

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2626

By COMMITTEE ON REVENUE

May 18

1 On page 1 of the printed A-engrossed bill, delete lines 6 through 10 and delete pages 2 through
2 35 and insert:

3 **“SECTION 1. Sections 2 to 41 of this 2009 Act are added to and made a part of ORS**
4 **chapter 470.**

“LOAN PROGRAM ADMINISTRATION

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

12 **“(2) The goals of the loan program are to:**

13 **“(a) Provide capital at the lowest possible cost for the purpose of supporting energy ef-**
14 **iciency and conservation and renewable energy projects for residential and commercial**
15 **structures;**

16 **“(b) Expand, and to simplify taking advantage of, opportunities for small scale local en-**
17 **ergy project financing;**

18 **“(c) Leverage multiple sources of public and private capital through a unified and stra-**
19 **tegic funding mechanism;**

20 **“(d) Provide technical and financing information to the public and to businesses;**

21 **“(e) Foster energy savings;**

22 **“(f) Stimulate job growth; and**

23 **“(g) Help substantially reduce carbon emissions.**

24 **“SECTION 3. (1) Except as provided in subsection (3) of this section, the State Depart-**
25 **ment of Energy may enter into contracts for the issuance of energy efficiency and**
26 **sustainable technology loans. Except as provided in section 40 of this 2009 Act, the depart-**
27 **ment shall finance the loans using moneys from the Small Scale Local Energy Project Loan**
28 **Fund, the Energy Project Supplemental Fund or the Energy Project Bond Loan Fund, or**
29 **from a combination of those funds.**

30 **“(2) The sustainable energy project manager may enter into agreements with trade as-**
31 **sociations and other public and private entities for the promotion or marketing of the energy**
32 **efficiency and sustainable technology loan program.**

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

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

1 “(b) An investor-owned gas utility that is actively administering an energy conservation
2 program established:

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

4 “(B) Without assistance from a nongovernmental entity that receives public purpose
5 charge moneys under ORS 757.612.

6 “**SECTION 4.** The Public Utility Commission may adopt rules for carrying out the duties,
7 functions and powers of the commission and the Public Purpose Fund Administrator under
8 sections 2 to 41 of this 2009 Act.

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

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

18 “(a) The total amount of energy efficiency and sustainable technology loans issued;

19 “(b) The types of projects being funded by the loans; and

20 “(c) The characteristics of loan recipients.

21 “(2) The committee shall review the report to determine whether the goals of the loan
22 program are being implemented and whether applicable rules and statutory standards are
23 met. The committee may send comments regarding the report to the Director of the State
24 Department of Energy.

25
26 “PROJECT MANAGERS
27

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

34 “(2) The project manager shall serve a sustainable energy territory established by the
35 director. The project manager shall provide loan program information and technical and fi-
36 nancial information to promote energy efficiency and use of renewable energy at the neigh-
37 borhood and community levels. The project manager shall be responsible for small scale local
38 energy project verification and for monitoring program effectiveness for energy efficiency
39 and sustainable technology loans and small scale local energy program loans. The project
40 manager may administer the energy efficiency and sustainable technology loan program
41 within the territory.

42 “(3)(a) Except as provided in this subsection, the boundaries of a sustainable energy
43 territory must be consistent with the service territory of a local electric utility.

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

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

3 “(B) The service territory of the local electric utility and the service territory of the local
4 gas utility overlap.

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

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

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

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

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

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

30 “(b) A proposed plan for implementing and administering the goals and requirements of
31 the energy efficiency and sustainable technology loan program in the sustainable energy
32 territory; and

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

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

36 “(a) The organizational experience of the applicant and the capacity of the applicant to
37 successfully implement the energy efficiency and sustainable technology loan program goals
38 and requirements.

39 “(b) The strength of the applicant’s proposed plan for implementing the goals and re-
40 quirements of the energy efficiency and sustainable technology loan program.

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

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

45 “(4) An applicant may not be certified as a project manager if the applicant has a

1 fiduciary or other obligation that creates an actual or apparent conflict of interest that may
2 interfere with achieving the goals of the energy efficiency and sustainable technology loan
3 program.

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

11 **“(2)** To the extent practicable, the director shall certify a project manager not later than
12 four months after publication of the request for proposals and not later than two months
13 after the selection of the proposed project manager. However, the director may at any time
14 select a different applicant as the proposed project manager or may reinstate the certif-
15 ication process.

16 **“(3)** Upon deciding to certify the proposed project manager, the director shall give notice
17 of the decision to all unsuccessful candidates, the public and the Small Scale Local Energy
18 Project Advisory Committee. The director may approve the final certification of the project
19 manager if:

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

22 **“(b)** The committee does not undertake a review of the proposed certification within 15
23 days after the date the notice is sent.

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

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

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

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

41 **“(2)** The director may terminate the certification of a project manager for:

42 **“(a)** Failure to adequately implement an applicable plan for implementing the energy ef-
43 ficiency and sustainable technology loan program;

44 **“(b)** Noncompliance with the regulatory or statutory requirements of the energy effi-
45 ciency and sustainable technology loan program;

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

2 “(d) Failure to perform other certification conditions.

3 “**SECTION 12.** (1) Except as provided in subsection (2) of this section, if a sustainable
4 energy territory is all or part of the service territory for an investor-owned electric utility,
5 the Public Purpose Fund Administrator shall be the sustainable energy project manager for
6 the sustainable energy territory. The Public Purpose Fund Administrator shall inform the
7 Public Utility Commission and the State Department of Energy of the activities of the ad-
8 ministrator by filing a yearly action plan and an end-of-year report with the commission and
9 the department.

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

14 “(3) If a territory is served by a consumer-owned utility and is outside the service terri-
15 tory of an investor-owned electric utility, the consumer-owned utility shall be the project
16 manager if the utility agrees to promote energy efficiency and sustainable technology loans
17 as part of any energy efficiency or renewable energy program offered by the utility. A
18 consumer-owned utility may conduct energy efficiency and renewable energy programs
19 within the territory of the utility regardless of whether the territory is served by an energy
20 efficiency and sustainable technology loan program. A consumer-owned utility may decline
21 to participate in the energy efficiency and sustainable technology loan program.

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

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

31 “(a) Continue with existing utility services and policies; or

32 “(b) Work with the Director of the State Department of Energy to solicit and select a
33 qualified entity to serve as the project manager as described in sections 8 and 9 of this 2009
34 Act.

35 “(6) Subject to approval by the director, a project manager may contract with a qualified
36 third party to assist the project manager in providing project manager services within the
37 territory. If a sustainable energy territory is served by a project manager, the appointment
38 of additional project managers shall be a subcontract approved by the existing project man-
39 ager. If the third party is acting as a financier, the third party is not required to comply
40 with laws regulating utilities based on the actions of the third party as a financier. The
41 project manager may enter into agreements with trade associations and other public and
42 private entities for the promotion or marketing of the energy efficiency and sustainable
43 technology loan program.

44 “(7) The Public Purpose Fund Administrator and sustainable energy project managers
45 shall cooperate with, and coordinate their outreach and promotional efforts with, local utili-

1 ties and other stakeholders to promote energy efficiency and renewable energy and to use
2 the customer contacts, resources and capacity of utilities to engage and inform utility cus-
3 tomers about the energy efficiency and sustainable technology loan program. The Public
4 Purpose Fund Administrator and project managers shall coordinate with gas utilities re-
5 garding any changes to a gas pipeline and with electric utilities regarding any changes to
6 electrical connections that are external to a structure. The Public Purpose Fund Adminis-
7 trator and project managers shall coordinate with a gas utility regarding the installation of
8 appliances used for space heating, water heating, electric charging and compressed natural
9 gas refueling.

10
11 **“CONTRACTORS**

12
13 **“SECTION 13. (1) The State Department of Energy shall adopt rules establishing certif-**
14 **ication standards for contractors participating in the construction of small scale local energy**
15 **projects financed through the energy efficiency and sustainable technology loan program.**
16 **The department shall design the standards to ensure that the project work performed by a**
17 **contractor holding the certification is of high quality and will result in a high degree of**
18 **customer satisfaction.**

19 **“(2) The certification standards established by the department must, at a minimum, re-**
20 **quire that the contractor:**

21 **“(a) Prove that the contractor has sufficient skill to ensure that the contractor can**
22 **successfully install energy efficiency, renewable energy or weatherization projects.**

23 **“(b) Not be a contractor listed by the Commissioner of the Bureau of Labor and Indus-**
24 **tries under ORS 279C.860 as ineligible to receive a contract or subcontract for public works.**

25 **“(c) Be an equal opportunity employer or small business or be a minority or women**
26 **business enterprise or disadvantaged business enterprise as those terms are defined in ORS**
27 **200.005.**

28 **“(d) Demonstrate a history of compliance with the rules and other requirements of the**
29 **Construction Contractors Board and of the Workers’ Compensation Division and the Occu-**
30 **ptional Safety and Health Division of the Department of Consumer and Business Services.**

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

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

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

37 **“(3) The State Department of Energy shall consult with the Public Purpose Fund Ad-**
38 **ministrator and utilities when developing contractor certification standards.**

39 **“(4) The Construction Contractors Board may issue a qualifying contractor a certif-**
40 **ication authorizing the contractor to participate in the construction of small scale local en-**
41 **ergy projects financed through the energy efficiency and sustainable technology loan**
42 **program. A contractor seeking certification shall apply to the board as provided under sec-**
43 **tion 51 of this 2009 Act.**

44 **“(5) The State Department of Energy shall identify certified contractors that provide**
45 **employees with health insurance benefits as preferred service providers and may take other**

1 actions as practicable to encourage certified contractors to provide employees with health
2 insurance benefits.

3 **“SECTION 14. (1) At the request of a loan applicant, a contractor that is authorized to**
4 **participate in the construction of small scale local energy projects financed through the en-**
5 **ergy efficiency and sustainable technology loan program may conduct an energy savings**
6 **projection or similar evaluation for a property and conduct post-project verifications of en-**
7 **ergy savings in a sustainable energy territory that does not have a sustainable energy project**
8 **manager.**

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

12 **“(3) The department may approve an energy efficiency and sustainable technology loan**
13 **for property located in a sustainable energy territory that does not have a project manager**
14 **if:**

15 **“(a) On-bill financing is available to the loan applicant through a local utility serving the**
16 **benefited property; or**

17 **“(b) The department and the loan applicant agree to an alternative method for ensuring**
18 **repayment of the loan.**

19
20 **“FUNDS**

21
22 **“SECTION 15. (1) The Energy Project Supplemental Fund is established in the State**
23 **Treasury, separate and distinct from the General Fund. Interest earned by the Energy**
24 **Project Supplemental Fund shall be credited to the Energy Project Supplemental Fund.**

25 **“(2) The Energy Project Supplemental Fund shall consist of any moneys received for**
26 **purposes of the energy efficiency and sustainable technology loan program or for small scale**
27 **local energy program loans other than moneys deposited to:**

28 **“(a) The Small Scale Local Energy Project Loan Fund.**

29 **“(b) The Small Scale Local Energy Project Administration and Bond Sinking Fund.**

30 **“(c) The Energy Project Bond Loan Fund.**

31 **“(d) The Loan Offset Grant Fund, except that Loan Offset Grant Fund moneys used to**
32 **offset the energy efficiency and sustainable technology loan or small scale local energy pro-**
33 **gram loan repayment obligation of a borrower shall be deposited to the Energy Project Sup-**
34 **plemental Fund.**

35 **“(e) The Energy Revenue Bond Repayment Fund.**

36 **“(3) Moneys in the Energy Project Supplemental Fund are continuously appropriated to**
37 **the State Department of Energy for the following purposes:**

38 **“(a) To provide funding, separately or in conjunction with moneys from the Small Scale**
39 **Local Energy Project Loan Fund and the Energy Project Bond Loan Fund, for energy effi-**
40 **ciency and sustainable technology loans and small scale local energy program loans;**

41 **“(b) For transfer to the Energy Revenue Bond Repayment Fund, to the extent that**
42 **moneys available in the Energy Project Bond Loan Fund are insufficient to provide the**
43 **amount determined prudent by the Director of the State Department of Energy under sec-**
44 **tion 22 (2) of this 2009 Act; and**

45 **“(c) To pay costs incurred by the State Department of Energy or the director in imple-**

1 menting or administering loan programs for small scale local energy projects.

2 “(4) The State Treasurer may establish any subaccounts in the Energy Project Supple-
3 mental Fund that the treasurer or the director considers reasonable for the efficient ad-
4 ministration of the fund.

5 “SECTION 16. (1) The Loan Offset Grant Fund is established in the State Treasury, sep-
6 arate and distinct from the General Fund. Interest earned by the Loan Offset Grant Fund
7 shall be credited to the Loan Offset Grant Fund. Moneys in the fund are continuously ap-
8 propriated to the State Department of Energy for use as provided in this section.

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

11 “(3) The department shall use fund moneys:

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

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

18 “SECTION 17. (1) The Energy Project Bond Loan Fund is established in the State
19 Treasury, separate and distinct from the General Fund. Interest earned by the Energy
20 Project Bond Loan Fund shall be credited to the fund.

21 “(2) The fund shall consist of:

22 “(a) Net proceeds from the issuance of revenue bonds under section 22 of this 2009 Act
23 that are deposited to the fund;

24 “(b) Moneys from project initiation fees under section 31 of this 2009 Act;

25 “(c) Repayments of any moneys loaned from the fund and interest earned on those
26 moneys;

27 “(d) Any moneys appropriated to the fund;

28 “(e) Moneys from the sale of refunding bonds under section 22 of this 2009 Act and any
29 accrued interest on those bonds; and

30 “(f) Interest earned on cash balances invested under section 20 of this 2009 Act.

31 “(3) Moneys in the fund are continuously appropriated to the State Department of Energy
32 for the following purposes:

33 “(a) Subject to section 24 of this 2009 Act, to issue and administer small scale local en-
34 ergy program loans and energy efficiency and sustainable technology loans and to administer
35 the loan programs.

36 “(b) For transfer to the Energy Revenue Bond Repayment Fund for the payment of bond
37 obligations, the costs of issuing bonds described in subsection (2) of this section and the costs
38 of administering the revenue bond program and for the funding of bond payment reserves.
39 Transfers under this paragraph shall be carried out as determined by the Director of the
40 State Department of Energy under section 22 (2) of this 2009 Act.

41 “(4) The State Treasurer may establish any subaccounts in the Energy Project Bond
42 Loan Fund that the treasurer or the director considers reasonable for the efficient admin-
43 istration of the fund.

44 “SECTION 18. (1) The Energy Revenue Bond Repayment Fund is established in the State
45 Treasury, separate and distinct from the General Fund. Interest earned by the Energy Re-

1 venue Bond Repayment Fund shall be credited to the fund. Moneys in the fund may be in-
2 vested as provided in ORS 293.701 to 293.820. Moneys in the fund are continuously
3 appropriated to the State Department of Energy for the payment of:

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

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

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

11 “(d) Net investment earnings on moneys loaned to municipal corporations from energy
12 project revenue bonds under section 22 of this 2009 Act but withheld as provided in ORS
13 470.230; and

14 “(e) Costs of issuing revenue bonds and obtaining credit enhancement for those revenue
15 bonds.

16 “(2) The Energy Revenue Bond Repayment Fund shall consist of moneys transferred to
17 the fund from the Energy Project Bond Loan Fund and Energy Project Supplemental Fund
18 by the State Treasurer as provided in section 22 (2) of this 2009 Act.

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

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

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

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

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

36 “SECTION 21. To achieve the energy efficiency and sustainable technology loan program
37 goals described in section 2 of this 2009 Act, the Director of the State Department of Energy
38 may enter into agreements to disburse supplemental capital funds through the Small Scale
39 Local Energy Project Loan Fund and the Energy Project Supplemental Fund if:

40 “(1) The director estimates that interest rates and total costs to program applicants that
41 would result from the use of the supplemental capital funds are lower than would result from
42 the use of bond proceeds; and

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

1
2
3 **“BONDS**

4 **“SECTION 22. (1) The State Treasurer, at the request of the Director of the State De-**
5 **partment of Energy, from time to time may issue and sell revenue bonds in the name of and**
6 **on behalf of the State of Oregon in compliance with the applicable provisions of ORS chapter**
7 **286A in the principal amount the director considers necessary to carry out the purposes of**
8 **sections 2 to 41 of this 2009 Act, or for paying or refunding any revenue bonds previously**
9 **issued on behalf of the State Department of Energy for those purposes.**

10 **“(2) All bonds shall be special revenue obligations of the State of Oregon, and, unless paid**
11 **from the proceeds of other bonds, shall be payable as to principal, redemption premium, if**
12 **any, and interest, through the Energy Revenue Bond Repayment Fund solely from the re-**
13 **venues, moneys and other assets of the Energy Project Bond Loan Fund and the Energy**
14 **Project Supplemental Fund that may be pledged for that payment. The Director of the State**
15 **Department of Energy shall determine for each fiscal quarter the amount that will fall due**
16 **during that fiscal quarter for bonds issued under this section, other amounts described in**
17 **section 18 of this 2009 Act and any expected significant changes in bond obligations for up-**
18 **coming fiscal quarters and the amount necessary to adequately fund reserves. The director**
19 **shall request that the State Treasurer make transfers from the Energy Project Bond Loan**
20 **Fund and Energy Project Supplemental Fund to the Energy Revenue Bond Repayment Fund**
21 **as the director believes prudent to ensure the continuing payment of maturing obligations**
22 **and the funding of reserves.**

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

31 **“SECTION 23. (1) Revenue bonds issued under section 22 of this 2009 Act do not consti-**
32 **tute a debt, liability or general obligation of this state or any political subdivision of this**
33 **state or a pledge of the faith and credit of this state or any political subdivision of this state,**
34 **but shall be payable solely from the revenues, moneys and other assets of the Energy Project**
35 **Bond Loan Fund and the Energy Project Supplemental Fund that are pledged to the repay-**
36 **ment in the energy revenue bond declaration.**

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

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

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

“(1) Pledge all or any part of the fees received by the State Department of Energy under

1 section 31 of this 2009 Act and all or any part of the moneys received in payment of energy
2 efficiency and sustainable technology loans and small scale local energy program loans that
3 are funded with revenue from bonds issued under section 22 of this 2009 Act, interest on
4 those amounts and other moneys credited to the Energy Project Bond Loan Fund.

5 “(2) Pledge any moneys, loans or grants received from the federal government, this state
6 or any city, county or political subdivision of this state for payment of revenue bonds issued
7 under section 22 of this 2009 Act.

8 “(3) Vest in a trustee appointed by the Director of the State Department of Energy and
9 approved by the State Treasurer such property, rights, powers and duties in trust as the
10 director may determine.

11
12 “LOCAL GOVERNMENTS

13
14 “SECTION 25. (1) Subject to the approval of the Director of the State Department of
15 Energy, a local government, public utility or other legally organized entity may direct mon-
16 eys to the Energy Project Supplemental Fund or Loan Offset Grant Fund for use within a
17 limited geographic area of this state as a source of capital for financing energy efficiency and
18 sustainable technology loans, small scale local energy program loans or loan offset grants.

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

24
25 “PROGRAM LOANS

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

34 “(2) The project manager may issue a loan from moneys disbursed under this section only
35 if adequate security exists to ensure repayment of the loan. An energy efficiency and
36 sustainable technology loan from a project manager to an applicant located in the sustainable
37 energy territory served by the project manager must have the features described in section
38 29 of this 2009 Act and ORS 470.150 and is subject to the requirements and processes imposed
39 under sections 2 to 41 of this 2009 Act for energy efficiency and sustainable technology loans
40 issued by the Director of the State Department of Energy. A project manager that issues
41 an energy efficiency and sustainable technology loan to support a small scale local energy
42 project may record a fixture filing and lien on the property that benefits from the project
43 as provided in section 36 or 37 of this 2009 Act.

44 “SECTION 27. (1) The State Department of Energy may not complete an agreement for
45 the issuance of an energy efficiency and sustainable technology loan unless the sustainable

1 energy project manager, a contractor designated by the project manager or a person ap-
2 proved by the department completes an energy savings projection or similar evaluation for
3 the property that will benefit from the small scale local energy project. The projection or
4 other evaluation shall be in writing and shall, at a minimum, identify the following:

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

7 “(b) Any optional package recommended for the structure.

8 “(c) The estimated net monthly cost to the applicant when energy savings, project re-
9 payment costs, tax or other incentives, loan offset grants and other relevant economic fac-
10 tors are considered.

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

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

14 “(2) A base efficiency package or optional package may not provide for achieving energy
15 efficiency upgrades through the use of appliances or other equipment that do not become
16 incorporated into the structure.

17 “(3) 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 “(4) 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 “(5) An energy efficiency and sustainable technology loan may be used only for a project
27 constructed by a contractor certified under section 51 of this 2009 Act.

28 “(6) 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 this state or any agency of this 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 “(7) The department shall periodically consult with contractors certified under section
36 51 of this 2009 Act for the purpose of updating average cost and projected savings figures
37 used for energy savings projections or other evaluations under this section. The department
38 shall encourage the use of methods for conducting energy savings projections or other eval-
39 uations under this section that are cost-effective and time-effective, take advantage of
40 economies of scale and produce results that are accurate and are replicable for equivalent
41 base energy 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.** An application for an energy efficiency and sustainable technology loan
6 must contain:

7 **“(1)** Information sufficient to identify real or personal property located within this state
8 against which a fixture filing and lien may be filed under section 36 or 37 of this 2009 Act to
9 secure the loan and sufficient to allow verification that the property owner is the applicant
10 or has consented to the fixture filing and lien;

11 **“(2)** A clear and conspicuous disclosure:

12 **“(a)** That a lien or other form of security for the energy efficiency and sustainable
13 technology loan need not be paid in full upon a sale of the property, but all amounts due
14 under the repayment plan as of the sale date must be paid before the sale closes; and

15 **“(b)** That some lenders may be unwilling to make a mortgage on a property that is sub-
16 ject to a lien or other form of security for the energy efficiency and sustainable technology
17 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 or is receiving, 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 en-
37 ergy efficiency and sustainable technology loan approved by the State Department of Energy
38 shall pay the department a project initiation fee. The department may establish the fee
39 amount by rule, not to exceed four percent of the approved loan amount. If the department
40 does not 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 that the State De-
2 partment of Energy and the borrower have agreed to an alternative method for ensuring
3 repayment of the loan.

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

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

8 “(b) Provide a clearly identifiable line item or separate statement in the utility bill that
9 shows the energy efficiency and sustainable technology loan repayment amount; and

10 “(c) Direct energy efficiency and sustainable technology loan repayment amounts col-
11 lected by the utility to the appropriate sustainable energy project manager or to the de-
12 partment for deposit to the credit of the Small Scale Local Energy Project Administration
13 and Bond Sinking Fund, Energy Project Bond Loan Fund or Energy Project Supplemental
14 Fund.

15 “(3) The Public Utility Commission shall adopt rules for the use of on-bill financing by
16 investor-owned utilities. The rules may include, but need not be limited to, rules regarding
17 nonpayment, insufficient payment, delinquency notices, repayment charge transfers, pro-
18 cessing fees, late fees and refunds. The commission may not adopt any rule that imposes
19 responsibility for the repayment of an energy efficiency and sustainable technology loan on
20 the utility.

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

26 “SECTION 33. (1) If a consumer-owned utility serving a sustainable energy territory has
27 established an on-bill financing system, an energy efficiency and sustainable technology loan
28 shall be repaid by on-bill financing unless the loan agreement specifies that the State De-
29 partment of Energy and the borrower have agreed to an alternative method for ensuring
30 repayment of the loan.

31 “(2) Unless the Director of the State Department of Energy grants a consumer-owned
32 utility a waiver under subsection (4) of this section, the on-bill financing system of the utility
33 must:

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

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

38 “(c) Direct energy efficiency and sustainable technology loan repayment amounts col-
39 lected by the utility to the appropriate sustainable energy project manager or to the de-
40 partment for deposit to the credit of the Small Scale Local Energy Project Administration
41 and Bond Sinking Fund, Energy Project Bond Loan Fund or Energy Project Supplemental
42 Fund.

43 “(3) The director may adopt rules for the use of on-bill financing by consumer-owned
44 utilities. The rules may include, but need not be limited to, rules regarding nonpayment, in-
45 sufficient payment, delinquency notices, repayment charge transfers, processing fees, late

1 fees and refunds. The director may not adopt any rule that imposes responsibility for the
2 repayment of an energy efficiency and sustainable technology loan on the utility.

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

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

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

16 “(2) A loan repayment charge for an energy efficiency and sustainable technology loan
17 may include, but need not be limited to, the amount of the loan, interest on the loan and the
18 cost incurred by the State Department of Energy to implement, promote and administer the
19 energy efficiency and sustainable technology loan program.

20 “(3) The amount of an energy efficiency and sustainable technology loan repayment and
21 any moneys received by a utility to assist in the implementation of an on-bill financing sys-
22 tem are not gross revenue for purposes of calculating franchise fees or other regulatory as-
23 sessments.

24 “(4) If there is a change in ownership or other interest in property benefited by an energy
25 efficiency and sustainable technology loan, and the loan relies on an on-bill financing system
26 for collection of the loan repayment charge, the utility shall transfer the loan repayment
27 charge to the utility customer account of the person acquiring the ownership or other in-
28 terest in the property.

29
30 “REPAYMENT AND LIENS
31

32 “SECTION 36. (1) Subject to ORS 470.170, the State Department of Energy may identify
33 forms of acceptable security for energy efficiency and sustainable technology loans that the
34 department determines will achieve the goals and requirements of the energy efficiency and
35 sustainable technology loan program and that provide adequate security for repayment of the
36 loans.

37 “(2) For loans from the Small Scale Local Energy Project Loan Fund, the department
38 may record a fixture filing as defined in ORS 79.0102 covering those building materials to be
39 attached to the real property pursuant to an energy efficiency and sustainable technology
40 loan that remain easily detachable from the property and are not essential to a structure
41 or the use of a structure. The department shall record a lien on the real property benefited
42 by the loan for those indebtedness amounts that are not secured by a fixture filing. The de-
43 partment may record a filing or lien under this section only on a property for which the
44 property owner has agreed to the installation of a base efficiency package or optional pack-
45 age benefiting the property.

1 **“(3) An energy efficiency and sustainable technology loan must provide for repayment**
2 **through an on-bill financing system unless the department finds that an alternative method**
3 **for repaying the loan would provide suitable security for the loan and the department and**
4 **the borrower specify the alternative repayment method in the loan agreement.**

5 **“SECTION 37. (1) The State Department of Energy or a sustainable energy project man-**
6 **ager may act on behalf of the Director of the State Department of Energy for the purpose**
7 **of recording a lien in favor of the director as required by ORS 470.170 (3) against property**
8 **benefited by an energy efficiency and sustainable technology loan.**

9 **“(2) A lien described in this section attaches to the property and is perfected upon re-**
10 **cording in the county deed records.**

11 **“(3) In an action to foreclose a lien created under this section, the court shall include in**
12 **the lien amount all costs for filing and recording the lien. The court shall award a prevailing**
13 **party in the foreclosure action reasonable attorney fees and costs.**

14 **“SECTION 38. A person that acquired an interest in a property in good faith and for a**
15 **valuable consideration before the date a lien described in section 36 or 37 of this 2009 Act**
16 **attached to the property under ORS 470.170 may avoid foreclosure of the lien by paying any**
17 **delinquencies and collection costs associated with the underlying loan repayment charge and**
18 **assuming normal payments in compliance with the energy efficiency and sustainable tech-**
19 **nology loan agreement repayment provisions.**

20 **“SECTION 39. A person entering into an agreement to sell, rent, lease or otherwise**
21 **confer a right in the person’s real property that is benefited by an energy efficiency and**
22 **sustainable technology loan for which a loan repayment charge or other repayment obli-**
23 **gation applies or for which a fixture filing, lien or other form of security exists shall, prior**
24 **to any party signing the agreement, give notice of the loan repayment charge, repayment**
25 **obligation, filing, lien or other security affecting the property to the other parties to the**
26 **agreement.**

27
28 **“LOAN OFFSET GRANTS**

29
30 **“SECTION 40. (1) The State Department of Energy may use loan offset grant moneys for**
31 **any of the following if, in the absence of the grant moneys, a utility customer would incur**
32 **higher overall monthly costs when energy costs and small scale local energy project costs**
33 **are considered:**

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

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

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

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

42 **“(2) If a small scale local energy program loan applicant is a person with an income**
43 **limited as described in section 30 (2) of this 2009 Act, the department may use loan offset**
44 **grant moneys for an optional package or to offset reasonable costs associated with structural**
45 **improvements that are not included in the base efficiency package, but that are necessary**

1 to the proper installation of the base efficiency package.

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

5
6 “APPRENTICESHIP AND JOB TRAINING

7
8 “SECTION 41. (1) The State Department of Energy shall collaborate with the State
9 Workforce Investment Board and other interested parties to identify opportunities for ap-
10 prenticeship and for job training and development that would further the goals of sections 2
11 to 41 of this 2009 Act and provide valuable skills to Oregon workers.

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

15 “(a) State workforce programs;

16 “(b) Organized labor;

17 “(c) The State Apprenticeship and Training Council;

18 “(d) The Bureau of Labor and Industries; and

19 “(e) Consumer advocacy organizations.

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

24
25 “PILOT PROGRAMS

26
27 “SECTION 42. (1) The Director of the State Department of Energy shall initiate the en-
28 ergy efficiency and sustainable technology loan program described in sections 2 to 41 of this
29 2009 Act in phases through a series of pilot programs, limiting the geographic availability and
30 other features of the program as the director considers necessary to facilitate an orderly and
31 successful implementation of the program. The director shall initiate the program as quickly
32 as the director considers practicable to achieve the benefits of the program while ensuring
33 high participant satisfaction and program integrity.

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

37 “SECTION 43. (1) The Public Purpose Fund Administrator shall initiate pilot programs
38 in investor-owned utility service territories to demonstrate the feasibility of innovative ap-
39 proaches to financing and installing energy efficiency and sustainable technology measures
40 as described in sections 2 to 41 of this 2009 Act in residences and commercial buildings in
41 urban and rural communities. The pilot programs shall test:

42 “(a) The effectiveness of direct contact, door-to-door, media outlet and other
43 community-focused outreach and solicitation strategies designed to provide potential energy
44 efficiency and sustainable technology loan program participants with information about en-
45 ergy efficiency and renewable energy opportunities under the program and under similar lo-

1 cal, state and federal incentive programs;

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

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

9 “(d) The effectiveness of various levels of loan offset grants as an incentive to program
10 participation;

11 “(e) The effectiveness of on-billing financing as a means of loan repayment and the ef-
12 fectiveness of fixture filings, liens or other forms of security for loans;

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;

20 “(i) The administrative costs and participation rates associated with various forms of
21 loan security; and

22 “(j) Other strategies and measures identified by the State Department of Energy or the
23 Public Utility Commission.

24 “(2) The Public Purpose Fund Administrator shall report to the commission no later than
25 October 1, 2010. The administrator shall provide a copy of the report to the State Department
26 of Energy. The report shall evaluate the effectiveness of the pilot programs, and shall include
27 an evaluation of the extent to which various strategies and measures:

28 “(a) Help to produce significantly higher rates of energy savings or renewable energy
29 production;

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

31 “(c) Increase the number of energy efficiency and renewable energy measures installed
32 per building; and

33 “(d) Reduce the administrative cost per building of providing energy efficiency and
34 renewable energy services.

35 “(3) The commission shall review the report and:

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

39 “(b) Order the partial implementation of energy efficiency and sustainable technology
40 loan program measures and strategies and make recommendations to the Legislative As-
41 sembly for appropriate statutory modification of the program.

42 “(4) When carrying out pilot programs under this section, the Public Purpose Fund Ad-
43 ministrator and sustainable energy project managers shall cooperate and coordinate their
44 efforts with the efforts of local utilities and encourage utilities to promote energy efficiency
45 and renewable energy and to engage in outreach and promotional efforts to inform custom-

1 ers of the utility about the energy efficiency and sustainable technology loan program. The
2 Public Purpose Fund Administrator and project managers shall coordinate with gas utilities
3 regarding any changes to a gas pipeline and with electric utilities regarding any changes to
4 electrical connections that are external to a structure. The Public Purpose Fund Adminis-
5 trator and project managers shall coordinate with a gas utility regarding the installation of
6 appliances used for space heating, water heating, electric charging and compressed natural
7 gas refueling.

8 **“SECTION 44. (1) The Director of the State Department of Energy shall consult with the**
9 **Bonneville Power Administration, consumer-owned utilities and other interested parties to**
10 **develop a pilot program for energy efficiency and sustainable technology as described in**
11 **sections 2 to 41 of this 2009 Act for use in the consumer-owned utility service territories.**
12 **The director shall solicit one or more consumer-owned utilities to act as sustainable energy**
13 **project managers for the pilot program. The director shall solicit utilities to act as project**
14 **managers for the developed pilot program no later than 180 days after the effective date of**
15 **this 2009 Act.**

16 **“(2) The pilot program shall test:**

17 **“(a) The effectiveness of direct contact, door-to-door, media outlet and other**
18 **community-focused outreach and solicitation strategies designed to provide potential energy**
19 **efficiency and sustainable technology loan program participants with information about en-**
20 **ergy efficiency and renewable energy opportunities under the program and under similar lo-**
21 **cal, state and federal incentive programs;**

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

26 **“(c) Ways to assist program participants in understanding and accessing small scale local**
27 **energy project funding and making informed decisions in selecting appropriate energy effi-**
28 **ciency and renewable energy projects;**

29 **“(d) The effectiveness of various levels of loan offset grants as incentives to program**
30 **participation;**

31 **“(e) The effectiveness of on-billing financing as a means of loan repayment and the ef-**
32 **fectiveness of fixture filings, liens or other forms of security for loans;**

33 **“(f) The feasibility and effectiveness of coordinated installations of residential and com-**
34 **mmercial structure energy packages overseen by a single project manager;**

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

37 **“(h) The relative demand for loan program services among residential and commercial**
38 **properties and between low-income and other households, and factors that influence that**
39 **relative demand;**

40 **“(i) The administrative costs and participation rates associated with various forms of**
41 **loan security; and**

42 **“(j) Other strategies and measures identified by the director in consultation with the**
43 **Bonneville Power Administration.**

44 **“(3) The sustainable energy project managers in the consumer-owned utility service areas**
45 **shall report to the director no later than October 1, 2010. The report shall evaluate the ef-**

1 fectiveness of the pilot program and shall include an evaluation of the extent to which vari-
2 ous program strategies and measures:

3 “(a) Help to produce significantly higher rates of energy savings or renewable energy
4 production;

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

6 “(c) Increase the number of energy efficiency and renewable energy measures installed
7 per building; and

8 “(d) Reduce the administrative cost per building of providing energy efficiency and
9 renewable energy services.

10 “(4) When carrying out pilot programs under this section, the director and the
11 sustainable energy project managers shall cooperate and coordinate their efforts with the
12 efforts of local utilities and encourage utilities to promote energy efficiency and renewable
13 energy and to engage in outreach and promotional efforts to inform customers of the utility
14 about the energy efficiency and sustainable technology loan program.

15 “SECTION 45. A contractor may construct small scale local energy projects financed
16 under a pilot program described in sections 42 to 44 of this 2009 Act without being certified
17 under section 51 of this 2009 Act if:

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

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

22 “(3) The contractor pays wages to employees used for energy efficiency and sustainable
23 technology loan program projects at a rate equal to at least 180 percent of the state mini-
24 mum wage or, if the project is for a commercial structure or is subject to prevailing wage
25 laws, the prevailing wage for each trade or occupation employed. As used in this subsection,
26 ‘commercial structure’ means a structure other than a residential structure as defined in
27 ORS 701.005.

28 “SECTION 46. If there is a change in ownership or other interest in property benefited
29 by an energy efficiency and sustainable technology loan, and the loan relies on an on-bill fi-
30 nancing system for collection of the loan repayment charge, the utility shall transfer the
31 loan repayment charge to the utility customer account of the person acquiring the ownership
32 or other interest in the property.

33
34 “MISCELLANEOUS PROVISIONS
35

36 “SECTION 47. The cost of adopting rules under ORS 470.140 to carry out sections 2 to
37 41 of this 2009 Act:

38 “(1) May be paid from the Loan Offset Grant Fund or Energy Project Bond Loan Fund;
39 or

40 “(2) May be paid from the Small Scale Local Energy Project Administration and Bond
41 Sinking Fund created under ORS 470.300 if the Director of the State Department of Energy
42 and the State Treasurer find that:

43 “(a) A cash flow projection for the sinking fund shows that, for the term of the sinking
44 fund bonds outstanding at the time the Director of the State Department of Energy transfers
45 the moneys, remaining moneys in the sinking fund, together with expected loan contract

1 payments and fund earnings, will improve the financial basis of the program and will con-
2 tinue to be adequate to pay bond principal, interest, redemption premiums, if any, and ad-
3 ministration costs; and

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

5 “**SECTION 48.** The State Department of Energy shall adopt rules establishing contractor
6 certification standards required under section 13 of this 2009 Act no later than December 1,
7 2010. The Construction Contractors Board shall implement a certification system for con-
8 tractors under section 51 of this 2009 Act no later than January 1, 2011.

9 “**SECTION 49.** Sections 42, 43, 44, 45 and 46 of this 2009 Act are repealed January 2, 2016.

10 “**SECTION 50.** Sections 51 and 52 of this 2009 Act are added to and made a part of ORS
11 chapter 701.

12 “**SECTION 51.** (1) A licensed contractor that possesses an appropriate endorsement may
13 apply to the Construction Contractors Board for certification to participate in the con-
14 struction of small scale local energy projects financed through the energy efficiency and
15 sustainable technology loan program. The board may issue the certification to a contractor
16 that meets the standards established by the State Department of Energy under section 13
17 of this 2009 Act. The board may charge a reasonable fee for certifying a contractor.

18 “(2) If the board receives information that the contractor has failed to comply with the
19 certification standards established by the department or has violated a wage and hours
20 standard described in section 52 of this 2009 Act, the board shall hold a hearing and may
21 revoke the certification.

22 “(3) The board shall give the department notice of the issuance or revocation of a cer-
23 tification under this section.

24 “**SECTION 52.** (1) If a project financed under the energy efficiency and sustainable tech-
25 nology loan program is to be constructed for a commercial structure, the State Department
26 of Energy shall require that the certified contractor pay the employees used for the project
27 at the prevailing wage rate determined by the Commissioner of the Bureau of Labor and
28 Industries for each trade or occupation employed. If a project is not to be constructed for a
29 commercial structure, but the department is uncertain whether prevailing wage require-
30 ments apply to the project, the department shall consult with the Bureau of Labor and In-
31 dustries. As used in this subsection, ‘commercial structure’ means a structure that is not
32 a residential structure.

33 “(2) If the Construction Contractors Board receives a complaint that a contractor certi-
34 fied under section 51 of this 2009 Act has failed to comply with a wage and hours standard
35 for work on a project financed under the energy efficiency and sustainable technology loan
36 program, the board shall forward the complaint to the Bureau of Labor and Industries. If the
37 bureau determines that the contractor has violated a wage and hours standard for work on
38 a project financed under the loan program, the bureau shall notify the board of the deter-
39 mination.

40 “**SECTION 53.** Section 14 of this 2009 Act becomes operative January 1, 2011.

41
42 “AMENDMENTS TO OREGON REVISED STATUTES
43

44 “**SECTION 54.** ORS 470.050 is amended to read:

45 “470.050. As used in this chapter, unless the context requires otherwise:

1 “(1) ‘Alternative fuel project’ means:

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

3 “(A) Use an alternative fuel including electricity, ethanol, gasohol with at least 10 percent de-

4 naturated alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other

5 fuel approved by the Director of the State Department of Energy; and

6 “(B) Produce lower or equivalent exhaust emissions or are more energy efficient than vehicles

7 fueled by gasoline; and

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

9 “(2) ‘Applicant’ means an applicant for a **loan to construct a** small scale local energy project

10 [*loan*].

11 “(3) **‘Base efficiency package’ means the package of energy efficiency upgrades or**

12 **renewable energy projects for a property that, when energy savings, project repayment costs,**

13 **tax or other incentives, loan offset grants and other relevant economic factors are consid-**

14 **ered, is estimated to not increase the utility bill of the customer over the loan repayment**

15 **term.**

16 “[3] (4) ‘Committee’ means the Small Scale Local Energy Project Advisory Committee created

17 under ORS 470.070.

18 “[4] (5) ‘Cooperative’ means a cooperative corporation organized under ORS chapter 62.

19 “[5] (6) ‘Director’ means the Director of the State Department of Energy appointed under ORS

20 469.040.

21 “[6] (7) ‘Eligible federal agency’ means a federal agency or public corporation created by the

22 federal government that proposes to use a loan for a small scale **local** energy project. ‘Eligible

23 federal agency’ does not include a federal agency or public corporation created by the federal gov-

24 ernment that proposes to use a loan for a small scale **local** energy project to generate electricity

25 for sale.

26 “[7] (8) ‘Eligible state agency’ means a state officer, board, commission, department, institution,

27 branch or agency of the state whose costs are paid wholly or in part from funds held in the State

28 Treasury.

29 “(9) **‘Energy efficiency and sustainable technology loan’ means a loan for a small scale**

30 **local energy project that is repayable by means of:**

31 “(a) **A charge included with the participant’s utility customer account billing; or**

32 “(b) **An alternative repayment method identified by the department and the borrower and**

33 **specified in the loan agreement.**

34 “(10) **‘Energy Project Bond Loan Fund’ means the fund established under section 17 of**

35 **this 2009 Act.**

36 “(11) **‘Energy Project Supplemental Fund’ means the fund established under section 15**

37 **of this 2009 Act.**

38 “(12) **‘Energy Revenue Bond Repayment Fund’ means the fund established under section**

39 **18 of this 2009 Act.**

40 “(13) **‘Energy savings projection’ means an examination of the energy performance and**

41 **site characteristics of a property that, at a minimum, identifies:**

42 “(a) **A base efficiency package; and**

43 “(b) **Any additional optional measures that a customer is able to repay and that the**

44 **sustainable energy project manager believes to be feasible for the site.**

45 “[8] (14) ‘Loan’ includes the purchase or other acquisition of evidence of indebtedness and

1 money used for the purchase or other acquisition of evidence of indebtedness.

2 “[(9)] (15) ‘Loan contract’ means the evidence of indebtedness and all instruments used in the
3 purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or
4 municipal corporations that are tax exempt entities, a loan contract may include a lease purchase
5 agreement with respect to personal property.

6 “[10] ‘Loan fund’ means the Small Scale Local Energy Project Loan Fund created by Article XI-J
7 of the Oregon Constitution.]

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

11 “(17) ‘Loan Offset Grant Fund’ means the fund established under section 16 of this 2009
12 Act.

13 “(18) ‘Loan repayment charge’ means an amount charged to a utility customer account
14 through on-bill financing as a mechanism for the repayment of an energy efficiency and
15 sustainable technology loan.

16 “[11] (19) ‘Municipal corporation’ has the meaning given in ORS 297.405 and also includes any
17 Indian tribe or authorized Indian tribal organization or any combination of two or more of these
18 tribes or organizations acting jointly in connection with a small scale local energy project.

19 “(20) ‘On-bill financing’ means a mechanism for collecting the repayment of an energy
20 efficiency and sustainable technology loan through a utility customer account billing system.

21 “(21) ‘Optional package’ means measures for promoting energy efficiency or the use of
22 renewable energy:

23 “(a) That are in addition to the measures described in the customer’s base efficiency
24 package;

25 “(b) For which a customer has the ability to repay; and

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

27 “[12] (22) ‘Oregon business’ means a sole proprietorship, partnership, company, cooperative,
28 corporation or other form of business entity that is organized or authorized to do business under
29 Oregon law for profit.

30 “(23) ‘Public Purpose Fund Administrator’ means the entity designated by the Public
31 Utility Commission to administer moneys collected by a company through the public purpose
32 charge described under ORS 757.612.

33 “[13] (24) ‘Recycling project’ means a facility or equipment that converts waste into a new and
34 usable product.

35 “[14] (25) ‘Small business’ means:

36 “(a) An Oregon business that is:

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

38 or

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

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

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

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

2 “[15] *‘Sinking fund’ means the Small Scale Local Energy Project Administration and Bond*

3 *Sinking Fund created in ORS 470.300.*]

4 “(26) **‘Small scale local energy program loan’ means a loan for a small scale local energy**

5 **project other than an energy efficiency and sustainable technology loan.**

6 “[16] (27) ‘Small scale local energy project’ means:

7 “(a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or

8 indirectly uses or enables the use of, by the applicant or another person, renewable resources in-

9 cluding, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to

10 produce energy, including heat, electricity and substitute fuels, to meet a local community or re-

11 gional energy need in this state;

12 “(b) A system, mechanism or series of mechanisms located primarily in Oregon or providing

13 substantial benefits to Oregon that directly or indirectly conserves energy or enables the conserva-

14 tion of energy by the applicant or another person, including energy used in transportation;

15 “(c) A recycling project;

16 “(d) An alternative fuel project;

17 “(e) An improvement that increases the production or efficiency, or extends the operating life,

18 of a system, mechanism, series of mechanisms or project otherwise described in this subsection, in-

19 cluding but not limited to restarting a dormant project;

20 “(f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility

21 that directly or indirectly reduces the amount of energy needed for the construction and operation

22 of the facility and that meets the sustainable building practices standard established by the State

23 Department of Energy by rule; or

24 “(g) A project described in paragraphs (a) to (f) of this subsection, whether or not the existing

25 project was originally financed under this chapter, together with any refinancing necessary to re-

26 move prior liens or encumbrances against the existing project.

27 “(h) A project described in paragraphs (a) to (g) of this subsection that conserves energy or

28 produces energy by generation or by processing or collection of a renewable resource.

29 “(28) **‘Small Scale Local Energy Project Administration and Bond Sinking Fund’ means**

30 **the fund created under ORS 470.300.**

31 “(29) **‘Small Scale Local Energy Project Loan Fund’ means the loan fund created by Ar-**

32 **icle XI-J of the Oregon Constitution and appropriated to the State Department of Energy**

33 **under ORS 470.130.**

34 “(30) **‘Sustainable energy project manager’ means the organization responsible for pro-**

35 **moting the energy efficiency and sustainable technology loan program and related incentives**

36 **for energy efficiency and renewable energy at the neighborhood and community level.**

37 “(31) **‘Sustainable energy territory’ means the geographic service area that a sustainable**

38 **energy project manager is responsible for serving.**

39 “SECTION 55. ORS 470.060 is amended to read:

40 “470.060. *[(1) Any individual who is a resident of Oregon, an Oregon business, a nonprofit or*

41 *public cooperative, a nonprofit corporation, an eligible federal agency, an eligible state agency, a public*

42 *corporation created by the state, an intergovernmental entity created pursuant to an intergovernmental*

43 *agreement under ORS 190.003 to 190.130, or a municipal corporation may file with the State Depart-*

44 *ment of Energy an application to obtain loan funds for a small scale local energy project as provided*

45 *in this chapter.*]

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

3 “(a) An individual who is an Oregon resident;

4 “(b) An Oregon business;

5 “(c) A nonprofit or public cooperative;

6 “(d) A nonprofit corporation;

7 “(e) An eligible federal agency;

8 “(f) An eligible state agency;

9 “(g) A public corporation created by this state;

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

12 “(i) A special district;

13 “(j) A local improvement district; or

14 “(k) A municipal corporation.

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

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

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

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

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

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

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

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

37 “**SECTION 56.** ORS 470.070 is amended to read:

38 “470.070. (1) The Director of the State Department of Energy shall appoint a Small Scale Local
39 Energy Project Advisory Committee to review applications made under ORS 470.060 and rules
40 adopted under ORS 470.080, **other than applications for energy efficiency and sustainable**
41 **technology loans**, and make recommendations [*thereon*] **regarding those applications** to the di-
42 rector.

43 “(2) [*Seven*] **Nine** members shall be appointed to the Small Scale Local Energy Project Advisory
44 Committee. Each member shall be appointed to serve a two-year term, commencing on the date of
45 appointment, and until a successor is appointed and qualified. The members shall represent the in-

1 terest of the citizens of this state and shall be knowledgeable in the areas of small scale energy
2 technology, natural resource development, environmental protection, finance, agriculture, local gov-
3 ernment operations and utility operations. At least three members shall reside outside the
4 Willamette Valley.

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

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

11 “**SECTION 57.** ORS 470.080 is amended to read:

12 “470.080. (1) After consultation with the Small Scale Local Energy Project Advisory Committee,
13 the Director of the State Department of Energy shall establish by rule standards and criteria for
14 small scale local energy projects to be funded under *[the provisions of ORS 470.060 to 470.080 and*
15 *470.090.]* **this chapter other than projects funded through energy efficiency and sustainable**
16 **technology loans.** The standards and criteria shall operate to encourage diversity in projects
17 funded, give preference to the maximum extent practical to projects proposed by individuals and
18 small businesses, ensure acceptability of environmental impacts and shall require consideration of
19 the potential contribution of a project if developed at other suitable locations to meeting the energy
20 needs of this state. The standards and criteria shall give the least preference to projects proposed
21 by an eligible federal agency.

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

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

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

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

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

40 “**SECTION 58.** ORS 470.090 is amended to read:

41 “470.090. (1) After consideration of the recommendation of the Small Scale Local Energy Project
42 Advisory Committee or the State Department of Energy as provided by ORS 470.080, the Director
43 of the State Department of Energy may approve or reject the financing of a small scale local energy
44 project described in an application filed as provided in ORS 470.060, using moneys in the Small Scale
45 Local Energy Project Loan Fund. Approval of a loan by the director shall include a certification

1 of the amount of the loan.

2 “(2) The director’s approval of a loan for a small scale local energy project shall be based on
3 a finding that:

4 “(a) The proposed small scale local energy project meets established standards and criteria un-
5 der ORS 470.080;

6 “(b) The proposed project is consistent with the preservation and enhancement of environmental
7 quality;

8 “(c) The proposed project is feasible and a reasonable risk from practical and economic stand-
9 points;

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

11 “(e) The applicant is qualified, creditworthy and responsible and is willing and able to enter into
12 a contract with the director for development and repayment as provided in ORS 470.150 **or section**
13 **29 of this 2009 Act;**

14 “(f) There is a need for the proposed small scale local energy project and the applicant’s finan-
15 cial resources are adequate to provide the working capital to maintain the project after completion;

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

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

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

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

26 “(3) The director shall notify the applicant and the presiding officer of the committee of the di-
27 rector’s action and of the reasons for that action. The director shall inform the applicant of the re-
28 view procedure established in ORS 470.100.

29 “**SECTION 59.** ORS 470.100 is amended to read:

30 “470.100. (1) If the Director of the State Department of Energy rejects a loan application or
31 approves a loan amount different than that requested by the applicant, the applicant may request
32 that the Small Scale Local Energy Project Advisory Committee review the director’s action.

33 “(2) The committee may review the director’s action on its own motion or at the request of the
34 applicant. A majority of the members of the committee may authorize the presiding officer of the
35 committee to appeal the director’s action to the Governor.

36 “(3) An appeal of the director’s action may be initiated by the presiding officer of the committee
37 no later than 45 days after the date the applicant receives notice of the director’s action under ORS
38 470.090.

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

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

43 “**SECTION 60.** ORS 470.110 is amended to read:

44 “470.110. The Director of the State Department of Energy may accept gifts of money or other
45 property from any source, given for the purposes of ORS 470.050 to 470.120, 470.140 (1) and 470.150

1 to 470.210. Money so received shall be paid into the **Small Scale Local Energy Project** Loan Fund.
2 Money or other property so received shall be used for the purposes for which received.

3 **“SECTION 61.** ORS 470.120 is amended to read:

4 “470.120. If the applicant receives from any source other than the *[loan fund any funds]* **Small**
5 **Scale Local Energy Project Loan Fund, the Energy Project Supplemental Fund or the Energy**
6 **Project Bond Loan Fund any moneys** to assist in the development of the project, the amount of
7 the loan to the applicant from the *[loan fund]* **Small Scale Local Energy Project Loan Fund,**
8 **Energy Project Supplemental Fund or Energy Project Bond Loan Fund** shall be limited to that
9 amount necessary for the development of those portions of the project not funded by other sources.

10 **“SECTION 62.** ORS 470.130 is amended to read:

11 “470.130. All moneys in the **Small Scale Local Energy Project** Loan Fund created by Article
12 XI-J of the Oregon Constitution are appropriated continuously to the State Department of Energy
13 and shall be used for the purposes *[provided in]* **authorized under** this chapter.

14 **“SECTION 63.** ORS 470.140 is amended to read:

15 “470.140. (1) In accordance with the applicable provisions of ORS chapter 183, the Director of
16 the State Department of Energy may adopt rules considered necessary to carry out the purposes of
17 this chapter.

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

22 **“SECTION 64.** ORS 470.150 is amended to read:

23 “470.150. Except as provided in ORS 470.155 **and 470.170**, if the Director of the State Depart-
24 ment of Energy approves the financing of a small scale local energy project, the director, on behalf
25 of the state, and the applicant may enter into a loan contract, secured by a first lien or by other
26 good and sufficient collateral in the manner provided in ORS 470.155 to 470.210. For purposes of this
27 section, the interest of the State Department of Energy under a lease purchase contract entered into
28 with an eligible federal or state agency or a municipal corporation may constitute good and suffi-
29 cient collateral. The contract:

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

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

44 “(a) Shall provide for commencement of repayment by the applicant of moneys used for project
45 development and interest thereon not later than two years after the date of the loan contract or at

1 any other time as the director may provide. In addition to any other prepayment option provided in
2 a borrower's loan agreement, the department shall provide a borrower the opportunity to prepay the
3 borrower's loan, without any additional premium, by defeasing such loan to the call date of the bond
4 or bonds funding the applicable loan, or any refunding bonds linked to the loan, but such defeasance
5 shall occur only if the director finds that after the defeasance, the sinking fund will have sufficient
6 funds to make payments required under ORS 470.300 (1).

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

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

11 "(d) Shall set forth the period of loan, which [shall] **may** not exceed the usable life of the com-
12 pleted project, or 30 years from the date of the loan contract, whichever is less.

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

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

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

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

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

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

29 **"(a) For an energy efficiency and sustainable technology loan that relies on an on-bill fi-**
30 **ncing system for the collection of a loan repayment charge, an agreement by the applicant**
31 **to notify a person acquiring ownership of, or an interest in, the property from the applicant**
32 **that the loan repayment charge will be transferred to the utility customer account of the**
33 **person acquiring the ownership or interest unless the loan is discharged before or at the**
34 **time the ownership or interest transfers;**

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

38 **"(c) A waiver stating that the applicant waives any jurisdictional or other irregularities**
39 **or defects in:**

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

41 **"(B) A small scale local energy project;**

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

43 **"(D) This chapter; or**

44 **"(E) Department rules that relate in any way to the loan repayment charge, real prop-**
45 **erty lien provisions or any form or combination of loan security or to the requirement to**

1 satisfy the loan obligation;

2 “(d) If the applicant is not the owner of the property to be burdened by the loan repay-
3 ment charge, fixture filing or real property lien, provision for participation by the property
4 owner as a party to the contract or a notarized authorization by the owner for the fixture
5 filing and lien; and

6 “(e) A description of any other conditions required by the department.

7 “**SECTION 65.** ORS 470.160 is amended to read:

8 “470.160. If the Director of the State Department of Energy approves a loan for a small scale
9 local energy project, the State Treasurer shall pay moneys for such project from the **Small Scale**
10 **Local Energy Project Loan Fund or Energy Project Revenue Bond Loan Fund** in accordance
11 with the terms of the loan contract, as prescribed by the director.

12 “**SECTION 66.** ORS 470.170 is amended to read:

13 “470.170. (1)(a) **Except as otherwise provided in this subsection**, when a loan is made under
14 this chapter to an applicant other than a municipal corporation, the loan shall be secured pursuant
15 to a mortgage, trust deed, security agreement, pledge, assignment or similar instrument, by a secu-
16 rity interest or lien on real or personal property in the full amount of the loan or as the Director
17 of the State Department of Energy shall require for adequate security, including but not limited to
18 long-term leasehold interests or equitable interests in real property or personal property. In lieu of,
19 or in addition to, any of the collateral otherwise described in this [subsection] **paragraph**, the ap-
20 plicant may secure the loan by providing credit enhancement, including but not limited to a letter
21 of credit or payment bond, or a guaranty acceptable to the director.

22 “(b) **To the extent consistent with any declaration, pledge or agreement for bonds issued**
23 **under ORS 470.220 to 470.290, an energy efficiency and sustainable technology loan shall be**
24 **secured as provided in sections 36 or 37 of this 2009 Act.**

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

29 “(3) When a loan made under this chapter is secured by a lien on the real property of the ap-
30 plicant, the director shall perfect the lien by recording as provided by law.

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

33 “(5) The director may cause to be instituted appropriate proceedings to foreclose liens for de-
34 linquent loan payments, and shall pay the proceeds of any such foreclosure, less the director’s ex-
35 penses incurred in foreclosing, into the **Small Scale Local Energy Project Administration and**
36 **Bond Sinking Fund if the loan was issued from the Small Scale Local Energy Project Loan**
37 **Fund, or into the Energy Project Bond Loan Fund if the loan was from the Energy Project**
38 **Bond Loan Fund.** In a foreclosure proceeding the director may bid on property offered for sale in
39 the proceedings and may acquire title to the property on behalf of the state.

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

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

1 “**SECTION 67.** ORS 470.190 is amended to read:

2 “470.190. If an applicant fails to comply with a contract entered into with the Director of the
3 State Department of Energy for development and repayment as provided in ORS 470.150 **or section**
4 **29 of this 2009 Act**, the director, in addition to remedies provided in ORS 470.170 and 470.180, may
5 seek other appropriate legal remedies to secure the loan and may contract as provided in ORS
6 470.150 with any other person for continuance of development and for repayment of moneys from the
7 **Small Scale Local Energy Project Loan Fund or from the Energy Project Bond Loan Fund**
8 used therefor and interest thereon.

9 “**SECTION 68.** ORS 470.230 is amended to read:

10 “470.230. Except as provided in ORS 470.270, all moneys obtained from the sale of **general ob-**
11 **ligation** bonds under ORS 470.220 to 470.290 **and Article XI-J of the Oregon Constitution** shall
12 be credited by the State Treasurer to the **Small Scale Local Energy Project** Loan Fund. Those
13 moneys shall be used only for the purposes stated in Article XI-J of the Oregon Constitution, [*and*
14 *ORS 470.050 to 470.120, 470.140 (1) and 470.150 to 470.210,*] including payment of the costs of issuing
15 the bonds and of obtaining credit enhancement for the bonds, and making payments of interest on
16 bonds issued pursuant to the provisions of ORS 470.220 to 470.290 if there are insufficient funds in
17 the **Small Scale Local Energy Project Administration and Bond Sinking Fund** to make the pay-
18 ments referred to in ORS 470.300 (1). Moneys loaned to municipal corporations but withheld by the
19 State Department of Energy for security or to pay for future project costs may remain in the loan
20 fund. Pending the use of the moneys in the loan fund for the proper purposes, the moneys may be
21 invested in the manner provided by law.

22 “**SECTION 69.** ORS 470.240 is amended to read:

23 “470.240. All **general obligation** bonds issued under ORS 470.220 to 470.290 **and Article XI-J**
24 **of the Oregon Constitution** shall contain a direct promise of the State of Oregon to pay the prin-
25 cipal amount of the bonds, plus any accrued interest and any redemption premium. The principal
26 of and the interest and redemption premium, if any, upon the bonds, when due, shall be paid at the
27 fiscal agency of the State of Oregon. The charges imposed by that agency for its services shall be
28 paid, upon approval by the State Treasurer, from the **Small Scale Local Energy Project Admin-**
29 **istration and Bond Sinking Fund**.

30 “**SECTION 70.** ORS 470.270 is amended to read:

31 “470.270. (1) After consultation with the State Treasurer, the Director of the State Department
32 of Energy may issue **general obligation** refunding bonds for the purpose of refunding outstanding
33 bonds issued under ORS 470.220 to 470.290 **and Article XI-J of the Oregon Constitution**. The re-
34 funding bonds may be sold in the same manner as other bonds are sold under ORS 470.220 to
35 470.290. All moneys obtained from the sale of refunding bonds shall be credited by the State Treas-
36 urer to the **Small Scale Local Energy Project Administration and Bond Sinking Fund**. [*The is-*
37 *suance of the refunding bonds, the maturity date, and other details thereof, the rights of the holders*
38 *thereof, and the duties of the Governor, Secretary of State and State Treasurer with respect thereto,*
39 *shall be governed by the provisions of ORS 470.220 to 470.290.*] The refunding bonds may be issued
40 to refund bonds previously issued for refunding purposes. Pending the use of moneys obtained from
41 the sale of refunding bonds for proper purposes, such moneys may be invested in the manner pro-
42 vided by law.

43 “(2) Notwithstanding any provision of ORS 470.150, if the State Department of Energy issues
44 taxable refunding bonds at a lower interest rate to refund outstanding general obligation bonds, and
45 is unable to allow loan recipients to receive a portion of the interest savings, the director shall al-

1 low the loan recipient to prepay the outstanding loan balance upon the request of the recipient. The
2 director shall respond to such a request within 30 days after receiving the request by specifying the
3 outstanding principal balance after applying reserves held by the state for the borrower and the
4 prepayment premium as listed in the bond document, loan document or bond purchase agreement.

5 “(3) The department shall pursue opportunities for refunding bonds to reduce interest sums
6 payable by the department. When the department refunds a bond with tax-exempt bonds, the de-
7 partment shall share, on an equitable basis, the savings from any refunding with the borrowers
8 whose loans were made with the proceeds of the refunded bonds in an amount consistent with a
9 finding by the director that the sinking fund has, and will continue to have, sufficient funds to make
10 payments required under ORS 470.300 (1). The department may not refund tax-exempt bonds with
11 taxable bonds, unless the department is able to share the savings associated with such a refunding
12 with the borrowers whose loans are linked to such bonds. At least 120 days before the date on which
13 the department intends to issue refunding bonds, the director shall notify each borrower whose loan
14 was made from the proceeds of the bonds being refunded and shall offer the borrower the opportu-
15 nity to prepay the borrower’s loan. A borrower shall respond within 60 days of the date of the notice
16 described in this subsection if the borrower intends to prepay the borrower’s loan.

17 “**SECTION 71.** ORS 470.280 is amended to read:

18 “470.280. (1) The State Treasurer shall make payment of the principal of and the interest and
19 redemption premium, if any, on any **general obligation** bond issued under ORS 470.220 to 470.290
20 from the **Small Scale Local Energy Project Administration and Bond** Sinking Fund.

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

26 “**SECTION 72.** ORS 470.300 is amended to read:

27 “470.300. (1) There hereby is created the Small Scale Local Energy Project Administration and
28 Bond Sinking Fund, separate and distinct from the General Fund, to provide for payment of:

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

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

36 “(c) Principal, interest and redemption premium, if any, of all bonds issued pursuant to the
37 provisions of ORS 470.220 to 470.290 **and Article XI-J of the Oregon Constitution**.

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

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

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

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

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

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

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

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

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

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

8 “**(h) Gifts, grants, donations or other moneys for promoting small scale local energy**
9 **program loan purposes and goals.**

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

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

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

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

20 “**SECTION 73.** ORS 470.310 is amended to read:

21 “470.310. (1) If there are insufficient funds in the **Small Scale Local Energy Project Admin-**
22 **istration and Bond** Sinking Fund to make the payments referred to in ORS 470.300 (1), the Director
23 of the State Department of Energy may request the funds necessary for such payments from the
24 Legislative Assembly or the Emergency Board.

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

32
33 “**CAPTIONS**

34
35 “**SECTION 74.** **The unit captions used in this 2009 Act are provided only for the conven-**
36 **ience of the reader and do not become part of the statutory law of this state or express any**
37 **legislative intent in the enactment of this 2009 Act.**

38
39 “**EMERGENCY**

40
41 “**SECTION 75.** **This 2009 Act being necessary for the immediate preservation of the public**
42 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
43 **on its passage.”.**
44