

# A-Engrossed House Bill 2626

Ordered by the House April 21  
Including House Amendments dated April 21

Sponsored by Representatives READ, BAILEY, C EDWARDS, FREEMAN; Representatives BARNHART, BARTON, BENTZ, CANNON, DEMBROW, ESQUIVEL, GALIZIO, GARRARD, GARRETT, GILLIAM, HOLVEY, SHIELDS, J SMITH, WITT, Senators BATES, BONAMICI, DEVLIN, DINGFELDER, MORSE, NELSON

## 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.

*[Requires State Treasurer to solicit investors for State Department of Energy program for installation of energy efficiency features and packages in one and two family residential dwellings. Requires State Treasurer to administer investor accounts.]*

*[Creates Energy Efficiency and Productivity Fund for use by department in developing and administering energy efficiency program for one and two family residential dwellings in cooperation with certain nongovernmental entities and public and private utilities. Requires establishment of pilot program during biennium beginning July 1, 2009, and statewide implementation by January 2, 2012.]*

*[Increases State Treasurer expenditure limit for biennium beginning July 1, 2009, for purpose of attracting investors in energy efficiency program and administering investor accounts.]*

*[Requires State Treasurer to report to interim committee of Legislative Assembly no later than October 1, 2010, regarding efforts to attract energy efficiency program investors.]*

*[Increases State Department of Energy expenditure limit for biennium beginning July 1, 2009, for purpose of funding energy efficiency pilot program.]*

*[Requires State Department of Energy to report to interim committee of Legislative Assembly no later than October 1, 2010, regarding implementation of pilot program.]*

*[Declares emergency, effective July 1, 2009.]*

**Directs Director of State Department of Energy to administer energy efficiency and sustainable technology loan program for purpose of encouraging investments in energy efficiency, renewable energy and energy conservation.**

**Directs director to establish sustainable energy project manager certification program for purpose of certifying project managers. Specifies that project managers shall administer program in sustainable energy territories established by director.**

**Specifies conditions for disbursement of loan moneys. Directs director to establish pilot programs to initiate program. Sunsets pilot programs on January 2, 2016.**

**Establishes various funds in State Treasury. Continuously appropriates moneys in funds to State Department of Energy for purposes relating to energy efficiency, sustainable technology, small scale local energy projects and higher cost of energy for energy efficiency projects. Authorizes State Treasurer to issue and sell revenue bonds in amount that director considers necessary for purposes related to administering program.**

**Declares emergency, effective on passage.**

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## A BILL FOR AN ACT

Relating to energy use; creating new provisions; amending ORS 470.050, 470.060, 470.070, 470.080, 470.090, 470.100, 470.110, 470.120, 470.130, 470.140, 470.150, 470.160, 470.170, 470.190, 470.230, 470.240, 470.270, 470.280, 470.300 and 470.310; appropriating money; and declaring an emergency.

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

**SECTION 1. Sections 2 to 42 of this 2009 Act are added to and made a part of ORS chapter 470.**

## LOAN PROGRAM ADMINISTRATION

**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       **SECTION 2.** (1) The Director of the State Department of Energy shall administer the  
2 energy efficiency and sustainable technology loan program for the purpose of providing fi-  
3 nancing, promotion and technical support to encourage significant investments in energy  
4 efficiency, renewable energy and energy conservation.

5       (2) The goals of the loan program are to:

6       (a) Provide capital at the lowest possible cost for the purpose of supporting energy effi-  
7 ciency and conservation and renewable energy projects for residential and commercial  
8 structures;

9       (b) Expand, and to simplify taking advantage of, opportunities for small scale local energy  
10 project financing;

11       (c) Leverage multiple sources of public and private capital through a unified and strategic  
12 funding mechanism;

13       (d) Provide technical and financing information to the public and to businesses;

14       (e) Foster energy savings;

15       (f) Stimulate job growth; and

16       (g) Help substantially reduce carbon emissions.

17       **SECTION 3.** (1) Except as provided in subsection (3) of this section, the State Department  
18 of Energy may enter into contracts for the issuance of energy efficiency and sustainable  
19 technology loans. Except as provided in section 41 of this 2009 Act, the department shall fi-  
20 nance the loans using moneys from the Small Scale Local Energy Project Loan Fund, the  
21 Energy Project Supplemental Fund or the Energy Project Bond Loan Fund, or from a com-  
22 bination of those funds.

23       (2) The sustainable energy project manager may enter into agreements with trade asso-  
24 ciations and other public and private entities for the promotion or marketing of the energy  
25 efficiency and sustainable technology loan program.

26       (3) The department must obtain the consent of the utility before operating an energy  
27 efficiency and sustainable technology loan program within the service territory of:

28       (a) An investor-owned electric utility that serves fewer than 20,000 customers; or

29       (b) An investor-owned gas utility that is actively administering an energy conservation  
30 program established:

31       (A) On or before January 1, 2009; and

32       (B) Without assistance from a nongovernmental entity that receives public purpose  
33 charge moneys under ORS 757.612.

34       **SECTION 4.** The Public Utility Commission may adopt rules for carrying out the duties,  
35 functions and powers of the commission and the Public Purpose Fund Administrator under  
36 sections 2 to 42 of this 2009 Act.

37       **SECTION 5.** The State Department of Energy may contract for persons to perform the  
38 duties of the department under sections 2 to 42 of this 2009 Act including, but not limited to,  
39 the development of standardized base efficiency packages and standardized optional pack-  
40 ages, energy efficiency and sustainable technology loan evaluation, processing and collection.  
41 A loan processed by a person contracting with the department, other than a loan processed  
42 by a sustainable energy project manager, must include the department as a party to the loan.

43       **SECTION 6.** (1) The State Department of Energy shall send a quarterly report to the  
44 Small Scale Local Energy Project Advisory Committee. The report shall include, but need  
45 not be limited to, a summary of:

- 1 (a) The total amount of energy efficiency and sustainable technology loans issued;
- 2 (b) The types of projects being funded by the loans; and
- 3 (c) The characteristics of loan recipients.

4 (2) The committee shall review the report to determine whether the goals of the loan  
5 program are being implemented and whether applicable rules and statutory standards are  
6 met. The committee may send comments regarding the report to the Director of the State  
7 Department of Energy.

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9 **PROJECT MANAGERS**

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11 **SECTION 7.** (1) Except as provided in subsection (5) of this section, the Director of the  
12 State Department of Energy may establish qualifications for sustainable energy project  
13 managers and may exercise oversight to ensure project manager compliance with those  
14 qualifications. A project manager shall provide the promotion, technical and financial support  
15 and verifications necessary to administer the energy efficiency and sustainable technology  
16 loan program in the territory served by the project manager.

17 (2) The project manager shall serve a sustainable energy territory established by the di-  
18 rector. The project manager shall provide loan program information and technical and fi-  
19 nancial information to promote energy efficiency and use of renewable energy at the  
20 neighborhood and community levels. The project manager shall be responsible for small scale  
21 local energy project verification and for monitoring program effectiveness for energy effi-  
22 ciency and sustainable technology loans and small scale local energy program loans. The  
23 project manager may administer the energy efficiency and sustainable technology loan pro-  
24 gram within the territory.

25 (3)(a) Except as provided in this subsection, the boundaries of a sustainable energy ter-  
26 ritory must be consistent with the service territory of a local electric utility.

27 (b) The boundaries of a sustainable energy territory may be consistent with the service  
28 territory of a local gas utility if:

29 (A) The local electric utility is a consumer-owned electric utility that elects not to be the  
30 project manager for the sustainable energy territory; and

31 (B) The service territory of the local electric utility and the service territory of the local  
32 gas utility overlap.

33 (c) Notwithstanding paragraphs (a) and (b) of this subsection, if the project manager for  
34 the sustainable energy territory is other than the Public Purpose Fund Administrator or a  
35 consumer-owned utility, the director may adjust the boundaries of the territory or create a  
36 larger or smaller territory if the director believes that the territory boundaries as adjusted  
37 or created by the director would better accomplish the goals of the energy efficiency and  
38 sustainable technology loan program.

39 (4) A local government, nonprofit, for-profit, tribal or state entity may be a project  
40 manager if the entity meets the qualifications established by the director under this section  
41 and is approved by the director to provide promotion, outreach and customer support related  
42 to the energy efficiency and sustainable technology loan program within a sustainable energy  
43 territory. The Public Purpose Fund Administrator is an ex officio sustainable energy project  
44 manager. The Public Purpose Fund Administrator shall act as the project manager in any  
45 sustainable energy territory that is not served by another project manager.

1       (5) The director shall establish a sustainable energy project manager certification pro-  
2 gram. However, the Public Purpose Fund Administrator or a consumer-owned utility is not  
3 required to obtain a sustainable energy project manager certificate and the Public Purpose  
4 Fund Administrator is not subject to any qualifications established by the director for a  
5 project manager.

6       **SECTION 8.** (1) The Director of the State Department of Energy shall initiate the cer-  
7 tification process for a sustainable energy project manager by publishing a request for pro-  
8 posals.

9       (2) An applicant for certification as a project manager shall submit information to the  
10 director that includes:

11       (a) Background information about the applicant including, but not limited to, the quali-  
12 fications, relevant experience, financial status and staff of the applicant;

13       (b) A proposed plan for implementing and administering the goals and requirements of  
14 the energy efficiency and sustainable technology loan program in the sustainable energy  
15 territory; and

16       (c) Any additional information required by the director by rule.

17       (3) After reviewing all applications received, the director may select a project manager.  
18 In selecting the project manager, the director shall consider the following factors:

19       (a) The organizational experience of the applicant and the capacity of the applicant to  
20 successfully implement the energy efficiency and sustainable technology loan program goals  
21 and requirements.

22       (b) The strength of the applicant's proposed plan for implementing the goals and re-  
23 quirements of the energy efficiency and sustainable technology loan program.

24       (c) The cost at which the applicant can conduct outreach, promotion, loan applicant  
25 support and project verification services necessary to implement the energy efficiency and  
26 sustainable technology loan program.

27       (d) Any other factors the director adopts by rule or directive.

28       (4) An applicant may not be certified as a project manager if the applicant has a fiduciary  
29 or other obligation that creates an actual or apparent conflict of interest that may interfere  
30 with achieving the goals of the energy efficiency and sustainable technology loan program.

31       **SECTION 9.** (1) Upon selecting a proposed sustainable energy project manager, the Di-  
32 rector of the State Department of Energy shall notify all unsuccessful applicants for the  
33 position that another candidate is proposed for appointment. The director shall negotiate  
34 with the proposed project manager regarding any modifications to the service cost estimates  
35 or other features of the applicant's proposed plan that are necessary to ensure that the ap-  
36 plicant will meet the goals and requirements of the energy efficiency and sustainable tech-  
37 nology loan program and State Department of Energy rules.

38       (2) To the extent practicable, the director shall certify a project manager not later than  
39 four months after publication of the request for proposals and not later than two months  
40 after the selection of the proposed project manager. However, the director may at any time  
41 select a different applicant as the proposed project manager or may reinstate the certif-  
42 ication process.

43       (3) Upon deciding to certify the proposed project manager, the director shall give notice  
44 of the decision to all unsuccessful candidates, the public and the Small Scale Local Energy  
45 Project Advisory Committee. The director may approve the final certification of the project

1 manager if:

2 (a) A request to appeal under section 10 of this 2009 Act is not filed within 15 days after  
3 the date the notice is sent; and

4 (b) The committee does not undertake a review of the proposed certification within 15  
5 days after the date the notice is sent.

6 **SECTION 10.** (1) A person that believes a decision of the Director of the State Depart-  
7 ment of Energy to certify a sustainable energy project manager is inconsistent with appli-  
8 cable rules or statutes may file a request to appeal with the Small Scale Local Energy  
9 Project Advisory Committee. Unless the request for appeal is filed by a nonprofit entity, the  
10 request must be accompanied by a \$2,000 appeal fee. The fee shall be waived for a nonprofit  
11 entity. The committee may initiate a review on its own motion.

12 (2) A majority of the committee may authorize the presiding officer of the committee to  
13 appeal the certification decision to the Governor. The presiding officer may initiate an appeal  
14 to the Governor no later than 30 days after receiving a request for appeal or 15 days after  
15 the committee initiates a review on its own motion.

16 (3) The decision of the Governor is final. If the Governor does not act within 30 days after  
17 receiving the appeal from the presiding officer of the committee, the appeal is denied.

18 **SECTION 11.** (1) Unless the sustainable energy project manager is the Public Purpose  
19 Fund Administrator or a consumer-owned utility, the certification of a project manager shall  
20 be for a five-year term. The Director of the State Department of Energy shall issue the  
21 project manager a certification approval letter that states any conditions applicable to the  
22 certification.

23 (2) The director may terminate the certification of a project manager for:

24 (a) Failure to adequately implement an applicable plan for implementing the energy effi-  
25 ciency and sustainable technology loan program;

26 (b) Noncompliance with the regulatory or statutory requirements of the energy efficiency  
27 and sustainable technology loan program;

28 (c) Failure to meet any project manager criteria established by the director; or

29 (d) Failure to perform other certification conditions.

30 **SECTION 12.** (1) Except as provided in subsection (2) of this section, if a sustainable en-  
31 ergy territory is all or part of the service territory for an investor-owned electric utility, the  
32 Public Purpose Fund Administrator shall be the sustainable energy project manager for the  
33 sustainable energy territory. The Public Purpose Fund Administrator shall inform the Public  
34 Utility Commission and the State Department of Energy of the activities of the administrator  
35 by filing a yearly action plan and an end-of-year report with the commission and the de-  
36 partment.

37 (2) For a sustainable energy territory described in section 7 (3)(b) of this 2009 Act, if the  
38 local gas utility is an investor-owned utility, the utility may act as the project manager for  
39 the territory or may contract with the Public Purpose Fund Administrator to act as project  
40 manager on behalf of the utility.

41 (3) If a territory is served by a consumer-owned utility and is outside the service terri-  
42 tory of an investor-owned electric utility, the consumer-owned utility shall be the project  
43 manager if the utility agrees to promote energy efficiency and sustainable technology loans  
44 as part of any energy efficiency or renewable energy program offered by the utility. A  
45 consumer-owned utility may conduct energy efficiency and renewable energy programs

1 within the territory of the utility regardless of whether the territory is served by an energy  
2 efficiency and sustainable technology loan program. A consumer-owned utility may decline  
3 to participate in the energy efficiency and sustainable technology loan program.

4 (4) If a customer is served by both an investor-owned gas utility and a consumer-owned  
5 electric utility that have energy efficiency and sustainable technology loan programs, the  
6 utility that supplies the customer's primary source of heat for the property shall supply loan  
7 program services for that customer.

8 (5) The existence of an energy efficiency and sustainable technology loan program, or the  
9 appointment of a sustainable energy project manager in a sustainable energy territory does  
10 not prevent a consumer-owned utility from conducting any energy efficiency or renewable  
11 energy program offered by the utility. If the consumer-owned utility declines to become the  
12 project manager for the territory, the utility may:

13 (a) Design a utility program;

14 (b) Continue an existing utility program; or

15 (c) Work with the Director of the State Department of Energy to solicit and select a  
16 qualified entity to serve as the project manager as described in sections 8 and 9 of this 2009  
17 Act.

18 (6) Subject to approval by the director, a project manager may contract with a qualified  
19 third party to assist the project manager in providing project manager services within the  
20 territory. If a sustainable energy territory is served by a project manager, the appointment  
21 of additional project managers shall be a subcontract approved by the existing project man-  
22 ager. If the third party is acting as a financier, the third party is not required to comply  
23 with laws regulating utilities based on the actions of the third party as a financier. The  
24 project manager may enter into agreements with trade associations and other public and  
25 private entities for the promotion or marketing of the energy efficiency and sustainable  
26 technology loan program.

27 (7) The Public Purpose Fund Administrator and sustainable energy project managers  
28 shall cooperate with, and coordinate their outreach and promotional efforts with, local utili-  
29 ties and other stakeholders to promote energy efficiency and renewable energy and to use  
30 the customer contacts, resources and capacity of utilities to engage and inform utility cus-  
31 tomers about the energy efficiency and sustainable technology loan program.

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33 **CONTRACTORS**

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35 **SECTION 13.** (1) The State Department of Energy shall adopt rules establishing certif-  
36 ication standards for contractors participating in the construction of small scale local energy  
37 projects financed through the energy efficiency and sustainable technology loan program.  
38 The department shall design the standards to ensure that the project work performed by a  
39 contractor holding the certification is of high quality and will result in a high degree of  
40 customer satisfaction.

41 (2) The certification standards established by the department must, at a minimum, re-  
42 quire that the contractor:

43 (a) Prove that the contractor has sufficient skill to ensure that the contractor can suc-  
44 cessfully install energy efficiency, renewable energy or weatherization projects.

45 (b) Not be a contractor listed by the Commissioner of the Bureau of Labor and Industries

1 under ORS 279C.860 as ineligible to receive a contract or subcontract for public works.

2 (c) Be an equal opportunity employer or small business or be a minority or women busi-  
3 ness enterprise or disadvantaged business enterprise as those terms are defined in ORS  
4 200.005.

5 (d) Demonstrate a history of compliance with the rules and other requirements of the  
6 Construction Contractors Board and of the Workers' Compensation Division and the Occu-  
7 pational Safety and Health Division of the Department of Consumer and Business Services.

8 (e) Employ at least 80 percent of employees used for energy efficiency and sustainable  
9 technology loan program projects from the local work force, if a sufficient supply of skilled  
10 workers is available locally.

11 (f) Demonstrate a history of compliance with federal and state wage and hour laws.

12 (g) Pay wages to employees used for energy efficiency and sustainable technology loan  
13 program projects at a rate equal to at least 180 percent of the state minimum wage.

14 (3) The State Department of Energy shall consult with the Public Purpose Fund Admin-  
15 istrator and utilities when developing contractor certification standards.

16 (4) The Construction Contractors Board may issue a qualifying contractor a certification  
17 authorizing the contractor to participate in the construction of small scale local energy  
18 projects financed through the energy efficiency and sustainable technology loan program. A  
19 contractor seeking certification shall apply to the board as provided under section 53 of this  
20 2009 Act.

21 (5) The State Department of Energy shall identify certified contractors that provide em-  
22 ployees with health insurance benefits as preferred service providers and may take other  
23 actions as practicable to encourage certified contractors to provide employees with health  
24 insurance benefits.

25 SECTION 14. (1) At the request of a loan applicant, a contractor that is authorized to  
26 participate in the construction of small scale local energy projects financed through the en-  
27 ergy efficiency and sustainable technology loan program may conduct an energy savings  
28 projection or similar evaluation for a property and conduct post-project verifications of en-  
29 ergy savings in a sustainable energy territory that does not have a sustainable energy project  
30 manager.

31 (2) The State Department of Energy shall process a loan application submitted by an  
32 applicant in a sustainable energy territory that does not have a project manager in the same  
33 manner as an application submitted through a project manager.

34 (3) If on-bill financing is available to a loan applicant through a local utility serving a  
35 sustainable energy territory that does not have a project manager, the loan applicant may  
36 choose to use on-bill financing. If on-bill financing is not available to the loan applicant, the  
37 applicant may choose to finance and repay an energy efficiency and sustainable technology  
38 loan through an assessment on the real property benefited by the project.

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40 **FUNDS**

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42 SECTION 15. (1) The Energy Project Supplemental Fund is established in the State  
43 Treasury, separate and distinct from the General Fund. Interest earned by the Energy  
44 Project Supplemental Fund shall be credited to the Energy Project Supplemental Fund.

45 (2) The Energy Project Supplemental Fund shall consist of any moneys received for pur-

1 poses of the energy efficiency and sustainable technology loan program or for small scale  
2 local energy program loans other than:

3 (a) Moneys deposited to the Small Scale Local Energy Project Loan Fund.

4 (b) Moneys deposited to the Energy Project Bond Loan Fund.

5 (c) Moneys deposited to the Loan Offset Grant Fund, except that Loan Offset Grant Fund  
6 moneys used to offset the energy efficiency and sustainable technology loan or small scale  
7 local energy program loan repayment obligation of a borrower shall be deposited to the En-  
8 ergy Project Supplemental Fund.

9 (3) Moneys in the Energy Project Supplemental Fund are continuously appropriated to  
10 the State Department of Energy for use:

11 (a) Separately or in conjunction with moneys from the Small Scale Local Energy Project  
12 Loan Fund and the Energy Project Bond Loan Fund, to provide funding for energy efficiency  
13 and sustainable technology loans and small scale local energy program loans;

14 (b) To the extent that revenue from the repayment of energy efficiency and sustainable  
15 technology loans is insufficient to service the debt on revenue bonds issued under section 22  
16 of this 2009 Act, to pay the debt service for those bonds; and

17 (c) To pay costs incurred by the State Department of Energy or the Director of the State  
18 Department of Energy in implementing or administering loan programs for small scale local  
19 energy projects.

20 (4) The State Treasurer may establish any subaccounts the treasurer considers reason-  
21 able for the efficient administration of the Energy Project Supplemental Fund.

22 **SECTION 16.** (1) The Loan Offset Grant Fund is established in the State Treasury, sepa-  
23 rate and distinct from the General Fund. Interest earned by the Loan Offset Grant Fund  
24 shall be credited to the Loan Offset Grant Fund. Moneys in the fund are continuously ap-  
25 propriated to the State Department of Energy for use as provided in this section.

26 (2) The fund shall consist of any moneys directed by law, gift, grant or donation to the  
27 fund.

28 (3) The department shall use fund moneys:

29 (a) To promote energy efficiency, renewable energy and energy conservation projects that  
30 would otherwise result in a marginally higher overall cost to the applicant when energy costs  
31 and the financing and repayment costs for the project are considered, by using the fund  
32 moneys to help produce a monthly cost savings for the applicant; or

33 (b) To transfer to an appropriate fund for carrying out any purpose under this chapter  
34 specified as a condition of a gift, grant or donation.

35 **SECTION 17.** (1) The Energy Project Bond Loan Fund is established in the State Treas-  
36 ury, separate and distinct from the General Fund. Interest earned by the Energy Project  
37 Bond Loan Fund shall be credited to the fund.

38 (2) The fund shall consist of net proceeds from the issuance of revenue bonds under  
39 section 22 of this 2009 Act that are deposited to the fund.

40 (3) Moneys in the fund are continuously appropriated to the State Department of Energy  
41 for the purpose of:

42 (a) Making small scale local energy program loans and energy efficiency and sustainable  
43 technology loans; and

44 (b) Transferring moneys to the Energy Revenue Bond Fund to pay the costs of issuing  
45 bonds described in subsection (2) of this section and paying the costs of administering the



1 revenue bond program.

2 **SECTION 18.** (1) The Energy Revenue Bond Fund is established in the State Treasury,  
3 separate and distinct from the General Fund. Interest earned by the Energy Revenue Bond  
4 Fund shall be credited to the fund. Moneys in the fund may be invested as provided in ORS  
5 293.701 to 293.820. Moneys in the fund are continuously appropriated to the State Department  
6 of Energy for the payment of:

7 (a) Administrative expenses of the State Department of Energy and the Director of the  
8 State Department of Energy for energy efficiency and sustainable technology loans and small  
9 scale local energy program loans made from the proceeds of energy project revenue bonds,  
10 to the extent those expenses are not paid from the Energy Project Supplemental Fund or the  
11 Loan Offset Grant Fund;

12 (b) Administrative expenses incurred by the State Treasurer under this chapter;

13 (c) Principal, interest and any redemption premiums of energy project revenue bonds;

14 (d) Net investment earnings on moneys loaned to municipal corporations from energy  
15 project revenue bonds under section 22 of this 2009 Act but withheld as provided in ORS  
16 470.230; and

17 (e) Costs of issuing revenue bonds and obtaining credit enhancement for those revenue  
18 bonds.

19 (2) The fund shall consist of:

20 (a) Moneys from project initiation fees under section 31 of this 2009 Act;

21 (b) Repayments of any moneys loaned from the fund and interest earned on those mon-  
22 eys;

23 (c) Any moneys appropriated to the fund;

24 (d) Moneys from the sale of refunding bonds under section 22 of this 2009 Act and any  
25 accrued interest on those bonds;

26 (e) Interest earned on cash balances invested under section 20 of this 2009 Act; and

27 (f) Moneys transferred to the fund from the Energy Project Bond Loan Fund.

28 **SECTION 19.** The State Department of Energy may request proposals for and select one  
29 or more financial managers for the energy efficiency and sustainable technology loan pro-  
30 gram. The function of a financial manager is:

31 (1) To assist in energy efficiency and sustainable technology loan program development;

32 (2) To cooperate with federal and state agencies and public and private entities for the  
33 purpose of securing federal funding, public and private investments of capital and gifts,  
34 grants and donations for the purpose of financing small scale local energy projects; and

35 (3) To provide a platform for the blending of private and public capital from various  
36 sources including, but not limited to, small scale local energy project financing, moneys from  
37 the Energy Project Bond Loan Fund, the Loan Offset Grant Fund and the Energy Project  
38 Supplemental Fund, private activity bonds and grant moneys.

39 **SECTION 20.** Private utilities and other private entities may invest capital with an en-  
40 ergy efficiency and sustainable technology loan program financial manager for use in carry-  
41 ing out the loan program. The Public Utility Commission may establish a reasonable rate of  
42 return that a financial manager may pay to a utility investing capital under this section. In  
43 establishing the rate of return, the commission shall consider the risk to the utility in pro-  
44 viding the investment capital.

45 **SECTION 21.** To achieve the energy efficiency and sustainable technology loan program

1 goals described in section 2 of this 2009 Act, the Director of the State Department of Energy  
2 may enter into agreements to disburse supplemental capital funds through the Small Scale  
3 Local Energy Project Loan Fund and the Energy Project Supplemental Fund if:

4 (1) Interest rates and total costs to program applicants that would result from the use  
5 of the supplemental capital funds are lower than the interest rates and total costs that would  
6 be incurred by a borrower from a loan of bond proceeds under market conditions; and

7 (2) The supplemental capital funds are made subject to any requirements adopted by the  
8 director by rule to ensure adequate protection of project moneys.

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10 **BONDS**

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12 **SECTION 22.** (1) The State Treasurer, at the request of the Director of the State De-  
13 partment of Energy, from time to time may issue and sell revenue bonds in the name of and  
14 on behalf of the State of Oregon in compliance with the applicable provisions of ORS chapter  
15 286A in the principal amount the director considers necessary to carry out the purposes of  
16 sections 2 to 42 of this 2009 Act, or for paying or refunding any revenue bonds previously  
17 issued on behalf of the State Department of Energy for those purposes.

18 (2) All bonds shall be special revenue obligations of the State of Oregon, and, unless paid  
19 from the proceeds of other bonds, shall be payable as to principal, redemption premium, if  
20 any, and interest, solely from the revenues, assets or funds in the Energy Revenue Bond  
21 Fund and the Energy Project Supplemental Fund that may be pledged for that payment.

22 (3) Prior to an issuance of revenue bonds under this section, the Director of the State  
23 Department of Energy shall prepare and sign a written declaration setting forth the amount  
24 of the bonds to be issued and the terms and conditions for issuance. If the State Treasurer  
25 approves the declaration, the State Treasurer shall certify the approval on the declaration.  
26 The approved declaration shall be known as an “energy revenue bond declaration.” Each  
27 bond declaration shall be deemed to be and shall constitute conclusive proof of the authori-  
28 zation to issue the bonds described in the bond declaration and may contain further pledges  
29 and provisions concerning bonds as determined by the director or the State Treasurer.

30 **SECTION 23.** (1) Revenue bonds issued under section 22 of this 2009 Act do not constitute  
31 a debt, liability or general obligation of this state or any political subdivision of the state or  
32 a pledge of the faith and credit of this state or any political subdivision of the state, but shall  
33 be payable solely from the revenues or assets of the State Department of Energy that are  
34 pledged to the repayment in the energy revenue bond declaration.

35 (2) Each revenue bond issued under section 22 of this 2009 Act shall contain on the face  
36 of the bond a statement that the department is not obligated to pay the bond or the interest  
37 on the bond except from the revenues or assets pledged for those payments and that neither  
38 the faith and credit nor the taxing power of this state or any political subdivision of the state  
39 is pledged to the payment of the principal of or the interest on the bond.

40 (3) A utility or sustainable energy project manager is not liable for the payment of the  
41 principal of or the interest on any bond issued under this section.

42 **SECTION 24.** The bonds issued by the State Treasurer under section 22 of this 2009 Act  
43 and the energy revenue bond declaration may:

44 (1) Pledge all or any part of the fees received by the State Department of Energy under  
45 section 31 of this 2009 Act and all or any part of the moneys received in payment of energy

1 efficiency and sustainable technology loans, small scale local energy program loans, interest  
2 on those loans and other moneys received or to be received by the department under this  
3 chapter to secure payment of the bonds, subject to the provisions of the energy revenue bond  
4 declaration and to ORS 470.280 and 470.300 and any pledges or agreements pertaining to  
5 bonds issued under Article XI-J of the Oregon Constitution.

6 (2) Pledge all or any part of the assets of the Energy Revenue Bond Fund.

7 (3) Pledge any moneys, loans or grants received from the federal government, the state  
8 or any city, county or political subdivision of this state for any small scale local energy  
9 project financed in whole or in part from the sale proceeds of revenue bonds under section  
10 22 of this 2009 Act.

11 (4) Vest in a trustee appointed by the Director of the State Department of Energy and  
12 approved by the State Treasurer such property, rights, powers and duties in trust as the  
13 director may determine.

#### 14 LOCAL GOVERNMENTS

15  
16  
17 **SECTION 25.** (1) Subject to the approval of the Director of the State Department of En-  
18 ergy, a local government, public utility or other legally organized entity may direct moneys  
19 to the Energy Project Supplemental Fund or Loan Offset Grant Fund for use within a limited  
20 geographic area of the state as a source of capital for financing energy efficiency and  
21 sustainable technology loans, small scale local energy program loans or loan offset grants.

22 (2) Any moneys deposited under this section shall be separately accounted for and shall  
23 be managed consistently with small scale local energy project goals and any agreement be-  
24 tween the State Department of Energy and the entity providing the moneys. The moneys  
25 may be disbursed only for use as designated by, and in the geographic area designated by,  
26 the entity providing the moneys.

#### 27 PROGRAM LOANS

28  
29  
30 **SECTION 26.** (1) The State Department of Energy may disburse energy efficiency and  
31 sustainable technology loan and small scale local energy program loan moneys by providing  
32 the loan moneys through a sustainable energy project manager or providing the loan moneys  
33 to or through an entity described in ORS 470.060. Loan moneys may be disbursed through a  
34 project manager only for the purpose of enabling the project manager to issue energy effi-  
35 ciency and sustainable technology loans and small scale local energy program loans to ap-  
36 plicants in the sustainable energy territory served by the project manager.

37 (2) The project manager may issue a loan from moneys disbursed under this section only  
38 if adequate security exists to ensure repayment of the loan. An energy efficiency and  
39 sustainable technology loan from a project manager to an applicant located in the sustainable  
40 energy territory served by the project manager must have the features described in section  
41 29 of this 2009 Act and ORS 470.150 and is subject to the requirements and processes imposed  
42 under sections 2 to 42 of this 2009 Act for energy efficiency and sustainable technology loans  
43 issued by the Director of the State Department of Energy. A project manager that issues  
44 an energy efficiency and sustainable technology loan to support a small scale local energy  
45 project may record a lien on the property that benefits from the project as provided in sec-

1 tion 37 of this 2009 Act.

2 **SECTION 27.** (1) The State Department of Energy may not complete an agreement for  
3 the issuance of an energy efficiency and sustainable technology loan unless the sustainable  
4 energy project manager, a contractor designated by the project manager or a person ap-  
5 proved by the department completes an energy savings projection or similar evaluation for  
6 the property that will benefit from the small scale local energy project. The projection or  
7 other evaluation shall be in writing and shall, at a minimum, identify the following:

8 (a) The recommended base efficiency package for the structure. A base energy package  
9 may include improvements to existing supply lines and equipment.

10 (b) Any optional package recommended for the structure.

11 (c) The estimated net monthly cost to the applicant when energy savings, project repay-  
12 ment costs, tax or other incentives, loan offset grants and other relevant economic factors  
13 are considered.

14 (d) The monthly cost to the applicant to repay the loan principal and finance charges.

15 (e) If the base efficiency package or recommended optional package includes the use of  
16 nontraditional technology, a description of the nontraditional technology.

17 (2) The projection or other evaluation shall state in a clear and conspicuous manner:

18 (a) That the estimated net monthly cost to the applicant contained in the projection or  
19 other evaluation does not represent a guarantee of project performance or results; and

20 (b) That no liability attaches to the department, any state agency or officer, the project  
21 managers or any utility if actual energy savings are less than the estimated savings or if the  
22 construction process or constructed project is unsatisfactory in any way.

23 (3) If the base efficiency package or recommended optional package includes the use of  
24 nontraditional technology, the projection or other evaluation shall include a statement that  
25 the technology is nontraditional, initialed by the prospective loan applicant.

26 (4) An energy efficiency and sustainable technology loan may be used only for a project  
27 constructed by a contractor certified under section 53 of this 2009 Act.

28 (5) Prior to the disbursement of the loan moneys to the contractor, a project manager  
29 or other person approved by the department shall verify that the small scale local energy  
30 project has been completed in a manner consistent with energy efficiency and sustainable  
31 technology loan program requirements. If the state or any agency of the state adopts or  
32 recognizes an energy efficiency scoring system for buildings, the department may require  
33 that the verification described in this subsection include the determination of an energy ef-  
34 ficiency score for the property benefited by the project.

35 (6) The department shall periodically consult with contractors certified under section 53  
36 of this 2009 Act for the purpose of updating average cost and projected savings figures used  
37 for energy savings projections or other evaluations under this section. The department shall  
38 encourage the use of methods for conducting energy savings projections or other evaluations  
39 under this section that are cost-effective and time-effective, take advantage of economies  
40 of scale and produce results that are accurate and are replicable for equivalent base energy  
41 packages.

42 **SECTION 28.** (1) Except as provide in subsection (2) of this section, the amount of an  
43 energy efficiency and sustainable technology loan may not exceed \$40,000.

44 (2) The loan amount limit described in subsection (1) of this section shall increase an-  
45 nually on January 1 of each year, beginning January 1, 2011. The loan amount limit shall

1 increase from the most recently established loan amount limit by a percentage equal to the  
2 percentage increase in the Portland-Salem Consumer Price Index for All Urban Consumers  
3 for All Items as reported by the Bureau of Labor Statistics of the United States Department  
4 of Labor.

5 **SECTION 29.** If an energy efficiency and sustainable technology loan will rely on a utility  
6 customer meter assessment or a real property assessment as security for repayment:

7 (1) The loan application must contain information sufficient to demonstrate that the loan  
8 will be secured by a utility customer meter assessment or real property assessment having  
9 a term of between five and 30 years as determined by the State Department of Energy;

10 (2) The loan application must contain a clear and conspicuous disclosure:

11 (a) That an assessment, lien or other repayment or security mechanism for the energy  
12 efficiency and sustainable technology loan need not be paid in full upon a sale of the prop-  
13 erty, but all amounts due under the repayment plan as of the sale date must be paid before  
14 the sale closes; and

15 (b) That some lenders may be unwilling to make a mortgage on a property that is subject  
16 to an assessment, lien or other repayment or security mechanism for the energy efficiency  
17 and sustainable technology loan;

18 (3) The loan applicant must sign a loan contract that recites all terms and conditions  
19 required under this chapter for an energy efficiency and sustainable technology loan; and

20 (4) The department must be satisfied that all conditions required under ORS 470.090 to  
21 support the loan have been satisfied.

22 **SECTION 30.** (1) If an applicant for a loan to construct a residential small scale local  
23 energy project has household income that may qualify the person for a weatherization pro-  
24 gram operated by the Housing and Community Services Department, the sustainable energy  
25 project manager shall refer the applicant to the department. This subsection does not pro-  
26 hibit a project manager from accepting an application from a person who has been denied  
27 assistance under a department weatherization program.

28 (2) If an applicant for a loan to construct a residential small scale local energy project  
29 has household income that is less than 250 percent of the federal poverty guidelines, upon  
30 request by the applicant, the State Department of Energy may waive all or part of an appli-  
31 cation fee for the loan and may waive all or part of the project initiation fee or add all or  
32 part of the project initiation fee to the principal of an issued loan.

33  
34 **FEES**

35  
36 **SECTION 31.** Except as provided in section 30 of this 2009 Act, an applicant for an energy  
37 efficiency and sustainable technology loan approved by the State Department of Energy shall  
38 pay the department a project initiation fee. The department may establish the fee amount  
39 by rule, not to exceed four percent of the approved loan amount. If the department does not  
40 establish the fee amount, the fee shall be two percent of the approved loan amount.

41  
42 **ON-BILL FINANCING**

43  
44 **SECTION 32.** (1) If an investor-owned utility serving a sustainable energy territory has  
45 established an on-bill financing system, an energy efficiency and sustainable technology loan

1 shall be repaid by on-bill financing unless the loan agreement specifies a different repayment  
2 mechanism.

3 (2) Unless the Public Utility Commission grants an investor-owned utility a waiver under  
4 subsection (4) of this section, the on-bill financing system of the utility must:

5 (a) Attach an assessment to the utility customer meter that serves the property bene-  
6 fitted by the energy efficiency and sustainable technology loan for which the on-bill financing  
7 is obtaining repayment;

8 (b) Enable a customer to make a single payment to satisfy the periodic utility charges  
9 and repayment on an energy efficiency and sustainable technology loan;

10 (c) Provide a clearly identifiable line item or separate statement in the utility bill that  
11 shows the energy efficiency and sustainable technology loan repayment amount; and

12 (d) Direct energy efficiency and sustainable technology loan repayment amounts collected  
13 by the utility to the appropriate sustainable energy project manager or to the Small Scale  
14 Local Energy Project Loan Fund, Energy Project Bond Loan Fund or Energy Project Sup-  
15 plemental Fund, as instructed by the State Department of Energy.

16 (3) The Public Utility Commission may adopt rules for the use of on-bill financing by  
17 investor-owned utilities. The rules may include, but need not be limited to, rules regarding  
18 nonpayment, insufficient payment, delinquency notices, meter charge transfers, processing  
19 fees, late fees and refunds.

20 (4) The commission may waive the requirement that an investor-owned utility provide  
21 on-bill financing for one or more loans if the commission determines that providing the on-  
22 bill financing is not practicable. If the commission grants a utility a waiver under this sub-  
23 section, the utility shall bill the affected customers for loan repayment separately from any  
24 utility customer meter billings.

25 **SECTION 33.** (1) If a customer-owned utility serving a sustainable energy territory has  
26 established an on-bill financing system, an energy efficiency and sustainable technology loan  
27 shall be repaid by on-bill financing unless the loan agreement specifies a different repayment  
28 mechanism.

29 (2) Unless the Director of the State Department of Energy, after consultation with the  
30 Bonneville Power Administration, grants a customer-owned utility a waiver under subsection  
31 (4) of this section, the on-bill financing system of the utility must:

32 (a) Attach an assessment to the utility customer meter that serves the property bene-  
33 fitted by the energy efficiency and sustainable technology loan for which the on-bill financing  
34 is obtaining repayment;

35 (b) Enable a customer to make a single payment to satisfy the periodic utility charges  
36 and repayment on an energy efficiency and sustainable technology loan;

37 (c) Provide a clearly identifiable line item or separate statement in the utility bill that  
38 shows the energy efficiency and sustainable technology loan repayment amount; and

39 (d) Direct energy efficiency and sustainable technology loan repayment amounts collected  
40 by the utility to the appropriate sustainable energy project manager or to the Small Scale  
41 Local Energy Project Loan Fund, Energy Project Bond Loan Fund or Energy Project Sup-  
42 plemental Fund, as instructed by the State Department of Energy.

43 (3) The director, after consultation with the Bonneville Power Administration, may adopt  
44 rules for the use of on-bill financing by customer-owned utilities. The rules may include, but  
45 need not be limited to, rules regarding nonpayment, insufficient payment, delinquency no-

1 tices, meter charge transfers, processing fees, late fees and refunds.

2 (4) The director may waive the requirement that a customer-owned utility provide on-bill  
3 financing for one or more loans if the director determines, after consultation with the  
4 Bonneville Power Administration, that providing the on-bill financing is not practicable. If  
5 the director grants a waiver under this subsection, the utility shall bill the affected cus-  
6 tomers for loan repayment separately from any utility customer account or customer meter  
7 billings.

8 **SECTION 34.** (1) If a customer is served by both an electric utility and a gas utility that  
9 both have an on-bill financing system, a loan repaid through on-bill financing shall be repaid  
10 through the on-bill financing system of the utility that supplies the customer's primary  
11 source of heat for the property.

12 (2) A utility that operates an on-bill financing system may disclose to any person the  
13 monthly repayment amount, remaining term and repayment status for an energy efficiency  
14 and sustainable technology loan benefiting a property.

15 **SECTION 35.** (1) If a utility incurs reasonable costs in implementing an on-bill financing  
16 system that exceed any moneys received by the utility to assist in the implementation, the  
17 costs are legitimate costs for ratemaking purposes.

18 (2) A utility customer meter assessment may include, but need not be limited to, the  
19 amount of the loan, interest on the loan and the cost incurred by the State Department of  
20 Energy to implement, promote and administer the energy efficiency and sustainable tech-  
21 nology loan program. The debt represented by an assessment on the utility customer meter  
22 runs with the property benefited by the energy efficiency and sustainable technology loan  
23 and may be levied as an assessment against the utility customer meter of a subsequent  
24 owner of the property.

25 (3) The amount of an energy efficiency and sustainable technology loan repayment and  
26 any moneys received by a utility to assist in the implementation of an on-bill financing sys-  
27 tem are not revenue for purposes of calculating franchise fees or other regulatory assess-  
28 ments.

29  
30 **ASSESSMENTS AND LIENS**  
31

32 **SECTION 36.** (1) The State Department of Energy may develop repayment or security  
33 mechanisms for energy efficiency and sustainable technology loans that the department de-  
34 termines will achieve the goals and requirements of the energy efficiency and sustainable  
35 technology loan program and that provide adequate security for repayment of the loans.

36 (2) The department may issue assessments and liens against a utility customer meter or  
37 against real property for the repayment of amounts owed under an energy efficiency and  
38 sustainable technology loan that benefits a property. The assessment and lien amounts may  
39 include the amount of any moneys borrowed through the energy efficiency and sustainable  
40 technology loan program and interest payments on those loan moneys that are related to  
41 underlying bonds or other sources of capital.

42 (3) An assessment may be levied under this section only against a property for which the  
43 property owner has agreed to the installation of a base efficiency package or optional pack-  
44 age benefiting the property. For purposes of calculating maximum allowable taxes for the  
45 property under section 11b, Article XI of the Oregon Constitution, an assessment against

1 real property shall be treated as an incurred charge.

2 (4) A utility customer meter assessment applies for utilities supplied to the benefited  
3 property regardless of any changes in ownership or other interests in the benefited property.  
4 The assessment is valid for the term of an energy efficiency and sustainable technology loan  
5 agreement or until paid.

6 **SECTION 37.** (1) Upon the State Department of Energy or a sustainable energy project  
7 manager executing an energy efficiency and sustainable technology loan agreement, the de-  
8 partment or the project manager shall record a lien against the benefited property in the  
9 county deed records. The lien information recorded in the deed records must include, but  
10 need not be limited to, a description of the property benefited, the name of the property  
11 owner and the amount of the lien.

12 (2) The county deed record shall stand as a lien docket in favor of the state against the  
13 benefited property, until paid, for the following:

14 (a) The principal of the energy efficiency and sustainable technology loan docketed in the  
15 lien record;

16 (b) Interest on the loan principal at the rate contained in the loan agreement; and

17 (c) Fees, costs related to loan collection and any penalties imposed by the department.

18 (3) A lien described in this section attaches to the property and is perfected upon re-  
19 cording in the county deed records. Except as provided in this subsection, the lien is superior  
20 in right to any subsequent lien, mortgage or encumbrance against the property. The lien  
21 described in this section is subordinate to, and does not have priority over:

22 (a) A property tax lien on the property; or

23 (b) A lien created by a mortgage or trust deed given to finance or refinance the purchase  
24 of the property.

25 (4) Unless the loan agreement parties agree to extend the duration of the lien, if an  
26 action to foreclose the lien is not filed as provided in ORS chapter 88 within five years after  
27 the date the lien is perfected the lien shall expire.

28 (5) In an action to foreclose a lien created under this section, the court shall include in  
29 the lien amount all costs for filing and recording the lien. The court shall award a prevailing  
30 party in the foreclosure action reasonable attorney fees and costs.

31 **SECTION 38.** (1) A person that acquired an interest in a property in good faith and for  
32 a valuable consideration before the date a lien created under section 37 of this 2009 Act at-  
33 tached to the property may avoid foreclosure of the lien by paying any delinquencies and  
34 collection costs on the underlying utility customer meter assessment and assuming normal  
35 payments in compliance with the energy efficiency and sustainable technology loan agree-  
36 ment repayment provisions.

37 (2) A lien created under section 37 of this 2009 Act is a judgment for purposes of ORS  
38 93.645.

39 **SECTION 39.** (1) The county in which an energy efficiency and sustainable technology  
40 loan is docketed shall include the amount of an energy efficiency and sustainable technology  
41 loan assessment for a property as an incurred charge on the property tax bill for that  
42 property. The county shall forward any amounts collected on the assessments to the State  
43 Department of Energy, along with information identifying the properties for which the  
44 amounts were collected. The moneys shall be directed to the State Treasury for deposit to  
45 the Small Scale Local Energy Project Loan Fund, Energy Project Bond Loan Fund or Energy



1 **Project Supplemental Fund as instructed by the State Department of Energy.**

2 **(2) A county may place on the property tax bill as an incurred charge a reasonable fee**  
3 **for collecting and forwarding the assessments to the department. The fee amount may not**  
4 **exceed the actual cost to the county of providing the services. The fee amount is subject to**  
5 **prior approval by the department.**

6 **SECTION 40. A person entering into an agreement to sell, rent, lease or otherwise confer**  
7 **a right in the person's real property that is benefited by an energy efficiency and sustainable**  
8 **technology loan for which a utility customer meter assessment applies or for which a lien**  
9 **or other repayment or security mechanism described under section 36 or 37 of this 2009 Act**  
10 **exists shall, prior to any party signing the agreement, give notice of the utility customer**  
11 **meter assessment, lien or mechanism, and of any on-bill financing obligation affecting the**  
12 **property, to the other parties to the agreement.**

13  
14 **LOAN OFFSET GRANTS**  
15

16 **SECTION 41. (1) The State Department of Energy may use loan offset grant moneys for**  
17 **any of the following if, in the absence of the grant moneys, a utility customer would incur**  
18 **higher overall monthly costs when energy costs and small scale local energy project costs**  
19 **are considered:**

20 **(a) Offsetting the cost of an approved small scale local energy project.**

21 **(b) Reducing the loan repayment burden of an energy efficiency and sustainable tech-**  
22 **nology loan borrower.**

23 **(c) Creating a financial incentive for energy efficiency, renewable energy and energy**  
24 **conservation projects that may not result in significant energy cost savings.**

25 **(d) Providing support, in coordination with the Oregon Innovation Council or other**  
26 **sustainable energy technology research bodies or companies, for small scale local energy**  
27 **projects that use nontraditional technology.**

28 **(2) If a small scale local energy program loan applicant is a person with an income lim-**  
29 **ited as described in section 30 (2) of this 2009 Act, the department may use loan offset grant**  
30 **moneys for an optional package or to offset reasonable costs associated with structural im-**  
31 **provements that are not included in the base efficiency package, but that are necessary to**  
32 **the proper installation of the base efficiency package.**

33 **(3) The Director of the State Department of Energy may investigate and test the feasi-**  
34 **bility of using mechanisms other than the disbursing of Loan Offset Grant Fund moneys for**  
35 **accomplishing the purposes described in subsection (1) of this section.**

36  
37 **APPRENTICESHIP AND JOB TRAINING**  
38

39 **SECTION 42. (1) The State Department of Energy shall collaborate with the State**  
40 **Workforce Investment Board and other interested parties to identify opportunities for ap-**  
41 **prenticeship and for job training and development that would further the goals of sections 2**  
42 **to 42 of this 2009 Act and provide valuable skills to Oregon workers.**

43 **(2) In adopting any rules for carrying out apprenticeship and job training and develop-**  
44 **ment under the energy efficiency and sustainable technology loan program, the department**  
45 **and the board shall consult with representatives from:**

- 1 (a) State workforce programs;
- 2 (b) Organized labor;
- 3 (c) The State Apprenticeship and Training Council;
- 4 (d) The Bureau of Labor and Industries; and
- 5 (e) Consumer advocacy organizations.

6 (3) In addition to consulting with entities described in subsection (2) of this section, in  
7 adopting any rules for carrying out apprenticeship and job training and development under  
8 the energy efficiency and sustainable technology loan program, the department and the board  
9 may seek input from organizations representing construction contractors.

10  
11 **PILOT PROGRAMS**

12  
13 **SECTION 43.** (1) The Director of the State Department of Energy shall initiate the energy  
14 efficiency and sustainable technology loan program described in sections 2 to 42 of this 2009  
15 Act in phases through a series of pilot programs, limiting the geographic availability and  
16 other features of the program as the director considers necessary to facilitate an orderly and  
17 successful implementation of the program. The director shall initiate the program as quickly  
18 as the director considers practicable to achieve the benefits of the program while ensuring  
19 high participant satisfaction and program integrity.

20 (2) The director shall endeavor to establish pilot programs initially in sustainable energy  
21 territories that reflect a variety of population densities. The director may give preference to  
22 territories that request to participate in the pilot program.

23 **SECTION 44.** (1) The Public Purpose Fund Administrator shall initiate pilot programs in  
24 investor-owned utility service territories to demonstrate the feasibility of innovative ap-  
25 proaches to financing and installing energy efficiency and sustainable technology measures  
26 as described in sections 2 to 42 of this 2009 Act in residences and commercial buildings in  
27 urban and rural communities. The pilot programs shall test:

28 (a) The effectiveness of direct contact, door-to-door, media outlet and other community-  
29 focused outreach and solicitation strategies designed to provide potential energy efficiency  
30 and sustainable technology loan program participants with information about energy effi-  
31 ciency and renewable energy opportunities under the program and under similar local, state  
32 and federal incentive programs;

33 (b) The costs and benefits of taking alternative approaches to energy audits, including  
34 but not limited to, the identification of measures that are cost-effective and time-effective,  
35 take advantage of economies of scale and produce results that are accurate and are  
36 replicable for equivalent base efficiency packages;

37 (c) Ways to assist program participants in understanding and accessing small scale local  
38 energy project funding and making informed decisions in selecting appropriate energy effi-  
39 ciency and renewable energy projects;

40 (d) The effectiveness of various levels of loan offset grants as an incentive to program  
41 participation;

42 (e) The effectiveness of on-billing financing and other long-term financing measures that  
43 allow participants to secure and repay loans through a voluntary assessment on a utility  
44 customer meter or on real property or through another repayment and security mechanism;

45 (f) The feasibility and effectiveness of coordinated installations of residential and com-

1 commercial structure energy packages overseen by a single project manager;

2 (g) The manner in which the program interacts or conflicts with existing consumer-  
3 owned utility loan programs and other utility and regional energy efficiency programs;

4 (h) The relative demand for loan program services among residential and commercial  
5 properties and between low-income and other households, and factors that influence that  
6 relative demand; and

7 (i) Other strategies and measures identified by the State Department of Energy or the  
8 Public Utility Commission.

9 (2) The Public Purpose Fund Administrator shall report to the commission no later than  
10 October 1, 2010. The administrator shall provide a copy of the report to the State Department  
11 of Energy. The report shall evaluate the effectiveness of the pilot programs, and shall in-  
12 clude an evaluation of the extent to which various strategies and measures:

13 (a) Help to produce significantly higher rates of energy savings or renewable energy  
14 production;

15 (b) Increase participation in energy efficiency and renewable energy programs;

16 (c) Increase the number of energy efficiency and renewable energy measures installed  
17 per building; and

18 (d) Reduce the administrative cost per building of providing energy efficiency and  
19 renewable energy services.

20 (3) The commission shall review the report and:

21 (a) Order full implementation of the successful energy efficiency and sustainable tech-  
22 nology loan program measures and strategies in investor-owned utility service territories;  
23 or

24 (b) Order the partial implementation of energy efficiency and sustainable technology loan  
25 program measures and strategies and make recommendations to the Legislative Assembly  
26 for appropriate statutory modification of the program.

27 (4) When carrying out pilot programs under this section, the administrator and  
28 sustainable energy project managers shall cooperate and coordinate their efforts with the  
29 efforts of local utilities and encourage utilities to promote energy efficiency and renewable  
30 energy and to engage in outreach and promotional efforts to inform customers of the utility  
31 about the energy efficiency and sustainable technology loan program.

32 **SECTION 45.** (1) The Director of the State Department of Energy shall consult with the  
33 Bonneville Power Administration, consumer-owned utilities and other interested parties to  
34 develop a pilot program for energy efficiency and sustainable technology as described in  
35 sections 2 to 42 of this 2009 Act for use in the consumer-owned utility service territories.  
36 The director shall solicit one or more consumer-owned utilities to act as sustainable energy  
37 project managers for the pilot program. The director shall solicit utilities to act as project  
38 managers for the developed pilot program no later than 180 days after the effective date of  
39 this 2009 Act.

40 (2) The pilot program shall test:

41 (a) The effectiveness of direct contact, door-to-door, media outlet and other community-  
42 focused outreach and solicitation strategies designed to provide potential energy efficiency  
43 and sustainable technology loan program participants with information about energy effi-  
44 ciency and renewable energy opportunities under the program and under similar local, state  
45 and federal incentive programs;

1 (b) The costs and benefits of taking alternative approaches to energy audits, including  
2 but not limited to identifying measures that are cost-effective and time-effective, taking ad-  
3 vantage of economies of scale and producing results that are accurate and are replicable for  
4 equivalent base efficiency packages;

5 (c) Ways to assist program participants in understanding and accessing small scale local  
6 energy project funding and making informed decisions in selecting appropriate energy effi-  
7 ciency and renewable energy projects;

8 (d) The effectiveness of various levels of loan offset grants as incentives to program  
9 participation;

10 (e) The effectiveness of on-billing financing and other long-term financing measures that  
11 allow participants to secure and repay loans through a voluntary assessment on a utility  
12 customer meter or on real property or through another repayment and security mechanism;

13 (f) The feasibility and effectiveness of coordinated installations of residential and com-  
14 mercial structure energy packages overseen by a single project manager;

15 (g) The manner in which the program interacts or conflicts with existing consumer-  
16 owned utility loan programs and other utility and regional energy efficiency programs;

17 (h) The relative demand for loan program services among residential and commercial  
18 properties and between low-income and other households, and factors that influence that  
19 relative demand; and

20 (i) Other strategies and measures identified by the director in consultation with the  
21 Bonneville Power Administration.

22 (3) The sustainable energy project managers in the consumer-owned utility service areas  
23 shall report to the director no later than October 1, 2010. The report shall evaluate the ef-  
24 fectiveness of the pilot program and shall include an evaluation of the extent to which vari-  
25 ous program strategies and measures:

26 (a) Help to produce significantly higher rates of energy savings or renewable energy  
27 production;

28 (b) Increase participation in energy efficiency and renewable energy programs;

29 (c) Increase the number of energy efficiency and renewable energy measures installed  
30 per building; and

31 (d) Reduce the administrative cost per building of providing energy efficiency and  
32 renewable energy services.

33 (4) When carrying out pilot programs under this section, the director and the sustainable  
34 energy project managers shall cooperate and coordinate their efforts with the efforts of local  
35 utilities and encourage utilities to promote energy efficiency and renewable energy and to  
36 engage in outreach and promotional efforts to inform customers of the utility about the en-  
37 ergy efficiency and sustainable technology loan program.

38 **SECTION 46.** A contractor may construct small scale local energy projects financed un-  
39 der a pilot program described in sections 43 to 45 of this 2009 Act without being certified  
40 under section 53 of this 2009 Act if:

41 (1) No certified contractor is available to construct the project;

42 (2) The Public Purpose Fund Administrator or the sustainable energy project manager  
43 has approved allowing the contractor to implement projects financed under the energy effi-  
44 ciency and sustainable technology loan program; and

45 (3) The contractor pays wages to employees used for energy efficiency and sustainable

1 technology loan program projects at a rate equal to at least 180 percent of the state mini-  
2 mum wage or, if the project is for a commercial structure or is subject to prevailing wage  
3 laws, the prevailing wage for each trade or occupation employed. As used in this subsection,  
4 “commercial structure” means a structure other than a residential structure as defined in  
5 ORS 701.005.

6 **SECTION 47.** (1) Notwithstanding sections 29, 32, 33, 35, 36, 38 and 40 of this 2009 Act,  
7 an energy efficiency and sustainable technology loan issued before January 1, 2011, may be  
8 secured initially through an assessment on the utility customer account.

9 (2) If an energy efficiency and sustainable technology loan is initially secured by an as-  
10 sessment on a utility customer account, and the loan is not paid in full before January 1,  
11 2011, the assessment on the utility customer account shall be replaced as security for the  
12 loan on January 1, 2011, by an assessment on the utility meter for the property benefitted  
13 by the project financed by the loan. An application for an energy efficiency and sustainable  
14 technology loan that is to be initially secured by a utility customer account assessment shall  
15 provide for the utility customer account assessment to be replaced as security for the loan  
16 on January 1, 2011, by a utility meter assessment on the property to be benefitted by the  
17 project financed by the loan.

18 (3) The State Department of Energy may issue assessments against a utility customer  
19 account for the repayment of amounts owed under an energy efficiency and sustainable  
20 technology loan described in this section. The assessment amount may include the amount  
21 of any moneys borrowed through the energy efficiency and sustainable technology loan pro-  
22 gram and interest payments on those loan moneys that are related to underlying bonds or  
23 other sources of capital. The assessment is valid until replaced by a utility meter assessment  
24 or until paid.

25 (4) If there is a change in ownership or other interest in benefited property described in  
26 this section before January 1, 2011, and the loan is not paid off in connection with the change  
27 in ownership or interest, a utility customer account assessment shall attach to the utility  
28 customer account of a person succeeding to the ownership or interest in the benefited  
29 property and shall be replaced on January 1, 2011, by a utility meter assessment.

30 (5) For purposes of calculating the period of time that a utility meter assessment de-  
31 scribed in this section may be imposed or may be a basis for lien foreclosure, the utility  
32 meter assessment shall be considered to have been created on the issue date for the loan  
33 secured by the assessment.

34  
35 **MISCELLANEOUS PROVISIONS**  
36

37 **SECTION 48.** The cost of adopting rules under ORS 470.140 to carry out sections 2 to 42  
38 of this 2009 Act may be paid from the Loan Offset Grant Fund or Energy Revenue Bond  
39 Fund, or may be paid from the Small Scale Local Energy Project Administration and Bond  
40 Sinking Fund created under ORS 470.300 if:

41 (1) A cash flow projection for the sinking fund shows that, for the term of the sinking  
42 fund bonds outstanding at the time the Director of the State Department of Energy transfers  
43 the moneys, remaining moneys in the sinking fund, together with expected loan contract  
44 payments and fund earnings, will improve the financial basis of the program and will con-  
45 tinue to be adequate to pay bond principal, interest, redemption premiums, if any, and ad-

1    **ministration costs; and**

2        **(2) The transfer will not create the need for issuance of any bonds.**

3        **SECTION 49. The State Department of Energy shall adopt rules establishing contractor**  
4 **certification standards required under section 13 of this 2009 Act no later than December 1,**  
5 **2010. The Construction Contractors Board shall implement a certification system for con-**  
6 **tractors under section 53 of this 2009 Act no later than January 1, 2011.**

7        **SECTION 50. (1) An investor-owned utility shall implement an on-bill financing system**  
8 **that complies with section 33 of this 2009 Act no later than January 1, 2011.**

9        **(2) If the service territory of an investor-owned utility is a sustainable energy territory**  
10 **that is established before January 1, 2011, except as provided in this subsection the utility**  
11 **shall implement an on-bill financing system no later than 30 days after the sustainable en-**  
12 **ergy territory is established. If the cost of implementing the on-bill financing system would**  
13 **exceed \$100,000, for the period prior to January 1, 2011, a utility described in this subsection**  
14 **may bill a customer for energy efficiency and sustainable technology loan repayment sepa-**  
15 **rately from the utility customer account or customer meter billing.**

16        **SECTION 51. Sections 43, 44, 45, 46 and 47 of this 2009 Act are repealed January 2, 2016.**

17        **SECTION 52. Sections 53 and 54 of this 2009 Act are added to and made a part of ORS**  
18 **chapter 701.**

19        **SECTION 53. (1) A licensed contractor that possesses an appropriate endorsement may**  
20 **apply to the Construction Contractors Board for certification to participate in the con-**  
21 **struction of small scale local energy projects financed through the energy efficiency and**  
22 **sustainable technology loan program. The board may issue the certification to a contractor**  
23 **that meets the standards established by the State Department of Energy under section 13**  
24 **of this 2009 Act. The board may charge a reasonable fee for certifying a contractor.**

25        **(2) If the board receives information that the contractor has failed to comply with the**  
26 **certification standards established by the department or has violated a wage and hours**  
27 **standard described in section 54 of this 2009 Act, the board shall hold a hearing and may**  
28 **revoke the certification.**

29        **(3) The board shall give the department notice of the issuance or revocation of a certif-**  
30 **ication under this section.**

31        **SECTION 54. (1) If a project financed under the energy efficiency and sustainable tech-**  
32 **nology loan program is to be constructed for a commercial structure, the State Department**  
33 **of Energy shall require that the certified contractor pay the employees used for the project**  
34 **at the prevailing wage rate determined by the Commissioner of the Bureau of Labor and**  
35 **Industries for each trade or occupation employed. If a project is not to be constructed for a**  
36 **commercial structure, but the department is uncertain whether prevailing wage require-**  
37 **ments apply to the project, the department shall consult with the Bureau of Labor and In-**  
38 **dustries. As used in this subsection, “commercial structure” means a structure that is not**  
39 **a residential structure.**

40        **(2) If the Construction Contractors Board receives a complaint that a contractor certi-**  
41 **fied under section 53 of this 2009 Act has failed to comply with a wage and hours standard**  
42 **for work on a project financed under the energy efficiency and sustainable technology loan**  
43 **program, the board shall forward the complaint to the Bureau of Labor and Industries. If the**  
44 **bureau determines that the contractor has violated a wage and hours standard for work on**  
45 **a project financed under the loan program, the bureau shall notify the board of the deter-**

1 **mination.**

2 **SECTION 55. Section 14 of this 2009 Act becomes operative January 1, 2011.**

3  
4 **AMENDMENTS TO OREGON REVISED STATUTES**

5  
6 **SECTION 56. ORS 470.050 is amended to read:**

7 470.050. As used in this chapter, unless the context requires otherwise:

8 (1) "Alternative fuel project" means:

9 (a) A fleet of vehicles that are modified or acquired directly from a factory and that:

10 (A) Use an alternative fuel including electricity, ethanol, gasohol with at least 10 percent de-  
11 naturated alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other  
12 fuel approved by the Director of the State Department of Energy; and

13 (B) Produce lower or equivalent exhaust emissions or are more energy efficient than vehicles  
14 fueled by gasoline; and

15 (b) A facility, including a fueling station, necessary to operate an alternative fuel vehicle fleet.

16 (2) "Applicant" means an applicant for a **loan to construct a** small scale local energy project  
17 [*loan*].

18 (3) "**Base efficiency package**" means the **package of energy efficiency upgrades or**  
19 **renewable energy projects for a property that, when energy savings, project repayment costs,**  
20 **tax or other incentives, loan offset grants and other relevant economic factors are consid-**  
21 **ered, is estimated to not increase the utility bill of the customer over the loan repayment**  
22 **term.**

23 [(3)] (4) "Committee" means the Small Scale Local Energy Project Advisory Committee created  
24 under ORS 470.070.

25 [(4)] (5) "Cooperative" means a cooperative corporation organized under ORS chapter 62.

26 [(5)] (6) "Director" means the Director of the State Department of Energy appointed under ORS  
27 469.040.

28 [(6)] (7) "Eligible federal agency" means a federal agency or public corporation created by the  
29 federal government that proposes to use a loan for a small scale **local** energy project. "Eligible  
30 federal agency" does not include a federal agency or public corporation created by the federal  
31 government that proposes to use a loan for a small scale **local** energy project to generate electricity  
32 for sale.

33 [(7)] (8) "Eligible state agency" means a state officer, board, commission, department, institution,  
34 branch or agency of the state whose costs are paid wholly or in part from funds held in the State  
35 Treasury.

36 (9) "**Energy efficiency and sustainable technology loan**" means a loan for a small scale  
37 **local energy project that the participant voluntarily elects to secure and repay by means of:**

38 (a) **A charge on the participant's utility bill;**

39 (b) **A real property assessment; or**

40 (c) **A repayment or security mechanism developed by the State Department of Energy**  
41 **under section 36 of this 2009 Act.**

42 (10) "**Energy Project Bond Loan Fund**" means the fund established under section 17 of  
43 **this 2009 Act.**

44 (11) "**Energy Project Supplemental Fund**" means the fund established under section 15  
45 **of this 2009 Act.**

1       **(12) “Energy Revenue Bond Fund” means the fund established under section 18 of this**  
2 **2009 Act.**

3       **(13) “Energy savings projection” means an examination of the energy performance and**  
4 **site 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**  
7 **sustainable energy project manager believes to be feasible for the site.**

8       [(8)] **(14) “Loan” includes the purchase or other acquisition of evidence of indebtedness and**  
9 **money used for the purchase or other acquisition of evidence of indebtedness.**

10       [(9)] **(15) “Loan contract” means the evidence of indebtedness and all instruments used in the**  
11 **purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or**  
12 **municipal corporations that are tax exempt entities, a loan contract may include a lease purchase**  
13 **agreement with respect to personal property.**

14       [(10) *“Loan fund” means the Small Scale Local Energy Project Loan Fund created by Article XI-J*  
15 *of the Oregon Constitution.*]

16       **(16) “Loan offset grant” means moneys from the Loan Offset Grant Fund that are used**  
17 **to help offset the initial project costs or loan payments for energy efficiency, renewable en-**  
18 **ergy and energy conservation projects.**

19       **(17) “Loan Offset Grant Fund” means the fund established under section 16 of this 2009**  
20 **Act.**

21       [(11)] **(18) “Municipal corporation” has the meaning given in ORS 297.405 and also includes any**  
22 **Indian tribe or authorized Indian tribal organization or any combination of two or more of these**  
23 **tribes or organizations acting jointly in connection with a small scale local energy project.**

24       **(19) “On-bill financing” means a mechanism for collecting the repayment of an energy**  
25 **efficiency and sustainable technology loan through a utility customer meter assessment sent**  
26 **to a utility customer in conjunction with utility service billing.**

27       **(20) “Optional package” means measures for promoting energy efficiency or the use of**  
28 **renewable energy:**

29       **(a) That are in addition to the measures described in the customer’s base efficiency**  
30 **package;**

31       **(b) For which a customer has the ability to repay; and**

32       **(c) That the sustainable energy project manager believes to be feasible for the site.**

33       [(12)] **(21) “Oregon business” means a sole proprietorship, partnership, company, cooperative,**  
34 **corporation or other form of business entity that is organized or authorized to do business under**  
35 **Oregon law for profit.**

36       **(22) “Public Purpose Fund Administrator” means the entity designated by the Public**  
37 **Utility Commission to administer moneys collected by a company through the public purpose**  
38 **charge described under ORS 757.612.**

39       [(13)] **(23) “Recycling project” means a facility or equipment that converts waste into a new and**  
40 **usable product.**

41       [(14)] **(24) “Small business” means:**

42       **(a) An Oregon business that is:**

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

44       **(B) An industrial or manufacturing business employing 200 or fewer persons at the time the loan**  
45 **is made; or**



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

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

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

7 [(15) “Sinking fund” means the Small Scale Local Energy Project Administration and Bond Sink-  
8 ing Fund created in ORS 470.300.]

9 **(25) “Small scale local energy program loan” means a loan for a small scale local energy  
10 project that is not designated as an energy efficiency and sustainable technology loan.**

11 [(16)] **(26) “Small scale local energy project” means:**

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

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

20 (c) A recycling project;

21 (d) An alternative fuel project;

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

25 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility  
26 that directly or indirectly reduces the amount of energy needed for the construction and operation  
27 of the facility and that meets the sustainable building practices standard established by the State  
28 Department of Energy by rule; or

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

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

34 **(27) “Small Scale Local Energy Project Administration and Bond Sinking Fund” means  
35 the fund created under ORS 470.300.**

36 **(28) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Ar-  
37 ticle XI-J of the Oregon Constitution and appropriated to the State Department of Energy  
38 under ORS 470.130.**

39 **(29) “Sustainable energy project manager” means the organization responsible for pro-  
40 moting the energy efficiency and sustainable technology loan program and related incentives  
41 for energy efficiency and renewable energy at the neighborhood and community level.**

42 **(30) “Sustainable energy territory” means the geographic service area that a sustainable  
43 energy project manager is responsible for serving.**

44 **(31) “Utility customer meter assessment” means an amount charged to a utility cus-  
45 tomer meter in conjunction with a utility bill as a mechanism for repayment of an energy**

1 **efficiency and sustainable technology loan.**

2 **SECTION 57.** ORS 470.060 is amended to read:

3 470.060. [(1) Any individual who is a resident of Oregon, an Oregon business, a nonprofit or public  
4 cooperative, a nonprofit corporation, an eligible federal agency, an eligible state agency, a public cor-  
5 poration created by the state, an intergovernmental entity created pursuant to an intergovernmental  
6 agreement under ORS 190.003 to 190.130, or a municipal corporation may file with the State Depart-  
7 ment of Energy an application to obtain loan funds for a small scale local energy project as provided  
8 in this chapter.]

9 (1) **The following may file with the State Department of Energy an application to obtain**  
10 **moneys for a small scale local energy project as provided in this chapter:**

11 (a) **An individual who is an Oregon resident;**

12 (b) **An Oregon business;**

13 (c) **A nonprofit or public cooperative;**

14 (d) **A nonprofit corporation;**

15 (e) **An eligible federal agency;**

16 (f) **An eligible state agency;**

17 (g) **A public corporation created by the state;**

18 (h) **An intergovernmental entity created pursuant to an intergovernmental agreement**  
19 **under ORS 190.003 to 190.130;**

20 (i) **A special district;**

21 (j) **A local improvement district; or**

22 (k) **A municipal corporation.**

23 (2) Applications to obtain [*funds*] **financing** for a small scale local energy project shall be made  
24 in writing on a form prescribed by the State Department of Energy. Applications submitted to the  
25 State Department of Energy shall:

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

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

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

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

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

37 (f) Describe the source of [*funds*] **moneys** for repayment of the loan applied for.

38 (3) **If the application is for a loan other than an energy efficiency and sustainable tech-**  
39 **nology loan to an individual,** a fee of one-tenth of one percent of the amount of the loan applied  
40 for or \$2,500, whichever is less, shall be submitted with each application. In addition, the applicant  
41 may be required to pay for costs incurred in connection with the application that exceed the appli-  
42 cation fee and which the Director of the State Department of Energy determines are incurred solely  
43 in connection with processing the application. The applicant shall be advised of any additional costs  
44 the applicant must pay before the costs are incurred.

45 **SECTION 58.** ORS 470.070 is amended to read:

1 470.070. (1) The Director of the State Department of Energy shall appoint a Small Scale Local  
 2 Energy Project Advisory Committee. **[to] Except as provided in this subsection, the committee**  
 3 **shall** review applications made under ORS 470.060 and rules adopted under ORS 470.080, and make  
 4 recommendations *[thereon]* **regarding those applications** to the director. **The review of an appli-**  
 5 **cation for an energy efficiency and sustainable technology loan of less than \$500,000, other**  
 6 **than a loan to a sustainable energy project manager under section 26 of this 2009 Act, shall**  
 7 **be reviewed by the director or a delegatee of the director.**

8 (2) ~~[Seven]~~ **Nine** members shall be appointed to the Small Scale Local Energy Project Advisory  
 9 Committee. Each member shall be appointed to serve a two-year term, commencing on the date of  
 10 appointment, and until a successor is appointed and qualified. The members shall represent the in-  
 11 terest of the citizens of this state and shall be knowledgeable in the areas of small scale energy  
 12 technology, natural resource development, environmental protection, finance, agriculture, local gov-  
 13 ernment operations and utility operations. At least three members shall reside outside the  
 14 Willamette Valley.

15 (3) The committee shall elect its own presiding officer, adopt rules for its procedure and meet  
 16 on call of the presiding officer or a majority of the members. A majority of the members shall con-  
 17 stitute a quorum to do business. The director shall provide administrative facilities and services for  
 18 the committee.

19 (4) Members of the Small Scale Local Energy Project Advisory Committee shall be entitled to  
 20 expenses as provided by ORS 292.495.

21 **SECTION 59.** ORS 470.080 is amended to read:

22 470.080. (1) After consultation with the Small Scale Local Energy Project Advisory Committee,  
 23 the Director of the State Department of Energy shall establish by rule standards and criteria for  
 24 small scale local energy projects to be funded under the provisions of ORS 470.060 to 470.080 and  
 25 470.090. The standards and criteria shall operate to encourage diversity in projects funded, give  
 26 preference to the maximum extent practical to projects proposed by individuals and small busi-  
 27 nesses, ensure acceptability of environmental impacts and shall require consideration of the poten-  
 28 tial contribution of a project if developed at other suitable locations to meeting the energy needs  
 29 of this state. The standards and criteria shall give the least preference to projects proposed by an  
 30 eligible federal agency.

31 (2) All applications submitted under ORS 470.060 shall be reviewed by the State Department of  
 32 Energy. The department may request that the applicant submit additional information or revise the  
 33 application. The department shall:

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

36 (b) Recommend approval or denial of the loan application, and if approval is recommended in  
 37 what amount the loan should be made.

38 (3) After concluding its review, unless the application meets the criteria established by the  
 39 committee under subsection (4) of this section, the department shall refer the application and its  
 40 findings and recommendation to the committee for its review. The department shall notify the ap-  
 41 plicant of the date, time and place of any oral presentation to the committee on the application. The  
 42 committee shall review the application and the department's findings and recommendations and ad-  
 43 vise the director whether the proposed small scale local energy project meets the criteria estab-  
 44 lished by the director under subsection (1) of this section, whether the project should be financed  
 45 with moneys from the **Small Scale Local Energy Project** Loan Fund and in what amount the loan

1 should be made if approved.

2 (4) The committee may provide for direct referral of an application by the department to the  
3 director if the application meets criteria established by the committee.

4 **SECTION 60.** ORS 470.090 is amended to read:

5 470.090. (1) After consideration of the recommendation of the Small Scale Local Energy Project  
6 Advisory Committee or the State Department of Energy as provided by ORS 470.080, the Director  
7 of the State Department of Energy may approve or reject the financing of a small scale local energy  
8 project described in an application filed as provided in ORS 470.060, using moneys in the Small Scale  
9 Local Energy Project Loan Fund. Approval of a loan by the director shall include a certification  
10 of the amount of the loan.

11 (2) The director's approval of a loan for a small scale local energy project shall be based on a  
12 finding that:

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

15 (b) The proposed project is consistent with the preservation and enhancement of environmental  
16 quality;

17 (c) The proposed project is feasible and a reasonable risk from practical and economic stand-  
18 points;

19 (d) The plan for development of the project is satisfactory;

20 (e) The applicant is qualified, creditworthy and responsible and is willing and able to enter into  
21 a contract with the director for development and repayment as provided in ORS 470.150 **or section**  
22 **29 of this 2009 Act;**

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

25 (g) Moneys in the loan fund are or will be available for the development of the proposed small  
26 scale local energy project;

27 (h) A dwelling constructed before January 1, 1979, that will be served by a proposed space  
28 heating project is weatherized according to the standards established under ORS 469.155;

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

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

35 (3) The director shall notify the applicant and the presiding officer of the committee of the di-  
36 rector's action and of the reasons for that action. The director shall inform the applicant of the re-  
37 view procedure established in ORS 470.100.

38 **SECTION 61.** ORS 470.100 is amended to read:

39 470.100. (1) If the Director of the State Department of Energy rejects a loan application or ap-  
40 proves a loan amount different than that requested by the applicant, the applicant may request that  
41 the Small Scale Local Energy Project Advisory Committee review the director's action.

42 (2) The committee may review the director's action on its own motion or at the request of the  
43 applicant. A majority of the members of the committee may authorize the presiding officer of the  
44 committee to appeal the director's action to the Governor.

45 (3) An appeal of the director's action may be initiated by the presiding officer of the committee

1 no later than 45 days after the date the applicant receives notice of the director's action under ORS  
2 470.090.

3 (4) The decision of the Governor is final. If the Governor fails to act within 30 days after re-  
4 ceiving the appeal, the appeal shall be considered to be denied.

5 (5) Notwithstanding ORS chapter 183, a decision of the director or the Governor on an appli-  
6 cation for [*loan funds*] **financing** under ORS 470.090 or this section is not subject to judicial review.

7 **SECTION 62.** ORS 470.110 is amended to read:

8 470.110. The Director of the State Department of Energy may accept gifts of money or other  
9 property from any source, given for the purposes of ORS 470.050 to 470.120, 470.140 (1) and 470.150  
10 to 470.210. Money so received shall be paid into the **Small Scale Local Energy Project** Loan Fund.  
11 Money or other property so received shall be used for the purposes for which received.

12 **SECTION 63.** ORS 470.120 is amended to read:

13 470.120. If the applicant receives from any source other than the [*loan*] **Small Scale Local**  
14 **Energy Project Loan Fund, the Energy Project Supplemental Fund or the Energy Project**  
15 **Bond Loan Fund** any [*funds*] **moneys** to assist in the development of the project, the amount of the  
16 loan to the applicant from the [*loan*] **Small Scale Local Energy Project Loan Fund, Energy**  
17 **Project Supplemental Fund or Energy Project Bond Loan Fund** shall be limited to that amount  
18 necessary for the development of those portions of the project not funded by other sources.

19 **SECTION 64.** ORS 470.130 is amended to read:

20 470.130. All moneys in the **Small Scale Local Energy Project** Loan Fund created by Article  
21 XI-J of the Oregon Constitution are appropriated continuously to the State Department of Energy  
22 and shall be used for the purposes [*provided in*] **authorized under** this chapter.

23 **SECTION 65.** ORS 470.140 is amended to read:

24 470.140. (1) In accordance with the applicable provisions of ORS chapter 183, the Director of the  
25 State Department of Energy may adopt rules considered necessary to carry out the purposes of this  
26 chapter.

27 (2) The director shall submit to the Legislative Assembly and the Governor a biennial report  
28 of the transactions of the **Small Scale Local Energy Project** Loan Fund and the **Small Scale**  
29 **Local Energy Project Administration and Bond** Sinking Fund in such detail as will accurately  
30 indicate the condition of the funds.

31 **SECTION 66.** ORS 470.150 is amended to read:

32 470.150. Except as provided in ORS 470.155, if the Director of the State Department of Energy  
33 approves the financing of a small scale local energy project, the director, on behalf of the state, and  
34 the applicant may enter into a loan contract, secured by a first lien or by other good and sufficient  
35 collateral in the manner provided in ORS 470.155 to 470.210. **If the project is financed by an en-**  
36 **ergy efficiency and sustainable technology loan or by a small scale local energy program**  
37 **loan, the loan may also be secured by a utility customer meter assessment or a special**  
38 **property assessment as described in section 36 of this 2009 Act or by a combination of**  
39 **available security mechanisms.** For purposes of this section, the interest of the State Department  
40 of Energy under a lease purchase contract entered into with an eligible federal or state agency or  
41 a municipal corporation may constitute good and sufficient collateral. The contract:

42 (1) May provide that the director, on behalf of the state, must approve the arrangements made  
43 by the applicant for the development, operation and maintenance of the small scale local energy  
44 project, using moneys in the **Small Scale Local Energy Project** Loan Fund for the project devel-  
45 opment.

1 (2) Shall provide a plan for repayment by the applicant to the **Small Scale Local Energy**  
 2 **Project Administration and Bond** Sinking Fund of moneys borrowed from the loan fund used for  
 3 the development of the small scale local energy project and interest on those moneys used at a rate  
 4 of interest the director determines is necessary to provide adequate funds to recover the adminis-  
 5 trative expenses incurred [*under this chapter*] **in connection with the loan**. The director shall set  
 6 the interest rate at an incremental rate above the interest rate on the underlying bonds **in an**  
 7 **amount sufficient to recover all program-related costs including, but not limited to, imple-**  
 8 **mentation, financing, administration and promotional costs for the program**. The incremental  
 9 rate for projects proposed by an eligible federal agency shall be greater than the incremental rate  
 10 charged to any other governmental borrower. The repayment plan, among other matters:

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

19 (b) May provide for reasonable extension of the time for making any repayment in emergency  
 20 or hardship circumstances, if approved by the director.

21 (c) Shall provide for evidence of debt assurance of and security for repayment by the applicant  
 22 considered necessary or proper by the director.

23 (d) Shall set forth the period of loan **and of any related assessment**. [*which shall*] **A loan or**  
 24 **assessment period may** not exceed the usable life of the completed project, or 30 years from the  
 25 date of the loan contract, whichever is less.

26 (e) May set forth a procedure for formal declaration of default of payment by the director, in-  
 27 cluding formal notification of all relevant federal, state and local agencies; and further, a procedure  
 28 for notification of all relevant federal, state and local agencies that declaration of default has been  
 29 rescinded when appropriate.

30 (3) May include provisions satisfactory to the director for field inspection, the director to be the  
 31 final judge of completion of the project.

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

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

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

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

42 (a) **An irrevocable agreement by the applicant to place, in addition to any other loan se-**  
 43 **curity required under this chapter, a utility meter assessment, real property assessment or**  
 44 **a combination of security mechanisms on the property to be benefited by the project, for a**  
 45 **term of not less than five or more than 30 years as specified in the contract;**

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

4       **(c) A waiver stating that the applicant waives any jurisdictional or other irregularities**  
5 **or defects in:**

6           **(A) The energy efficiency and sustainable technology loan program;**

7           **(B) A small scale local energy project;**

8           **(C) The small scale local energy program loan provisions;**

9           **(D) This chapter; or**

10          **(E) Department rules that relate in any way to the utility meter assessment, real prop-**  
11 **erty assessment or other combination of security mechanisms or the requirement to satisfy**  
12 **the loan obligation;**

13       **(d) If the applicant is not the owner of the property to be burdened by the utility cus-**  
14 **tomers meter assessment or real property assessment, provision for participation by the**  
15 **property owner as a party to the contract or a notarized authorization by the owner for the**  
16 **assessment; and**

17       **(e) A description of any other conditions required by the department.**

18       **SECTION 67.** ORS 470.160 is amended to read:

19       470.160. If the Director of the State Department of Energy approves a loan for a small scale  
20 local energy project, the State Treasurer shall pay moneys for such project from the **Small Scale**  
21 **Local Energy Project Loan Fund or Energy Project Revenue Bond Loan Fund** in accordance  
22 with the terms of the loan contract, as prescribed by the director.

23       **SECTION 68.** ORS 470.170 is amended to read:

24       470.170. (1) When a loan is made under this chapter to an applicant other than a municipal  
25 corporation, the loan shall be secured pursuant to a mortgage, trust deed, security agreement,  
26 pledge, assignment or similar instrument, by a security interest or lien on real or personal property  
27 in the full amount of the loan or as the Director of the State Department of Energy shall require  
28 for adequate security, including but not limited to long-term leasehold interests or equitable inter-  
29 ests in real property or personal property. **If the loan is an energy efficiency and sustainable**  
30 **technology loan, the loan may also be secured by a utility customer meter assessment, an**  
31 **assessment on real property or repayment or security mechanisms developed under section**  
32 **36 of this 2009 Act.** In lieu of, or in addition to, any of the collateral otherwise described in this  
33 subsection, the applicant may secure the loan by providing credit enhancement, including but not  
34 limited to a letter of credit or payment bond, or a guaranty acceptable to the director.

35       (2) When a loan is made to a municipal corporation for the development of a small scale local  
36 energy project under this chapter, the loan shall be secured as the director shall require for ade-  
37 quate security. The security may be in the form of a lien, mortgage, interest under a lease-purchase  
38 contract or other form of security acceptable to the director and the municipal corporation.

39       (3) When a loan made under this chapter is secured by a lien on the real property of the appli-  
40 cant, the director shall perfect the lien by recording as provided by law.

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

43       (5) The director may cause to be instituted appropriate proceedings to foreclose liens for delin-  
44 quent loan payments, and shall pay the proceeds of any such foreclosure, less the director's expenses  
45 incurred in foreclosing, into the **Small Scale Local Energy Project Administration and Bond**

1 Sinking Fund if the loan was issued from the Small Scale Local Energy Project Loan Fund,  
 2 or into the Energy Project Bond Loan Fund if the loan was an energy efficiency and  
 3 sustainable technology loan. In a foreclosure proceeding the director may bid on property offered  
 4 for sale in the proceedings and may acquire title to the property on behalf of the state.

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

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

11 **SECTION 69.** ORS 470.190 is amended to read:

12 470.190. If an applicant fails to comply with a contract entered into with the Director of the  
 13 State Department of Energy for development and repayment as provided in ORS 470.150 or section  
 14 29 of this 2009 Act, the director, in addition to remedies provided in ORS 470.170 and 470.180, may  
 15 seek other appropriate legal remedies to secure the loan and may contract as provided in ORS  
 16 470.150 with any other person for continuance of development and for repayment of moneys from the  
 17 Small Scale Local Energy Project Loan Fund or from the Energy Project Bond Loan Fund  
 18 used therefor and interest thereon.

19 **SECTION 70.** ORS 470.230 is amended to read:

20 470.230. Except as provided in ORS 470.270, all moneys obtained from the sale of **general obli-**  
 21 **gation** bonds under ORS 470.220 to 470.290 and **Article XI-J of the Oregon Constitution** shall be  
 22 credited by the State Treasurer to the **Small Scale Local Energy Project** Loan Fund. Those mon-  
 23 eys shall be used only for the purposes stated in Article XI-J of the Oregon Constitution, [*and ORS*  
 24 *470.050 to 470.120, 470.140 (1) and 470.150 to 470.210,*] including payment of the costs of issuing the  
 25 bonds and of obtaining credit enhancement for the bonds, and making payments of interest on bonds  
 26 issued pursuant to the provisions of ORS 470.220 to 470.290 if there are insufficient funds in the  
 27 **Small Scale Local Energy Project Administration and Bond** Sinking Fund to make the payments  
 28 referred to in ORS 470.300 (1). Moneys loaned to municipal corporations but withheld by the State  
 29 Department of Energy for security or to pay for future project costs may remain in the loan fund.  
 30 Pending the use of the moneys in the loan fund for the proper purposes, the moneys may be invested  
 31 in the manner provided by law.

32 **SECTION 71.** ORS 470.240 is amended to read:

33 470.240. All **general obligation** bonds issued under ORS 470.220 to 470.290 and **Article XI-J**  
 34 **of the Oregon Constitution** shall contain a direct promise of the State of Oregon to pay the prin-  
 35 cipal amount of the bonds, plus any accrued interest and any redemption premium. The principal  
 36 of and the interest and redemption premium, if any, upon the bonds, when due, shall be paid at the  
 37 fiscal agency of the State of Oregon. The charges imposed by that agency for its services shall be  
 38 paid, upon approval by the State Treasurer, from the **Small Scale Local Energy Project Admin-**  
 39 **istration and Bond** Sinking Fund.

40 **SECTION 72.** ORS 470.270 is amended to read:

41 470.270. (1) After consultation with the State Treasurer, the Director of the State Department  
 42 of Energy may issue **general obligation** refunding bonds for the purpose of refunding outstanding  
 43 bonds issued under ORS 470.220 to 470.290 and **Article XI-J of the Oregon Constitution**. The re-  
 44 funding bonds may be sold in the same manner as other bonds are sold under ORS 470.220 to  
 45 470.290. All moneys obtained from the sale of refunding bonds shall be credited by the State Treas-



1 urer to the **Small Scale Local Energy Project Administration and Bond** Sinking Fund. [*The is-*  
 2 *suance of the refunding bonds, the maturity date, and other details thereof, the rights of the holders*  
 3 *thereof, and the duties of the Governor, Secretary of State and State Treasurer with respect thereto,*  
 4 *shall be governed by the provisions of ORS 470.220 to 470.290.*] The refunding bonds may be issued  
 5 to refund bonds previously issued for refunding purposes. Pending the use of moneys obtained from  
 6 the sale of refunding bonds for proper purposes, such moneys may be invested in the manner pro-  
 7 vided by law.

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

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

27 **SECTION 73.** ORS 470.280 is amended to read:

28 470.280. (1) The State Treasurer shall make payment of the principal of and the interest and  
 29 redemption premium, if any, on any **general obligation** bond issued under ORS 470.220 to 470.290  
 30 from the **Small Scale Local Energy Project Administration and Bond** Sinking Fund.

31 (2) The State Treasurer shall compute and determine in January of each year, after the sale of  
 32 bonds under ORS 470.220 to 470.290 **and Article XI-J of the Oregon Constitution**, the amount of  
 33 principal, interest and redemption premiums that will fall due during the year on bonds then out-  
 34 standing and unpaid and shall maintain or hold in the sinking fund sufficient moneys to pay such  
 35 maturing obligations.

36 **SECTION 74.** ORS 470.300 is amended to read:

37 470.300. (1) There hereby is created the Small Scale Local Energy Project Administration and  
 38 Bond Sinking Fund, separate and distinct from the General Fund, to provide for payment of:

39 (a) Administrative expenses of the State Department of Energy and the Director of the State  
 40 Department of Energy in processing applications, investigating potential small scale local energy  
 41 projects and proposed loans and servicing and collecting outstanding loans made [*under this*  
 42 *chapter*] **from the Small Scale Local Energy Project Loan Fund**, if the expense is not paid di-  
 43 rectly by the applicant.

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

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

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

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

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

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

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

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

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

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

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

17 (g) Moneys transferred from the [*Small Scale Local Energy Project*] loan fund.

18 **(h) Gifts, grants, donations or other moneys for promoting small scale local energy pro-**  
19 **gram loan purposes and goals.**

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

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

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

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

30 **SECTION 75.** ORS 470.310 is amended to read:

31 470.310. (1) If there are insufficient funds in the **Small Scale Local Energy Project Adminis-**  
32 **tration and Bond Sinking Fund** to make the payments referred to in ORS 470.300 (1), the Director  
33 of the State Department of Energy may request the funds necessary for such payments from the  
34 Legislative Assembly or the Emergency Board.

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

42  
43 **CAPTIONS**

44  
45 **SECTION 76.** The unit captions used in this 2009 Act are provided only for the conven-

1 ience of the reader and do not become part of the statutory law of this state or express any  
2 legislative intent in the enactment of this 2009 Act.

3

4

**EMERGENCY**

5

6 **SECTION 77. This 2009 Act being necessary for the immediate preservation of the public**  
7 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
8 **on its passage.**

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