

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2180

By COMMITTEE ON REVENUE

June 8

1 On page 1 of the printed A-engrossed bill, line 2, delete “316.116,” and insert “316.116 and
2 469.185.”.

3 Delete line 3.

4 Delete lines 5 through 21 and delete pages 2 through 17 and insert:

5 “**SECTION 1.** ORS 316.116 is amended to read:

6 “316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due
7 under this chapter for costs paid or incurred for construction or installation of each of one or more
8 alternative energy devices in a dwelling.

9 “(b) A resident individual shall be allowed a credit against the taxes otherwise due under this
10 chapter for costs paid or incurred to modify or purchase an alternative fuel vehicle or related
11 equipment.

12 “(2)(a) In the case of a category one alternative energy device that is not an alternative fuel
13 device, the credit shall be based upon the first year energy yield of the alternative energy device
14 that qualifies under ORS 469.160 to 469.180. The amount of the credit shall be the same whether for
15 collective or noncollective investment.

16 “(b) The credit allowed under this section for each category one alternative energy device for
17 each dwelling may not exceed the lesser of:

18 “(A) \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per
19 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
20 domestic water heating for tax years beginning on or after January 1, 1990, and before January 1,
21 1996.

22 “(B) \$1,200 or the first year energy yield in kilowatt hours per year multiplied by 48 cents per
23 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
24 domestic water heating for tax years beginning on or after January 1, 1996, and before January 1,
25 1998.

26 “(C) \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per
27 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
28 domestic water heating for tax years beginning on or after January 1, 1998.

29 “(c) For each category one alternative energy device used for swimming pool, spa or hot tub
30 heating, the credit allowed under this section shall be based upon 50 percent of the cost of the de-
31 vice or the first year’s energy yield in kilowatt hours per year multiplied by 15 cents, whichever is
32 lower, up to:

33 “(A) \$1,500 for tax years beginning on or after January 1, 1990, and before January 1, 1996.

34 “(B) \$1,200 for tax years beginning on or after January 1, 1996, and before January 1, 1998.

35 “(C) \$1,500 for tax years beginning on or after January 1, 1998.

1 “(d) For each alternative fuel device, the credit allowed under this section is 25 percent of the
2 cost of the alternative fuel device but the total credit shall not exceed \$750 if the device is placed
3 in service on or after January 1, 1998.

4 “(e)(A) For each category two alternative energy device that is a solar electric system or fuel
5 cell system, the credit allowed under this section shall equal \$3 per watt of installed output, but the
6 installed output that is used to determine the amount of credit under this paragraph may not exceed
7 2,000 watts.

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

11 “(C) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credits
12 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each al-
13 ternative energy device, whichever is less. Unused credit amounts may be carried forward as pro-
14 vided in subsection (7) of this section, but may not be carried forward to a tax year that is more
15 than five tax years following the first tax year for which any credit was allowed with respect to the
16 category two alternative energy device that is the basis for the credit.

17 “(D) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credit
18 for each device allowed under this paragraph may not exceed 50 percent of the total installed cost
19 of the category two alternative energy device.

20 “(3)(a) In the case of a credit for a category one alternative energy device that is an energy
21 efficient appliance, the credit allowed for each appliance to a resident individual under this section
22 shall equal:

23 “(A) 48 cents per first year kilowatt hour saved, or the equivalent for other fuel saved, not to
24 exceed \$1,200 for each tax year beginning on or after January 1, 1998, and before January 1, 1999;
25 and

26 “(B) 40 cents per kilowatt hour saved, or the equivalent for other fuel saved, not to exceed
27 \$1,000 for each tax year beginning on or after January 1, 1999.

28 “(b) Notwithstanding paragraph (a) of this subsection, the credit allowed for an energy efficient
29 appliance may not exceed 25 percent of the cost of the appliance.

30 “(4) To qualify for a credit under this section, all of the following are required:

31 “(a) The alternative energy device must be purchased, constructed, installed and operated in
32 accordance with ORS 469.160 to 469.180 and a certificate issued thereunder.

33 “(b) Except for credits claimed for alternative fuel devices, the taxpayer who is allowed the
34 credit must be the owner or contract purchaser of the dwelling or dwellings served by the alterna-
35 tive energy device or the tenant of the owner or of the contract purchaser and must:

36 “(A) Use the dwelling or dwellings served by the alternative energy device as a principal or
37 secondary residence; or

38 “(B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant
39 who uses the dwelling or dwellings as a principal or secondary residence, unless the basis for the
40 credit is the installation of an energy efficient appliance. If the basis for the credit is the installation
41 of an energy efficient appliance, the credit shall be allowed only to the taxpayer who actually oc-
42 cupies the dwelling as a principal or secondary residence.

43 “(c) In the case of an alternative fuel device, if the device is a fueling station necessary to op-
44 erate an alternative fuel vehicle, unless the verification form and certificate are transferred as au-
45 thorized under ORS 469.170 (8), the taxpayer who is allowed the credit must be the contractor who

1 constructs the dwelling that incorporates the fueling station into the dwelling or installs the fueling
2 station in the dwelling. If the category one alternative energy device is an alternative fuel vehicle,
3 the credit must be claimed by the owner as defined under ORS 801.375 or contract purchaser. If the
4 category one alternative energy device is related equipment for an alternative fuel vehicle, the
5 credit may be claimed by the owner or contract purchaser.

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

8 **“(e) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for
9 electric plug-in charging, it must be purchased before January 1, 2010.**

10 “(5) The credit provided by this section does not affect the computation of basis under this
11 chapter.

12 “(6) The total credits allowed under this section in any one year may not exceed the tax liability
13 of the taxpayer.

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

23 “(8) A nonresident shall be allowed the credit under this section in the proportion provided in
24 ORS 316.117.

25 “(9) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
26 Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the credit al-
27 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

28 “(10) If a change in the status of a taxpayer from resident to nonresident or from nonresident
29 to resident occurs, the credit allowed by this section shall be determined in a manner consistent
30 with ORS 316.117.

31 “(11) A husband and wife who file separate returns for a taxable year may each claim a share
32 of the tax credit that would have been allowed on a joint return in proportion to the contribution
33 of each. However, a husband or wife living in a separate principal residence may claim the tax
34 credit in the same amount as permitted a single person.

35 “(12) As used in this section, unless the context requires otherwise:

36 “(a) ‘Collective investment’ means an investment by two or more taxpayers for the acquisition,
37 construction and installation of an alternative energy device for one or more dwellings.

38 “(b) ‘Noncollective investment’ means an investment by an individual taxpayer for the acquisi-
39 tion, construction and installation of an alternative energy device for one or more dwellings.

40 “(c) ‘Taxpayer’ includes a transferee of a verification form under ORS 469.170 (8).

41 “(13) Notwithstanding any provision of subsection (1) or (2) of this section, the sum of the credit
42 allowed under subsection (1) of this section plus any similar credit allowed for federal income tax
43 purposes may not exceed the cost to the taxpayer for the acquisition, construction and installation
44 of the alternative energy device.

45 **“SECTION 2.** ORS 315.354 is amended to read:

1 “315.354. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if
2 the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of the
3 facility during the period for which that facility is certified under ORS 469.185 to 469.225. The credit
4 is allowed as follows:

5 “(a) Except as provided in paragraph (b) or (c) of this subsection, the credit allowed in each of
6 the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the
7 facility, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the
8 succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability
9 of the taxpayer.

10 “(b) If the certified cost of the facility does not exceed \$20,000, the total amount of the credit
11 allowable under subsection (4) of this section may be claimed in the first tax year for which the
12 credit may be claimed, but may not exceed the tax liability of the taxpayer.

13 “(c) If the facility uses or produces renewable energy resources or is a renewable energy re-
14 source equipment manufacturing facility, the credit allowed in each of five succeeding tax years
15 shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the
16 taxpayer.

17 “(2) Notwithstanding subsection (1) of this section:

18 “(a) If the facility is one or more renewable energy resource systems installed in a single-family
19 dwelling, the amount of the credit for each system shall be determined as if the facility was con-
20 sidered a residential alternative energy device under ORS 316.116, but subject to the maximum
21 credit amount under subsection (4)(b) of this section;

22 “(b) If the facility is a high-performance home, the amount of the credit shall equal the amount
23 determined under paragraph (a) of this subsection plus \$3,000; and

24 “(c) If the facility is a high-performance home or a homebuilder-installed renewable energy sys-
25 tem, the total amount of the credit may be claimed in the first tax year for which the credit is
26 claimed, but may not exceed the tax liability of the taxpayer.

27 “(3) In order for a tax credit to be allowable under this section:

28 “(a) The facility must be located in Oregon;

29 “(b) The facility must have received final certification from the Director of the State Department
30 of Energy under ORS 469.185 to 469.225; [and]

31 “(c) The taxpayer must be an eligible applicant under ORS 469.205 (1)(c)[.]; and

32 **“(d) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for
33 electric plug-in charging, it must be purchased before January 1, 2010.**

34 “(4) The total amount of credit allowable to an eligible taxpayer under this section may not
35 exceed:

36 “(a) 50 percent of the certified cost of a renewable energy resources facility, a renewable energy
37 resource equipment manufacturing facility or a high-efficiency combined heat and power facility;

38 “(b) \$9,000 per single-family dwelling for homebuilder-installed renewable energy systems;

39 “(c) \$12,000 per single-family dwelling for homebuilder-installed renewable energy systems, if the
40 dwelling also constitutes a high-performance home; or

41 “(d) 35 percent of the certified cost of any other facility.

42 “(5)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the
43 facility, notice thereof shall be given to the Director of the State Department of Energy who shall
44 revoke the certificate covering the facility as of the date of such disposition. The new owner, or
45 upon re-leasing of the facility, the new lessor, may apply for a new certificate under ORS 469.215,

1 but the tax credit available to the new owner shall be limited to the amount of credit not claimed
2 by the former owner or, for a new lessor, the amount of credit not claimed by the lessor under all
3 previous leases.

4 “(b) The State Department of Energy may not revoke the certificate covering a facility under
5 paragraph (a) of this subsection if the tax credit associated with the facility has been transferred
6 to a taxpayer who is an eligible applicant under ORS 469.205 (1)(c)(A).

7 “(6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in
8 a particular year may be carried forward and offset against the taxpayer’s tax liability for the next
9 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried
10 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
11 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,
12 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
13 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be
14 carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that
15 fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and
16 likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in
17 the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax
18 year may be carried forward and used in the eighth succeeding tax year, but may not be carried
19 forward for any tax year thereafter. Credits may be carried forward to and used in a tax year be-
20 yond the years specified in subsection (1) of this section only as provided in this subsection.

21 “(7) The credit provided by this section is not in lieu of any depreciation or amortization de-
22 duction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter
23 316, 317 or 318 for such year.

24 “(8) The taxpayer’s adjusted basis for determining gain or loss may not be decreased by any tax
25 credits allowed under this section.

26 “(9) If a homebuilder claims a credit under this section with respect to a homebuilder-installed
27 renewable energy system or a high-performance home:

28 “(a) The homebuilder may not claim credits for both a homebuilder-installed renewable energy
29 system and a high-performance home with respect to the same dwelling;

30 “(b) The homebuilder must inform the buyer of the dwelling that the homebuilder is claiming a
31 tax credit under this section with respect to the dwelling; and

32 “(c) The buyer of the dwelling may not claim a credit under this section that is based on any
33 facility for which the homebuilder has already claimed a credit.

34 “(10) The definitions in ORS 469.185 apply to this section.

35 “**SECTION 3.** ORS 469.185 is amended to read:

36 “469.185. As used in ORS 469.185 to 469.225 and 469.878:

37 “(1) ‘Alternative fuel vehicle’ means a vehicle as defined by the Director of the State Depart-
38 ment of Energy by rule that is used primarily in connection with the conduct of a trade or business
39 and that is manufactured or modified to use an alternative fuel, including but not limited to elec-
40 tricity, ethanol, methanol, gasohol and propane or natural gas, regardless of energy consumption
41 savings.

42 “(2) ‘Car sharing facility’ means the expenses of operating a car sharing program, including but
43 not limited to the fair market value of parking spaces used to store the fleet of cars available for
44 a car sharing program, but does not include the costs of the fleet of cars.

45 “(3) ‘Car sharing program’ means a program in which drivers pay to become members in order

1 to have joint access to a fleet of cars from a common parking area on an hourly basis. 'Car sharing
2 program' does not include operations conducted by car rental agencies.

3 "(4) 'Cost' means the capital costs and expenses necessarily incurred in the acquisition, erection,
4 construction and installation of a facility, including site development costs and expenses for a
5 sustainable building practices facility.

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

8 "(a) Any land, structure, building, installation, excavation, machinery, equipment or device, or
9 any addition to, reconstruction of or improvement of, land or an existing structure, building, instal-
10 lation, excavation, machinery, equipment or device necessarily acquired, erected, constructed or in-
11 stalled by any person in connection with the conduct of a trade or business and actually used in the
12 processing or utilization of renewable energy resources to:

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

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

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

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

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

22 "(b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing
23 structure, building, installation, excavation, machinery, equipment or device necessarily acquired,
24 erected, constructed or installed by any person in connection with the conduct of a trade or business
25 in order to substantially reduce the consumption of purchased energy.

26 "(c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is
27 defined by ORS 469.160, that causes that building or dwelling to exceed an energy performance
28 standard in the state building code.

29 "(d) The replacement of an electric motor with another electric motor that substantially reduces
30 the consumption of electricity.

31 "(6) 'Facility' means an energy facility, recycling facility, transportation facility, car sharing
32 facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to op-
33 erate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling
34 station, a high-efficiency combined heat and power facility, a high-performance home, a
35 homebuilder-installed renewable energy system, or a renewable energy resource equipment manu-
36 facturing facility.

37 "(7) 'High-efficiency combined heat and power facility' means a device or equipment that simul-
38 taneously produces heat and electricity from a single source of fuel and that meets the criteria es-
39 tablished for a high-efficiency combined heat and power facility under ORS 469.197.

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

41 "(a) Is designed and constructed to reduce net purchased energy through use of both energy
42 efficiency and on-site renewable energy resources; and

43 "(b) Meets the criteria established for a high-performance home under ORS 469.197.

44 "(9) 'Homebuilder-installed renewable energy system' means a renewable energy resource system
45 that:

1 “(a) Meets the criteria established for a renewable energy resource system under ORS 469.197;
2 and
3 “(b) Is installed in a new single-family dwelling by, or at the direction of, the homebuilder con-
4 structing the dwelling.
5 “(10) ‘Qualified transit pass contract’ means a purchase agreement entered into between a
6 transportation provider and a person, the terms of which obligate the person to purchase transit
7 passes on behalf or for the benefit of employees, students, patients or other individuals over a
8 specified period of time.
9 “(11) ‘Recycling facility’ means equipment used by a trade or business solely for recycling:
10 “(a) Including:
11 “(A) Equipment used solely for hauling and refining used oil;
12 “(B) New vehicles or modifications to existing vehicles used solely to transport used recyclable
13 materials that cannot be used further in their present form or location such as glass, metal, paper,
14 aluminum, rubber and plastic;
15 “(C) Trailers, racks or bins that are used for hauling used recyclable materials and are added
16 to or attached to existing waste collection vehicles; and
17 “(D) Any equipment used solely for processing recyclable materials such as balers, flatteners,
18 crushers, separators and scales.
19 “(b) But not including equipment used for transporting or processing scrap materials that are
20 recycled as a part of the normal operation of a trade or business as defined by the director.
21 “(12)(a) ‘Renewable energy resource’ includes, but is not limited to:
22 “(A) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum
23 plant or animal based biomass, ocean wave energy, solar energy, wind power, water power or
24 geothermal energy; or
25 “(B) A hydroelectric generating facility that obtains all applicable permits and complies with
26 all state and federal statutory requirements for the protection of fish and wildlife and:
27 “(i) That does not exceed 10 megawatts of installed capacity; or
28 “(ii) Qualifies as a research, development or demonstration facility.
29 “(b) ‘Renewable energy resource’ does not include a hydroelectric generating facility that is not
30 described in paragraph (a) of this subsection.
31 “(13) ‘Renewable energy resource equipment manufacturing facility’ means any structure, build-
32 ing, installation, excavation, machinery, equipment or device, or an addition, reconstruction or im-
33 provement to land or an existing structure, building, installation, excavation, machinery, equipment
34 or device, that is necessarily acquired, constructed or installed by a person in connection with the
35 conduct of a trade or business, that is used primarily to manufacture:
36 “(a) Equipment, machinery or other products designed to use a renewable energy resource and
37 that meets the criteria established under ORS 469.197[.]; or
38 “(b) **Electric vehicles designed for use as modes of transportation on public roads and**
39 **highways or component parts of electric vehicles, but not including component parts that**
40 **may be used in both electric and conventional vehicles.**
41 “(14) ‘Sustainable building practices facility’ means a commercial building in which building
42 practices that reduce the amount of energy, water or other resources needed for construction and
43 operation of the building are used. ‘Sustainable building practices facility’ may be further defined
44 by the State Department of Energy by rule, including rules that establish traditional building prac-
45 tice baselines in energy, water or other resource usage for comparative purposes for use in deter-

1 mining whether a facility is a sustainable building practices facility.

2 “(15) ‘Transportation facility’ means a transportation project that reduces energy use during
3 commuting to and from work or school, during work-related travel, or during travel to obtain med-
4 ical or other services, and may be further defined by the department by rule. ‘Transportation
5 facility’ includes, but is not limited to, a qualified transit pass contract or a transportation services
6 contract.

7 “(16) ‘Transportation provider’ means a public, private or nonprofit entity that provides trans-
8 portation services to members of the public.

9 “(17) ‘Transportation services contract’ means a contract that is related to a transportation fa-
10 cility, and may be further defined by the department by rule.

11 **“SECTION 4.** ORS 315.141 is amended to read:

12 **“315.141.** (1) As used in this section:

13 **“(a) ‘Agricultural producer’** means a person that produces biomass **in Oregon** that is used, in
14 Oregon, as biofuel or to produce biofuel.

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

18 **“(c) ‘Biofuel producer’** means a person that through activities in Oregon:

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

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

21 **“(C) Uses biomass in Oregon to produce energy.**

22 **“[(c)] (d) ‘Biomass’** means organic matter that is available on a renewable or recurring basis and
23 that is derived from:

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

26 **“(B) Wood material** from hardwood timber described in ORS 321.267 (3);

27 **“(C) Agricultural residues;**

28 **“(D) Offal and tallow** from animal rendering;

29 **“(E) Food wastes** collected as provided under ORS chapter 459 or 459A;

30 **“(F) Yard or wood debris** collected as provided under ORS chapter 459 or 459A;

31 **“(G) Wastewater solids;** or

32 **“(H) Crops** grown solely to be used for energy.

33 **“[(d)] (e) ‘Biomass’** does not mean wood that has been treated with creosote, pentachlorophenol,
34 inorganic arsenic or other inorganic chemical compounds **or waste, other than matter described**
35 **in paragraph (d) of this subsection.**

36 **“[(e)] (f) ‘Biomass collector’** means a person that collects biomass **in Oregon** to be used, in
37 Oregon, as biofuel or to produce biofuel.

38 **“(2) The Director of the State Department of Energy may adopt rules to define criteria,**
39 **only as the criteria apply to organic biomass, to determine additional characteristics of**
40 **biomass for purposes of this section.**

41 **“[(2)(a)] (3)(a)** An agricultural producer or biomass collector shall be allowed a credit against
42 the taxes that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation,
43 under ORS chapter 317 or 318 for:

44 **“(A) The production of biomass in Oregon** that is used, in Oregon, as biofuel or to produce
45 biofuel; or

1 “(B) The collection of biomass **in Oregon** that is used, in Oregon, as biofuel or to produce
2 biofuel.

3 “(b) A credit under this section may be claimed in the tax year in which the *[agricultural pro-*
4 *ducer or biomass collector transfers biomass to a biofuel producer]* **credit is certified under sub-**
5 **section (5) of this section.**

6 “(c) **A taxpayer may be allowed a credit under this section for more than one of the roles**
7 **defined in subsection (1) of this section, but a biofuel producer that is not also an agricul-**
8 **tural producer or a biomass collector may not claim a credit under this section.**

9 “[*(c)*] (d) Notwithstanding paragraph (a) of this subsection, a tax credit is not allowed for grain
10 corn, but a tax credit shall be allowed for other corn material.

11 “[*(3)*] *The amount of the credit shall be calculated as follows:*]

12 “[*(a)*] *Determine the quantity of biomass transferred to a biofuel producer during the tax year;*]

13 “[*(b)*] *Categorize the biomass into appropriate categories; and]*

14 “[*(c)*] *Multiply the quantity of biomass in a particular category by the appropriate credit rate for*
15 *that category, expressed in dollars and cents, that is prescribed in ORS 469.790.]*

16 “(4) **The amount of the credit shall equal the amount certified under subsection (5) of this**
17 **section.**

18 “(5)(a) **The State Department of Energy may establish by rule procedures and criteria for**
19 **determining the amount of the tax credit to be certified under this section, consistent with**
20 **ORS 469.790. The department shall provide written certification to taxpayers that are eligible**
21 **to claim the credit under this section.**

22 “(b) **The State Department of Energy may charge and collect a fee from taxpayers for**
23 **certification of credits under this section. The fee may not exceed the cost to the department**
24 **of determining the amount of certified cost.**

25 “(c) **The State Department of Energy shall provide to the Department of Revenue a list,**
26 **by tax year, of taxpayers for which a credit is certified under this section, upon request of**
27 **the Department of Revenue.**

28 “[*(4)*] (6) The amount of the credit claimed under this section for any tax year may not exceed
29 the tax liability of the taxpayer.

30 “[*(5)(a)*] *A biofuel producer shall provide a written receipt to an agricultural producer or biomass*
31 *collector at the time biomass is transferred from the agricultural producer or biomass collector to the*
32 *biofuel producer. The receipt must state the quantity and type of biomass being transferred and that*
33 *the biomass is to be used to produce biofuel.]*

34 “[*(b)*] (7) Each agricultural producer or biomass collector shall maintain the *[receipts described*
35 *in this subsection]* **written documentation of the amount certified for tax credit under this**
36 **section in [their] its records for a period of at least five years after the tax year in which the credit**
37 **is claimed [or for a longer period of time prescribed by the Department of Revenue] and provide the**
38 **written documentation to the Department of Revenue upon request.**

39 “[*(6)*] (8) The credit shall be claimed on a form prescribed by the Department of Revenue that
40 contains the information required by the department.

41 “[*(7)*] (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer
42 in a particular tax year may be carried forward and offset against the taxpayer’s tax liability for
43 the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be
44 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
45 second succeeding tax year may be carried forward and used in the third succeeding tax year, and

1 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
2 succeeding tax year, but may not be carried forward for any tax year thereafter.

3 “[8] (10) In the case of a credit allowed under this section:

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

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

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

12 “**SECTION 5.** ORS 315.144 is amended to read:

13 “315.144. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit
14 [for consideration] to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

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

18 “[2] (3) To transfer the tax credit, the taxpayer earning the credit and the taxpayer that will
19 claim the credit shall, **on or before the date prescribed in subsection (2) of this section,** jointly
20 file a notice of tax credit transfer with the Department of Revenue. The notice shall be given on a
21 form prescribed by the department that contains all of the following:

22 “(a) The name[,] **and** address [*and taxpayer identification number*] of the transferor and
23 transferee;

24 “(b) The amount of the tax credit **that is being transferred;** [*and*]

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

26 “[c] (d) Any other information required by the department.

27 “[3] *Notwithstanding subsection (1) of this section, a tax credit may not be transferred under this*
28 *section.:*]

29 “[a] *From an agricultural producer to a biomass collector claiming a credit for collecting the*
30 *biomass; or]*

31 “[b] *From a biomass collector to an agricultural producer claiming a credit for producing the*
32 *biomass.]*

33 “(4) **The State Department of Energy may establish by rule a minimum discounted value**
34 **of a tax credit under this section.**

35 “(5) **The Department of Revenue, in consultation with the State Department of Energy,**
36 **may by rule establish procedures for the transfer of tax credits provided by this section.**

37 “**SECTION 6.** The amendments to ORS 315.141, 315.144, 315.354, 316.116 and 469.185 by
38 sections 1 to 5 of this 2009 Act apply to tax years beginning on or after January 1, 2010.”.