at an incremental rate above the interest rate on the underlying bonds in an amount sufficient to  
14 recover all program-related costs including, but not limited to, implementation, financing, adminis-  
15 tration and promotional costs for the program. The incremental rate for projects proposed by an  
16 eligible federal agency shall be greater than the incremental rate charged to any other govern-  
17 mental borrower. The repayment plan, among other matters:

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

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

28 (c) Shall provide for evidence of debt assurance of and security for repayment by the applicant  
29 considered necessary or proper by the director.

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

32 (e) May set forth a procedure for formal declaration of default of payment by the director, in-  
33 cluding formal notification of all relevant federal, state and local agencies; and further, a procedure  
34 for notification of all relevant federal, state and local agencies that declaration of default has been  
35 rescinded when appropriate.

36 (3) May include provisions satisfactory to the director for field inspection, the director to be the  
37 final judge of completion of the project.

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

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

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

45 (7) If the project is being financed by an energy efficiency and sustainable technology loan or



1 small scale local energy program loan, in addition to the requirements of subsections (1) to (6) of  
 2 this section, shall include:

3 (a) For an energy efficiency and sustainable technology loan that relies on an on-bill financing  
 4 system for the collection of a loan repayment charge, an agreement by the applicant to notify a  
 5 person acquiring ownership of, or an interest in, the property from the applicant that the loan re-  
 6 payment charge will be transferred to the utility customer account of the person acquiring the  
 7 ownership or interest unless the loan is discharged before or at the time the ownership or interest  
 8 transfers;

9 (b) A plainly worded acknowledgment by the applicant that failure to make payments as re-  
 10 quired under the loan agreement may result in the foreclosure of a property lien or other debt col-  
 11 lection actions;

12 (c) A waiver stating that the applicant waives any jurisdictional or other irregularities or de-  
 13 fects in:

14 (A) The energy efficiency and sustainable technology loan program;

15 (B) A small scale local energy project;

16 (C) The small scale local energy program loan provisions;

17 (D) This chapter; or

18 (E) [Department] **Oregon Energy Commission** rules that relate in any way to the loan repay-  
 19 ment charge, real property lien provisions or any form or combination of loan security or to the  
 20 requirement to satisfy the loan obligation;

21 (d) If the applicant is not the owner of the property to be burdened by the loan repayment  
 22 charge, fixture filing or real property lien, provision for participation by the property owner as a  
 23 party to the contract or a notarized authorization by the owner for the fixture filing and lien; and

24 (e) A description of any other conditions required by the department.

25 **SECTION 90.** ORS 470.535 is amended to read:

26 470.535. (1) The Director of the State Department of Energy shall initiate the certification pro-  
 27 cess for a sustainable energy project manager by publishing a request for proposals.

28 (2) An applicant for certification as a sustainable energy project manager shall submit informa-  
 29 tion to the director that includes:

30 (a) Background information about the applicant including, but not limited to, the qualifications,  
 31 relevant experience, financial status and staff of the applicant;

32 (b) A proposed plan for implementing and administering the goals and requirements of the en-  
 33 ergy efficiency and sustainable technology loan program in the utility service territory; and

34 (c) Any additional information required by the [director] **Oregon Energy Commission** by rule.

35 (3) After reviewing all applications received, the director may select a sustainable energy  
 36 project manager. In selecting the sustainable energy project manager, the director shall consider the  
 37 following factors:

38 (a) The organizational experience of the applicant and the capacity of the applicant to success-  
 39 fully implement the energy efficiency and sustainable technology loan program goals and require-  
 40 ments.

41 (b) The strength of the applicant's proposed plan for implementing the goals and requirements  
 42 of the energy efficiency and sustainable technology loan program.

43 (c) The cost at which the applicant can conduct outreach, promotion, loan applicant support and  
 44 project verification services necessary to implement the energy efficiency and sustainable technol-  
 45 ogy loan program.

1 (d) Any other factors the [*director*] **commission** adopts by rule or directive.

2 (4) An applicant may not be certified as a sustainable energy project manager if the applicant  
3 has a fiduciary or other obligation that creates an actual or apparent conflict of interest that may  
4 interfere with achieving the goals of the energy efficiency and sustainable technology loan program.

5 **SECTION 91.** ORS 470.540 is amended to read:

6 470.540. (1) Upon selecting a proposed sustainable energy project manager, the Director of the  
7 State Department of Energy shall notify all unsuccessful applicants for the position that another  
8 candidate is proposed for appointment. The director shall negotiate with the proposed sustainable  
9 energy project manager regarding any modifications to the service cost estimates or other features  
10 of the applicant's proposed plan that are necessary to ensure that the applicant will meet the goals  
11 and requirements of the energy efficiency and sustainable technology loan program and [*State De-*  
12 *partment of Energy*] **Oregon Energy Commission** rules.

13 (2) To the extent practicable, the director shall certify a sustainable energy project manager not  
14 later than four months after publication of the request for proposals and not later than two months  
15 after the selection of the proposed sustainable energy project manager. However, the director may  
16 at any time select a different applicant as the proposed sustainable energy project manager or may  
17 reinstate the certification process.

18 (3) Upon deciding to certify the proposed sustainable energy project manager, the director shall  
19 give notice of the decision to all unsuccessful candidates, the public and the Small Scale Local En-  
20 ergy Project Advisory Committee. The director may approve the final certification of the sustainable  
21 energy project manager if:

22 (a) A request to appeal under ORS 470.545 is not filed within 15 days after the date the notice  
23 is sent; and

24 (b) The committee does not undertake a review of the proposed certification within 15 days after  
25 the date the notice is sent.

26 **SECTION 92.** ORS 470.560 is amended to read:

27 470.560. (1) The [*State Department of Energy*] **Oregon Energy Commission** shall adopt rules  
28 establishing certification standards for primary contractors participating in the construction of small  
29 scale local energy projects financed through the energy efficiency and sustainable technology loan  
30 program. The [*department*] **commission** shall design the standards to ensure that the project work  
31 performed by a primary contractor holding the certification and all the primary contractor's sub-  
32 contractors is of high quality and will result in a high degree of customer satisfaction.

33 (2) The certification standards established by the [*department*] **commission** must, at a minimum,  
34 require that the primary contractor:

35 (a) Prove that the primary contractor and the primary contractor's subcontractors have suffi-  
36 cient skill to successfully install energy efficiency, renewable energy or weatherization projects.

37 (b) Not be a contractor listed by the Commissioner of the Bureau of Labor and Industries under  
38 ORS 279C.860 as ineligible to receive a contract or subcontract for public works.

39 (c) Be an equal opportunity employer or small business or be a disadvantaged business enter-  
40 prise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran  
41 owns or an emerging small business, as those terms are defined in ORS 200.005.

42 (d) Demonstrate a history of compliance with the rules and other requirements of the Con-  
43 struction Contractors Board and of the Workers' Compensation Division and the Occupational  
44 Safety and Health Division of the Department of Consumer and Business Services.

45 (e) Employ at least 80 percent of employees used for energy efficiency and sustainable technol-

1 ogy loan program projects from the local work force, if a sufficient supply of skilled workers is  
2 available locally.

3 (f) Demonstrate a history of compliance with federal and state wage and hour laws.

4 (g) Pay wages to employees used for energy efficiency and sustainable technology loan program  
5 projects at a rate equal to at least 180 percent of the state minimum wage.

6 (3) The *[State Department of Energy]* **commission** shall consult with the Public Purpose Fund  
7 Administrator and utilities when developing certification standards for primary contractors.

8 (4) The Construction Contractors Board may issue a qualifying primary contractor a certifica-  
9 tion authorizing the primary contractor to participate in the construction of small scale local energy  
10 projects financed through the energy efficiency and sustainable technology loan program. A primary  
11 contractor seeking certification shall apply to the board as provided under ORS 701.119.

12 (5) The *[State Department of Energy]* **commission** shall identify certified primary contractors  
13 that provide employees with health insurance benefits as preferred service providers and may take  
14 other actions as practicable to encourage certified primary contractors to provide employees with  
15 health insurance benefits.

16 **SECTION 93.** ORS 470.600 is amended to read:

17 470.600. To achieve the energy efficiency and sustainable technology loan program goals de-  
18 scribed in ORS 470.500, the Director of the State Department of Energy may enter into agreements  
19 to disburse supplemental capital funds through the Small Scale Local Energy Project Loan Fund and  
20 the Energy Project Supplemental Fund if:

21 (1) The director estimates that interest rates and total costs to program applicants that would  
22 result from the use of the supplemental capital funds are lower than would result from the use of  
23 bond proceeds; and

24 (2) The supplemental capital funds are made subject to any requirements adopted by the  
25 *[director]* **Oregon Energy Commission** by rule to ensure adequate protection of project moneys.

26 **SECTION 94.** ORS 470.655 is amended to read:

27 470.655. (1) Except as provided in ORS 470.650, an applicant for an energy efficiency and  
28 sustainable technology loan approved by the State Department of Energy shall pay the department  
29 a project initiation fee. Upon request of the loan applicant, the department may add all or part of  
30 a project initiation fee to the principal of an issued loan. The *[department]* **Oregon Energy Com-**  
31 **mission** may establish the fee amount by rule, not to exceed four percent of the approved loan  
32 amount. If the *[department]* **commission** does not establish the fee amount, the fee shall be two  
33 percent of the approved loan amount.

34 (2) The *[Director of the State Department of Energy]* **commission** may by rule establish a base  
35 efficiency package fee for energy efficiency and sustainable technology loans if the loans are not  
36 financed by moneys from the Jobs, Energy and Schools Fund. The fee may not exceed 10 percent  
37 of the estimated economic benefit for the base efficiency package. Any fees collected by the de-  
38 partment under this subsection shall be deposited in the fund.

39 **SECTION 95.** ORS 470.665 is amended to read:

40 470.665. (1) If a consumer-owned utility has established an on-bill financing system, an energy  
41 efficiency and sustainable technology loan shall be repaid by on-bill financing unless the loan  
42 agreement specifies that the State Department of Energy and the borrower have agreed to an al-  
43 ternative method for ensuring repayment of the loan.

44 (2) Unless the Director of the State Department of Energy grants a consumer-owned utility a  
45 waiver under subsection (4) of this section, the on-bill financing system of the utility must:

1 (a) Enable a customer to make a single payment to satisfy the periodic utility charges and re-  
2 payment on an energy efficiency and sustainable technology loan;

3 (b) Provide a clearly identifiable line item or separate statement in the utility bill that shows  
4 the energy efficiency and sustainable technology loan repayment amount; and

5 (c) Direct energy efficiency and sustainable technology loan repayment amounts collected by the  
6 utility to the appropriate sustainable energy project manager or to the department for deposit to the  
7 credit of the Small Scale Local Energy Project Administration and Bond Sinking Fund, Energy  
8 Project Bond Loan Fund or Energy Project Supplemental Fund.

9 (3) The *[director]* **Oregon Energy Commission** may not adopt any rule that imposes responsi-  
10 bility for the repayment of an energy efficiency and sustainable technology loan on the utility.

11 (4) The director may waive the requirement that a consumer-owned utility provide on-bill fi-  
12 nancing for one or more loans if the director determines, after consultation with the Bonneville  
13 Power Administration, that providing the on-bill financing is not practicable. If the director grants  
14 a waiver under this subsection, the utility shall bill the affected customers for loan repayment sep-  
15 arately from any utility customer account or customer meter billings.

16 **SECTION 96.** ORS 470.710 is amended to read:

17 470.710. (1) The *[State Department of Energy]* **Oregon Energy Commission** shall collaborate  
18 with the State Workforce Investment Board and other interested parties to identify opportunities for  
19 apprenticeship and for job training and development that would further the goals of ORS 470.500 to  
20 470.710 and provide valuable skills to Oregon workers.

21 (2) In adopting any rules for carrying out apprenticeship and job training and development under  
22 the energy efficiency and sustainable technology loan program, the *[department]* **commission** and  
23 the board shall consult with representatives from:

24 (a) State workforce programs;

25 (b) Organized labor;

26 (c) The State Apprenticeship and Training Council;

27 (d) The Bureau of Labor and Industries; and

28 (e) Consumer advocacy organizations.

29 (3) In addition to consulting with entities described in subsection (2) of this section, in adopting  
30 any rules for carrying out apprenticeship and job training and development under the energy effi-  
31 ciency and sustainable technology loan program, the *[department]* **commission** and the board may  
32 seek input from organizations representing construction contractors.

33 **SECTION 97.** ORS 470.720 is amended to read:

34 470.720. All investor-owned utilities and consumer-owned utilities that have customers enrolled  
35 in energy efficiency and sustainable technology loan programs shall, at the request of the Director  
36 of the State Department of Energy, provide the director with the following information in aggre-  
37 gated form regarding the loans:

38 (1) Repayment performance;

39 (2) Default rates;

40 (3) Energy savings data; and

41 (4) Any other information specified by rule adopted by the *[director]* **Oregon Energy Commis-**  
42 **sion** pursuant to ORS 470.140.

43 **SECTION 98.** ORS 470.810 is amended to read:

44 470.810. (1) The State Department of Energy shall establish the clean energy deployment pro-  
45 gram to provide grants and loans to support energy efficiency or clean energy projects in this state.

1 The [department] **Oregon Energy Commission** shall establish criteria for qualifications of the  
2 projects by rule.

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

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

10 (c) All school projects financed pursuant to paragraph (a) of this subsection through the clean  
11 energy deployment program are deemed to be public works projects and are subject to the prevailing  
12 wage requirements of ORS 279C.800 to 279C.870.

13 (3) The department may contract for the implementation of the clean energy deployment pro-  
14 gram in all or parts of this state with a sustainable energy project manager as defined in ORS  
15 470.050.

16 **SECTION 99.** ORS 701.532 is amended to read:

17 701.532. (1) The Construction Contractors Board shall certify an individual as a home energy  
18 assessor if the individual meets the requirements of this section and of any rule adopted by the  
19 board under this section. A home energy assessor certificate must be renewed annually.

20 (2) The board shall require that an applicant for a home energy assessor certificate present  
21 proof of passing a training program designated by the [State Department of Energy] **Oregon Energy**  
22 **Commission** under ORS 469.703.

23 (3) The board may adopt rules to regulate the practice of assigning home energy performance  
24 scores, including:

25 (a) Prescribing the form and manner of applying for a home energy assessor certificate;

26 (b) Establishing procedures for the issuance, renewal or revocation of a home energy assessor  
27 certificate; and

28 (c) Establishing fees necessary for the administration of ORS 701.527 to 701.536 that do not ex-  
29 ceed the following amounts:

30 (A) \$100 for application for a home energy assessor certificate;

31 (B) \$100 for issuance of an initial one-year home energy assessor certificate; and

32 (C) \$100 for renewal of a one-year home energy assessor certificate.

33 **SECTION 100.** ORS 757.528 is amended to read:

34 757.528. (1) Unless modified by rule by the [State Department of Energy] **Oregon Energy Com-**  
35 **mission** as provided in this section, the greenhouse gas emissions standard that applies to  
36 consumer-owned utilities is 1,100 pounds of greenhouse gases per megawatt-hour for a generating  
37 facility.

38 (2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions  
39 standard includes only carbon dioxide emissions.

40 (3) For purposes of applying the emissions standard to cogeneration facilities, the [department]  
41 **Oregon Energy Commission** shall establish an output-based methodology to ensure that the cal-  
42 culation of emissions of greenhouse gases for cogeneration facilities recognizes the total usable en-  
43 ergy output of the process and includes all greenhouse gases emitted by the facility in the  
44 production of both electrical and thermal energy.

45 (4) The [department] **Oregon Energy Commission** shall review the greenhouse gas emissions

1 standard established under this section no more than once every three years. After public notice  
 2 and hearing, and consultation with the Public Utility Commission, the [*department*] **Oregon Energy**  
 3 **Commission** may:

4 (a) Modify the emissions standard to include other greenhouse gases as defined in ORS 468A.210,  
 5 with the other greenhouse gases expressed as their carbon dioxide equivalent; and

6 (b) Modify the emissions standard based upon current information on the rate of greenhouse gas  
 7 emissions from a commercially available combined-cycle natural gas generating facility that:

8 (A) Employs a combination of one or more gas turbines and one or more steam turbines and  
 9 produces electricity in the steam turbines from waste heat produced by the gas turbines;

10 (B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordi-  
 11 nating Council; and

12 (C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.

13 (5) In modifying the greenhouse gas emissions standard, the [*department*] **Oregon Energy**  
 14 **Commission** shall:

15 (a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions  
 16 through cogeneration recognizes the total usable energy output of the process and includes all  
 17 greenhouse gases emitted by the generating facility in the production of both electrical and thermal  
 18 energy; and

19 (b) Consider the effects of the emissions standard on system reliability and overall costs to  
 20 electricity consumers.

21 (6) If upon a review conducted pursuant to subsection (4) of this section, the [*department*]  
 22 **Oregon Energy Commission** determines that a mandatory greenhouse gas emissions limit has been  
 23 established pursuant to state or federal law, the [*department*] **Oregon Energy Commission** shall  
 24 issue a report to the appropriate legislative committees of the Legislative Assembly stating which  
 25 portions, if any, of the greenhouse gas emissions standard are no longer necessary as a matter of  
 26 state law.

27 **SECTION 101.** ORS 757.533 is amended to read:

28 757.533. (1)(a) A governing board of a consumer-owned utility may not enter into a long-term  
 29 financial commitment unless the baseload electricity acquired under the commitment is produced by  
 30 a generating facility that complies with a greenhouse gas emissions standard established under ORS  
 31 757.528.

32 (b) A generating facility complies with the greenhouse gas emissions standard established under  
 33 ORS 757.528 if the rate of emissions of the facility does not exceed the emissions standard.

34 (c) In determining whether a generating facility complies with the emissions standard, the total  
 35 emissions associated with producing baseload electricity at the generating facility shall be included  
 36 in determining the rate of emissions of greenhouse gases. The total emissions associated with  
 37 producing electricity at the generating facility do not include emissions associated with transporta-  
 38 tion, fuel extraction or other life-cycle emissions associated with obtaining the fuel for the facility.

39 (2) Notwithstanding subsection (1) of this section, the emissions standard does not apply to  
 40 greenhouse gas emissions produced by a generating facility owned by a consumer-owned utility or  
 41 contracted through a long-term financial commitment if the emissions:

42 (a) Come from a facility powered exclusively by renewable energy sources described in ORS  
 43 469A.025;

44 (b) Come from a cogeneration facility in this state that is fueled by natural gas, synthetic gas,  
 45 distillate fuels, waste gas or a combination of these fuels, and that is producing energy, in service

1 for tax purposes, commercially operable, or in rates as of July 1, 2010, until the facility is subject  
2 to a new long-term financial commitment; or

3 (c) Come from a generating facility that has in place a plan to be a low-carbon emission re-  
4 source, as determined by the State Department of Energy, pursuant to sufficient technical doc-  
5 umentation, within seven years of commencing plant operations.

6 (3) The governing board may provide an exemption for an individual generating facility from the  
7 emissions performance standard to address:

8 (a) Unanticipated electricity system reliability needs;

9 (b) Catastrophic events or threat of significant financial harm that may arise from unforeseen  
10 circumstances; or

11 (c) Long-term financial commitments between members of a joint operating entity recognized  
12 under federal law or the joint operating entity's predecessor organization, or with the joint operat-  
13 ing entity for a baseload resource that the consumer-owned utility had an ownership interest in  
14 prior to July 1, 2010.

15 (4) A governing board shall report to the consumer-owned utility's customers or members and  
16 to the State Department of Energy information on any case-by-case exemption from the emissions  
17 performance standard granted by the governing board.

18 (5) For purposes of ORS 757.522 to 757.536, a long-term financial commitment for a consumer-  
19 owned utility does not include agreements to purchase electricity from the Bonneville Power Ad-  
20 ministration.

21 (6) The *[department]* **Oregon Energy Commission** by rule shall establish:

22 (a) Standards for identifying contracts for electricity for which the emissions cannot readily be  
23 determined with any specificity; and

24 (b) Emissions to be attributed to such contracts for purposes of determining compliance with the  
25 emissions standard established under ORS 757.528.

26 **SECTION 102.** ORS 757.538 is amended to read:

27 757.538. The Public Utility Commission and the *[State Department of Energy]* **Oregon Energy**  
28 **Commission** shall adopt rules as necessary to implement ORS 757.522 to 757.536.

29 **SECTION 103.** ORS 757.600 is amended to read:

30 757.600. As used in ORS 757.600 to 757.689, unless the context requires otherwise:

31 (1) "Aggregate" means combining retail electricity consumers into a buying group for the pur-  
32 chase of electricity and related services.

33 (2) "Ancillary services" means services necessary or incidental to the transmission and delivery  
34 of electricity from generating facilities to retail electricity consumers, including but not limited to  
35 scheduling, load shaping, reactive power, voltage control and energy balancing services.

36 (3) "Commission" means the Public Utility Commission.

37 (4) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an  
38 electric cooperative.

39 (5) "Default supplier" means an electricity service supplier or electric company that has a legal  
40 obligation to provide electricity services to a consumer, as determined by the commission.

41 (6) "Direct access" means the ability of a retail electricity consumer to purchase electricity and  
42 certain ancillary services, as determined by the commission for an electric company or the govern-  
43 ing body of a consumer-owned utility, directly from an entity other than the distribution utility.

44 (7) "Direct service industrial consumer" means an end user of electricity that obtains electricity  
45 directly from the transmission grid and not through a distribution utility.

1 (8) "Distribution" means the delivery of electricity to retail electricity consumers through a  
2 distribution system consisting of local area power poles, transformers, conductors, meters, sub-  
3 stations and other equipment.

4 (9) "Distribution utility" means an electric utility that owns and operates a distribution system  
5 connecting the transmission grid to the retail electricity consumer.

6 (10) "Economic utility investment" means all electric company investments, including plants and  
7 equipment and contractual or other legal obligations, properly dedicated to generation or conser-  
8 vation, that were prudent at the time the obligations were assumed but the full benefits of which  
9 are no longer available to consumers as a direct result of ORS 757.600 to 757.667, absent transition  
10 credits. "Economic utility investment" does not include costs or expenses disallowed by the com-  
11 mission in a prudence review or other proceeding, to the extent of such disallowance, and does not  
12 include fines or penalties authorized and imposed under state or federal law.

13 (11) "Electric company" means an entity engaged in the business of distributing electricity to  
14 retail electricity consumers in this state, but does not include a consumer-owned utility.

15 (12) "Electric cooperative" means an electric cooperative corporation organized under ORS  
16 chapter 62 or under the laws of another state if the service territory of the electric cooperative  
17 includes a portion of this state.

18 (13) "Electric utility" means an electric company or consumer-owned utility that is engaged in  
19 the business of distributing electricity to retail electricity consumers in this state.

20 (14) "Electricity" means electric energy, measured in kilowatt-hours, or electric capacity,  
21 measured in kilowatts, or both.

22 (15) "Electricity services" means electricity distribution, transmission, generation or  
23 generation-related services.

24 (16) "Electricity service supplier" means a person or entity that offers to sell electricity services  
25 available pursuant to direct access to more than one retail electricity consumer. "Electricity ser-  
26 vice supplier" does not include an electric utility selling electricity to retail electricity consumers  
27 in its own service territory.

28 (17) "Governing body" means the board of directors or the commissioners of an electric coop-  
29 erative or people's utility district, or the council or board of a city with respect to a municipal  
30 electric utility.

31 (18) "Load" means the amount of electricity delivered to or required by a retail electricity  
32 consumer at a specific point of delivery.

33 (19) "Low-income weatherization" means repairs, weatherization and installation of energy effi-  
34 cient appliances and fixtures for low-income residences for the purpose of enhancing energy effi-  
35 ciency.

36 (20) "Municipal electric utility" means an electric distribution utility owned and operated by or  
37 on behalf of a city.

38 (21) "New renewable energy resource" means a renewable energy resource project, or a new  
39 addition to an existing renewable energy resource project, or the electricity produced by the project,  
40 that is not in operation on July 23, 1999. "New renewable energy resource" does not include any  
41 portion of a renewable energy resource project under contract to the Bonneville Power Adminis-  
42 tration on or before July 23, 1999.

43 (22) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.

44 (23) "People's utility district" has the meaning given that term in ORS 261.010.

45 (24) "Portfolio access" means the ability of a retail electricity consumer to choose from a set



1 of product and pricing options for electricity determined by the governing board of a consumer-  
2 owned utility and may include product and pricing options offered by the utility or by an electricity  
3 service supplier.

4 (25) "Power generation company" means a company engaged in the production and sale of  
5 electricity to wholesale customers, including but not limited to independent power producers, affil-  
6 iated generation companies, municipal and state authorities, provided the company is not regulated  
7 by the commission.

8 (26) "Qualifying expenditures" means those expenditures for energy conservation measures that  
9 have a simple payback period of not less than one year and not more than 10 years, and expen-  
10 ditures for the above-market costs of new renewable energy resources, provided that the [*State De-*  
11 *partment of Energy*] **Oregon Energy Commission** by rule may establish a limit on the maximum  
12 above-market cost for renewable energy that is allowed as a credit.

13 (27) "Renewable energy resources" means:

14 (a) Electricity generation facilities fueled by wind, waste, solar or geothermal power or by low-  
15 emission nontoxic biomass based on solid organic fuels from wood, forest and field residues.

16 (b) Dedicated energy crops available on a renewable basis.

17 (c) Landfill gas and digester gas.

18 (d) Hydroelectric facilities located outside protected areas as defined by federal law in effect  
19 on July 23, 1999.

20 (28) "Residential electricity consumer" means an electricity consumer who resides at a dwelling  
21 primarily used for residential purposes. "Residential electricity consumer" does not include retail  
22 electricity consumers in a dwelling typically used for residency periods of less than 30 days, in-  
23 cluding hotels, motels, camps, lodges and clubs. As used in this subsection, "dwelling" includes but  
24 is not limited to single family dwellings, separately metered apartments, adult foster homes, manu-  
25 factured dwellings, recreational vehicles and floating homes.

26 (29) "Retail electricity consumer" means the end user of electricity for specific purposes such  
27 as heating, lighting or operating equipment, and includes all end users of electricity served through  
28 the distribution system of an electric utility on or after July 23, 1999, whether or not each end user  
29 purchases the electricity from the electric utility.

30 (30) "Site" means a single contiguous area of land containing buildings or other structures that  
31 are separated by not more than 1,000 feet, or buildings and related structures that are intercon-  
32 nected by facilities owned by a single retail electricity consumer and that are served through a  
33 single electric meter.

34 (31) "Transition charge" means a charge or fee that recovers all or a portion of an uneconomic  
35 utility investment.

36 (32) "Transition credit" means a credit that returns to consumers all or a portion of the benefits  
37 from an economic utility investment.

38 (33) "Transmission facility" means the plant and equipment used to transmit electricity in  
39 interstate commerce.

40 (34) "Undue market power" means the unfair or improper exercise of influence to increase or  
41 decrease the availability or price of a service or product in a manner inconsistent with competitive  
42 markets.

43 (35) "Uneconomic utility investment" means all electric company investments, including plants  
44 and equipment and contractual or other legal obligations, properly dedicated to generation, conser-  
45 vation and workforce commitments, that were prudent at the time the obligations were assumed but

1 the full costs of which are no longer recoverable as a direct result of ORS 757.600 to 757.667, absent  
2 transition charges. "Uneconomic utility investment" does not include costs or expenses disallowed  
3 by the commission in a prudence review or other proceeding, to the extent of such disallowance, and  
4 does not include fines or penalties as authorized by state or federal law.

5 **SECTION 104.** ORS 757.612 is amended to read:

6 757.612. (1) There is established an annual public purpose expenditure standard for electric  
7 companies and Oregon Community Power to fund new cost-effective local energy conservation, new  
8 market transformation efforts, the above-market costs of new renewable energy resources and new  
9 low-income weatherization. The public purpose expenditure standard shall be funded by the public  
10 purpose charge described in subsection (2) of this section.

11 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-  
12 cess to its retail electricity consumers, except residential electricity consumers, the electric com-  
13 pany or Oregon Community Power shall collect a public purpose charge from all of the retail  
14 electricity consumers located within its service area until January 1, 2026. Except as provided in  
15 paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the  
16 total revenues collected by the electric company, Oregon Community Power or the electricity ser-  
17 vice supplier from its retail electricity consumers for electricity services, distribution, ancillary  
18 services, metering and billing, transition charges and other types of costs included in electric rates  
19 on July 23, 1999.

20 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use  
21 per year, beginning on March 1, 2002, the electric company or Oregon Community Power whose  
22 territory abuts the greatest percentage of the site of the aluminum plant shall collect from the alu-  
23 minum company a public purpose charge equal to one percent of the total revenue from the sale of  
24 electricity services to the aluminum plant from any source.

25 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this  
26 section relating to electric companies and Oregon Community Power.

27 (b) Subject to paragraph (e) of this subsection, funds collected by an electric company or Oregon  
28 Community Power through public purpose charges shall be allocated as follows:

29 (A) Sixty-three percent for new cost-effective conservation, new market transformation.

30 (B) Nineteen percent for the above-market costs of constructing and operating new renewable  
31 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20  
32 megawatts or less.

33 (C) Thirteen percent for new low-income weatherization.

34 (D) Five percent shall be transferred to the Housing and Community Services Department  
35 Electricity Public Purpose Charge Fund established by ORS 456.587 (1) and used for the purpose of  
36 providing grants as described in ORS 458.625 (2).

37 (c) The costs of administering subsections (1) to (6) of this section for an electric company or  
38 Oregon Community Power shall be paid out of the funds collected through public purpose charges.  
39 The commission may require that an electric company or Oregon Community Power direct funds  
40 collected through public purpose charges to the state agencies responsible for implementing sub-  
41 sections (1) to (6) of this section in order to pay the costs of administering such responsibilities.

42 (d) The commission shall direct the manner in which public purpose charges are collected and  
43 spent by an electric company or Oregon Community Power and may require an electric company  
44 or Oregon Community Power to expend funds through competitive bids or other means designed to  
45 encourage competition, except that funds dedicated for low-income weatherization shall be directed

1 to the Housing and Community Services Department as provided in subsection (7) of this section.  
2 The commission may also direct that funds collected by an electric company or Oregon Community  
3 Power through public purpose charges be paid to a nongovernmental entity for investment in public  
4 purposes described in subsection (1) of this section. Notwithstanding any other provision of this  
5 subsection:

6 (A) At least 80 percent of the funds allocated for conservation shall be spent within the service  
7 area of the electric company that collected the funds; or

8 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated  
9 for conservation shall be spent within the service area of Oregon Community Power.

10 (e)(A) The first 10 percent of the funds collected annually by an electric company or Oregon  
11 Community Power under subsection (2) of this section shall be distributed to school districts that  
12 are located in the service territory of the electric company or Oregon Community Power. The funds  
13 shall be distributed to individual school districts according to the weighted average daily member-  
14 ship (ADMw) of each school district for the prior fiscal year as calculated under ORS 327.013. The  
15 commission shall establish by rule a methodology for distributing a proportionate share of funds  
16 under this paragraph to school districts that are only partially located in the service territory of the  
17 electric company or Oregon Community Power.

18 (B) A school district that receives funds under this paragraph shall use the funds first to pay  
19 for energy audits for schools located within the school district. A school district may not expend  
20 additional funds received under this paragraph on a school facility until an energy audit has been  
21 completed for that school facility. To the extent practicable, a school district shall coordinate with  
22 the State Department of Energy and incorporate federal funding in complying with this paragraph.  
23 Following completion of an energy audit for an individual school, the school district may expend  
24 funds received under this paragraph to implement the energy audit. Once an energy audit has been  
25 conducted and completely implemented for each school within the school district, the school district  
26 may expend funds received under this paragraph for any of the following purposes:

27 (i) Conducting energy audits. A school district shall conduct an energy audit prior to expending  
28 funds on any other purpose authorized under this paragraph unless the school district has performed  
29 an energy audit within the three years immediately prior to receiving the funds.

30 (ii) Weatherization and upgrading the energy efficiency of school district facilities.

31 (iii) Energy conservation education programs.

32 (iv) Purchasing electricity from environmentally focused sources and investing in renewable  
33 energy resources.

34 (f) The commission may not establish a different public purpose charge than the public purpose  
35 charge described in subsection (2) of this section.

36 (g) If the commission directs funds collected through public purpose charges to a nongovern-  
37 mental entity, the entity shall:

38 (A) Include on the entity's board of directors an ex officio member designated by the commis-  
39 sion, who shall also serve on the entity's nominating committee for filling board vacancies.

40 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-  
41 terest to be filed with the commission on or prior to April 15 of each calendar year for public review  
42 in a form similar to the statement of economic interest required for public officials under ORS  
43 244.060.

44 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest  
45 at regular meetings of the entity's governing body when such conflicts arise, and require an officer

1 or director to abstain from participating in any discussion or vote on any item where that officer  
2 or director has an actual conflict of interest. For the purposes of this subparagraph, “actual conflict  
3 of interest” and “potential conflict of interest” have the meanings given those terms in ORS 244.020.

4 (D) Arrange for an independent auditor to audit the entity’s financial statements annually, and  
5 direct the auditor to file an audit opinion with the commission for public review.

6 (E) File with the commission annually the entity’s budget, action plan and quarterly and annual  
7 reports for public review.

8 (F) At least once every five years, contract for an independent management evaluation to review  
9 the entity’s operations, efficiency and effectiveness, and direct the independent reviewer to file a  
10 report with the commission for public review.

11 (h) The commission may remove from the board of directors of a nongovernmental entity an of-  
12 ficer or director who fails to provide an annual disclosure of economic interest or declare actual  
13 or potential conflict of interest, as described in paragraph (g)(B) and (C) of this subsection, in con-  
14 nection with the allocation or expenditure of funds collected through public purpose charges and  
15 directed to the entity.

16 (4)(a) An electric company that satisfies its obligations under this section shall have no further  
17 obligation to invest in conservation, new market transformation or new low-income weatherization  
18 or to provide a commercial energy conservation services program and is not subject to ORS 469.631  
19 to 469.645 and 469.860 to 469.900.

20 (b) Oregon Community Power, for any period during which Oregon Community Power collects  
21 a public purpose charge under subsection (2) of this section:

22 (A) Shall have no other obligation to invest in conservation, new market transformation or new  
23 low-income weatherization or to provide a commercial energy conservation services program; and

24 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

25 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at  
26 any site in the prior year shall receive a credit against public purpose charges billed by an electric  
27 company or Oregon Community Power for that site. The amount of the credit shall be equal to the  
28 total amount of qualifying expenditures for new energy conservation, not to exceed 68 percent of the  
29 annual public purpose charges, and the above-market costs of purchases of new renewable energy  
30 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public  
31 purpose charges, less administration costs incurred under this subsection. The credit may not ex-  
32 ceed, on an annual basis, the lesser of:

33 (A) The amount of the retail electricity consumer’s qualifying expenditures; or

34 (B) The portion of the public purpose charge billed to the retail electricity consumer that is  
35 dedicated to new energy conservation, new market transformation or the above-market costs of new  
36 renewable energy resources.

37 (b) To obtain a credit under this subsection, a retail electricity consumer shall file with the  
38 State Department of Energy a description of the proposed conservation project or new renewable  
39 energy resource and a declaration that the retail electricity consumer plans to incur the qualifying  
40 expenditure. The State Department of Energy shall issue a notice of precertification within 30 days  
41 of receipt of the filing, if such filing is consistent with this subsection. The credit may be taken after  
42 a retail electricity consumer provides a letter from a certified public accountant to the State De-  
43 partment of Energy verifying that the precertified qualifying expenditure has been made.

44 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that  
45 are not used in one year may be carried forward for use in subsequent years.

1 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at  
2 any site in the prior year may request that the State Department of Energy hire an independent  
3 auditor to assess the potential for conservation investments at the site. If the independent auditor  
4 determines there is no available conservation measure at the site that would have a simple payback  
5 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment  
6 obligation for public purpose charges related to the site. If the independent auditor determines that  
7 there are potential conservation measures available at the site, the retail electricity consumer shall  
8 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the  
9 public purpose charges less the estimated cost of available conservation measures.

10 (B) A retail electricity consumer shall be entitled each year to the credit described in this sub-  
11 section unless a subsequent independent audit determines that new conservation investment oppor-  
12 tunities are available. The State Department of Energy may require that a new independent audit  
13 be performed on the site to determine whether new conservation measures are available, provided  
14 that the independent audits shall occur no more than once every two years.

15 (C) The retail electricity consumer shall pay the cost of the independent audits described in this  
16 subsection.

17 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit  
18 for the public purpose expenditures of their energy suppliers. The [*State Department of Energy*]  
19 **Oregon Energy Commission** shall adopt rules to determine eligible expenditures and the method-  
20 ology by which such credits are accounted for and used. The rules also shall adopt methods to ac-  
21 count for eligible public purpose expenditures made through consortia or collaborative projects.

22 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an  
23 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-  
24 ment assistance in an amount determined under paragraph (b) of this subsection.

25 (b) The **Public Utility** Commission shall establish the amount to be collected by each electric  
26 company in calendar year 2008 from retail electricity consumers served by the company, and the  
27 rates to be charged to retail electricity consumers served by the company, so that the total antic-  
28 ipated collection for low-income electric bill payment assistance by all electric companies in calen-  
29 dar year 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the commission  
30 may not change the rates established for retail electricity consumers, but the total amount collected  
31 in a calendar year for low-income electric bill payment assistance may vary based on electricity  
32 usage by retail electricity consumers and changes in the number of retail electricity consumers in  
33 this state. In no event shall a retail electricity consumer be required to pay more than \$500 per  
34 month per site for low-income electric bill payment assistance.

35 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into  
36 the Housing and Community Services Department Low-Income Electric Bill Payment Assistance  
37 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be  
38 used by the Housing and Community Services Department for the purpose of funding low-income  
39 electric bill payment assistance. The department's cost of administering this subsection shall be paid  
40 out of funds collected by the low-income electric bill payment assistance charge. Moneys deposited  
41 in the fund under this paragraph shall be expended solely for low-income electric bill payment as-  
42 sistance. Funds collected from an electric company or Oregon Community Power shall be expended  
43 in the service area of the electric company or Oregon Community Power from which the funds are  
44 collected.

45 (d)(A) The Housing and Community Services Department shall determine the manner in which

1 funds collected under this subsection will be allocated by the department to energy assistance pro-  
2 gram providers for the purpose of providing low-income bill payment and crisis assistance.

3 (B) The department shall investigate and may implement alternative delivery models in consul-  
4 tation with electric companies to effectively reduce service disconnections and related costs to retail  
5 electricity consumers and electric utilities.

6 (C) Priority assistance shall be directed to low-income electricity consumers who are in danger  
7 of having their electricity service disconnected.

8 (D) The department shall maintain records and provide those records upon request to an electric  
9 company, Oregon Community Power and the Citizens' Utility Board established under ORS chapter  
10 774 on a quarterly basis. Records maintained must include the numbers of low-income electricity  
11 consumers served, the average amounts paid and the type of assistance provided. Electric companies  
12 and Oregon Community Power shall, if requested, provide the department with aggregate data re-  
13 lating to consumers served on a quarterly basis to support program development.

14 (e) Interest on moneys deposited in the Housing and Community Services Department Low-  
15 Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to pro-  
16 vide bill payment and crisis assistance to electricity consumers whose primary source of heat is not  
17 electricity.

18 (f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon  
19 Community Power to provide reduced rates or other payment or crisis assistance or low-income  
20 program assistance to a low-income household eligible for assistance under the federal Low Income  
21 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

22 (8) For purposes of this section, "retail electricity consumers" includes any direct service in-  
23 dustrial consumer that purchases electricity without purchasing distribution services from the elec-  
24 tric utility.

25 (9) For purposes of this section, amounts collected by Oregon Community Power through public  
26 purpose charges are not considered moneys received from electric utility operations.

27 **SECTION 105.** Section 9, chapter 774, Oregon Laws 2013, is amended to read:

28 **Sec. 9.** (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the  
29 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified al-  
30 ternative fuel vehicle contributions made by the taxpayer during the tax year to the Alternative  
31 Fuel Vehicle Revolving Fund established under [section 2 of this 2013 Act] **ORS 469.961.**

32 (2)(a) The Department of Revenue shall, in cooperation with the State Department of Energy,  
33 conduct an auction of tax credits under this section. The Department of Revenue may not auction  
34 more than \$3 million of tax credits under this section. The department may conduct the auction in  
35 the manner that the department determines is best suited to maximize the return to the state on the  
36 sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction.  
37 The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys nec-  
38 cessary to reimburse the Department of Revenue for the actual costs incurred by the department in  
39 administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appro-  
40 priated to the department. The Department of Revenue shall deposit net receipts from the auction  
41 required under this section in the Alternative Fuel Vehicle Revolving Fund established under [sec-  
42 tion 2 of this 2013 Act] **ORS 469.961.** Net receipts from the auction required under this section shall  
43 be used to provide loans as described in [section 3 of this 2013 Act] **ORS 469.962.**

44 (b) The [State Department of Energy] **Oregon Energy Commission** shall adopt rules for the  
45 administration and implementation of this section.

1 (3) Contributions made under this section shall be deposited in the Alternative Fuel Vehicle  
 2 Revolving Fund.

3 (4)(a) Upon receipt of a contribution, the State Department of Energy shall issue to the taxpayer  
 4 written certification of the amount certified for tax credit under this section to the extent the  
 5 amount certified for tax credit, when added to all amounts previously certified for tax credit under  
 6 this section, does not exceed \$3 million for the tax year beginning January 1, 2013.

7 (b) The State Department of Energy and the Department of Revenue are not liable, and a refund  
 8 of a contributed amount need not be made, if a taxpayer who has received tax credit certification  
 9 is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

10 (5) The tax credit allowed under this section for any one tax year may not exceed the tax li-  
 11 ability of the taxpayer.

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

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

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

23  
 24 **OPERATIVE DATES**

25  
 26 **SECTION 106. (1) Except as provided in subsection (3) of this section, sections 2 to 10 and**  
 27 **14 to 17 of this 2017 Act, the amendments to statutes and session law by sections 1, 11, 12**  
 28 **and 18 to 105 of this 2017 Act and the repeal of statutes by section 13 of this 2017 Act become**  
 29 **operative July 1, 2018.**

30 (2) **The members of the Oregon Energy Commission may be appointed and the State De-**  
 31 **partment of Energy, the Director of the State Department of Energy and the Oregon Energy**  
 32 **Commission may take any action before the operative date specified in subsection (1) of this**  
 33 **section that is necessary to enable the department, the director and the commission to ex-**  
 34 **ercise, on and after the operative date specified in subsection (1) of this section, the duties,**  
 35 **functions and powers of the department, the director and the commission pursuant to**  
 36 **sections 2 to 10 and 14 to 17 of this 2017 Act, the amendments to statutes and session law**  
 37 **by sections 1, 11, 12 and 18 to 105 of this 2017 Act and the repeal of statutes by section 13**  
 38 **of this 2017 Act.**

39 (3) **The transfer of duties, functions and powers by section 6 of this 2017 Act does not**  
 40 **become operative until the members of the Oregon Energy Commission have been appointed**  
 41 **and have qualified. Until appointment and qualification, the State Department of Energy and**  
 42 **the Director of the State Department of Energy shall continue to perform the duties and**  
 43 **functions and exercise the powers.**

44  
 45 **CAPTIONS**

