

House Bill 3266

Sponsored by Representative THOMPSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Expands business energy tax credit for renewable energy electricity generators.

Increases maximum residential energy tax credit for premium efficiency biomass combustion device to \$500.

Establishes tax credit for transportation of woody biomass from forest management operations to biofuel producer.

Establishes property tax exemption for small renewable energy generators.

Establishes tax credit for investments in certain customer-owned renewable energy generating equipment.

Establishes tax credit for biomass electrical generation based on kilowatt hours of electricity produced.

Establishes tax credit for purchase of equipment to collect or process waste materials or to manufacture product from waste materials.

Allows income tax deduction of 10 percent of cost of recycled material used in business and other materials used in business that would otherwise be destined for solid waste disposal.

Directs State Department of Energy to conduct study of biomass facility sites in state.

A BILL FOR AN ACT

Relating to taxation; creating new provisions; and amending ORS 314.752, 315.141, 315.354, 316.116, 318.031, 469.220 and 469.790.

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

TAX CREDIT FOR RENEWABLE ENERGY ELECTRICITY GENERATORS

SECTION 1. ORS 315.354 is amended to read:

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

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

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

(c) If the facility uses or produces renewable energy resources or is a renewable energy resource equipment manufacturing facility, the credit allowed in each of five succeeding tax years shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 taxpayer.

2 **(d) If the facility generates electricity using only renewable energy resources, the credit**
 3 **allowed in the first tax year shall be 50 percent of the certified cost of the facility. The credit**
 4 **allowed in the next succeeding tax year shall be 40 percent of the certified cost, in the second**
 5 **succeeding tax year shall be 30 percent of the certified cost, in the third succeeding tax year**
 6 **shall be 20 percent of the certified cost and in the fourth succeeding tax year shall be 10**
 7 **percent of the certified cost. The credit allowed in any one tax year may not exceed the tax**
 8 **liability of the taxpayer.**

9 (2) Notwithstanding subsection (1) of this section:

10 (a) If the facility is one or more renewable energy resource systems installed in a single-family
 11 dwelling, the amount of the credit for each system shall be determined as if the facility was con-
 12 sidered a residential alternative energy device under ORS 316.116, but subject to the maximum
 13 credit amount under subsection [(4)(b)] **(4)(c)** of this section;

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

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

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

20 (a) The facility must be located in Oregon;

21 (b) The facility must have received final certification from the Director of the State Department
 22 of Energy under ORS 469.185 to 469.225; and

23 (c) The taxpayer must be an eligible applicant under ORS 469.205 (1)(c).

24 (4) The total amount of credit allowable to an eligible taxpayer under this section may not ex-
 25 ceed:

26 **(a) 100 percent of the certified cost of a facility that generates electricity using only**
 27 **renewable energy resources;**

28 [(a)] **(b)** 50 percent of the certified cost of [*a renewable energy resources facility,*] a renewable
 29 energy resource equipment manufacturing facility or a high-efficiency combined heat and power fa-
 30 cility;

31 [(b)] **(c)** \$9,000 per single-family dwelling for homebuilder-installed renewable energy systems;

32 [(c)] **(d)** \$12,000 per single-family dwelling for homebuilder-installed renewable energy systems,
 33 if the dwelling also constitutes a high-performance home; or

34 [(d)] **(e)** 35 percent of the certified cost of any other facility.

35 (5)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the
 36 facility, notice thereof shall be given to the Director of the State Department of Energy who shall
 37 revoke the certificate covering the facility as of the date of such disposition. The new owner, or
 38 upon re-leasing of the facility, the new lessor, may apply for a new certificate under ORS 469.215,
 39 but the tax credit available to the new owner shall be limited to the amount of credit not claimed
 40 by the former owner or, for a new lessor, the amount of credit not claimed by the lessor under all
 41 previous leases.

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

45 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a

1 particular year may be carried forward and offset against the taxpayer's tax liability for the next
 2 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried
 3 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
 4 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,
 5 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
 6 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be
 7 carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that
 8 fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and
 9 likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in
 10 the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax
 11 year may be carried forward and used in the eighth succeeding tax year, but may not be carried
 12 forward for any tax year thereafter. Credits may be carried forward to and used in a tax year be-
 13 yond the years specified in subsection (1) of this section only as provided in this subsection.

14 (7) The credit provided by this section is not in lieu of any depreciation or amortization de-
 15 duction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter
 16 316, 317 or 318 for such year.

17 (8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax
 18 credits allowed under this section.

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

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

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

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

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

28 **SECTION 2.** ORS 469.220 is amended to read:

29 469.220. A certificate issued under ORS 469.215 is required for purposes of obtaining tax credits
 30 in accordance with ORS 315.354. [*Such certification shall be granted for a period not to exceed five*
 31 *years.*] **The certification shall be granted for a period of 10 years for a facility that generates**
 32 **electricity using only renewable energy resources. The certification shall be granted for a**
 33 **period of five years for all other facilities.** The [*five-year*] period shall begin with the tax year of
 34 the applicant during which a certified facility is placed into operation, or the year the facility is
 35 certified under ORS 469.215, at the election of the applicant.

36 **SECTION 3. The amendments to ORS 315.354 and 469.220 by sections 1 and 2 of this 2009**
 37 **Act apply only to facilities for which an application for preliminary certification is made**
 38 **under ORS 469.205 on or after the effective date of this 2009 Act. Any facilities for which an**
 39 **application for preliminary certification was made under ORS 469.205 before the effective**
 40 **date of this 2009 Act shall continue to be governed by ORS 315.354 and 469.220, as those**
 41 **statutes were in effect immediately before the effective date of this 2009 Act.**

42
 43 **TAX CREDIT FOR BIOMASS COMBUSTION DEVICES**

44
 45 **SECTION 4.** ORS 316.116 is amended to read:

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

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

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

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

13 (A) \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per
 14 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
 15 domestic water heating for tax years beginning on or after January 1, 1990, and before January 1,
 16 1996.

17 (B) \$1,200 or the first year energy yield in kilowatt hours per year multiplied by 48 cents per
 18 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
 19 domestic water heating for tax years beginning on or after January 1, 1996, and before January 1,
 20 1998.

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

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

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

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

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

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

34 **(e) For each category one alternative energy device that is a premium efficiency biomass**
 35 **combustion device, the credit allowed under this section is 25 percent of the cost of the al-**
 36 **ternative energy device but the total credit may not exceed \$500 if the device is placed in**
 37 **service on or after January 1, 2010.**

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

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

45 (C) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credits

1 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each al-
2 ternative energy device, whichever is less. Unused credit amounts may be carried forward as pro-
3 vided in subsection (7) of this section, but may not be carried forward to a tax year that is more
4 than five tax years following the first tax year for which any credit was allowed with respect to the
5 category two alternative energy device that is the basis for the credit.

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

9 (3)(a) In the case of a credit for a category one alternative energy device that is an energy ef-
10 ficient appliance, the credit allowed for each appliance to a resident individual under this section
11 shall equal:

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

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

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

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

20 (a) The alternative energy device must be purchased, constructed, installed and operated in ac-
21 cordance with ORS 469.160 to 469.180 and a certificate issued thereunder.

22 (b) Except for credits claimed for alternative fuel devices, the taxpayer who is allowed the credit
23 must be the owner or contract purchaser of the dwelling or dwellings served by the alternative en-
24 ergy device or the tenant of the owner or of the contract purchaser and must:

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

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

32 (c) In the case of an alternative fuel device, if the device is a fueling station necessary to op-
33 erate an alternative fuel vehicle, unless the verification form and certificate are transferred as au-
34 thorized under ORS 469.170 (8), the taxpayer who is allowed the credit must be the contractor who
35 constructs the dwelling that incorporates the fueling station into the dwelling or installs the fueling
36 station in the dwelling. If the category one alternative energy device is an alternative fuel vehicle,
37 the credit must be claimed by the owner as defined under ORS 801.375 or contract purchaser. If the
38 category one alternative energy device is related equipment for an alternative fuel vehicle, the
39 credit may be claimed by the owner or contract purchaser.

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

42 (5) The credit provided by this section does not affect the computation of basis under this
43 chapter.

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

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

10 (8) A nonresident shall be allowed the credit under this section in the proportion provided in
 11 ORS 316.117.

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

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

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

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

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

25 (b) "Noncollective investment" means an investment by an individual taxpayer for the acqui-
 26 sition, construction and installation of an alternative energy device for one or more dwellings.

27 (c) "Taxpayer" includes a transferee of a verification form under ORS 469.170 (8).

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

32 **SECTION 5. The amendments to ORS 316.116 by section 4 of this 2009 Act apply to tax**
 33 **years beginning on or after January 1, 2010.**

34
 35 **TAX CREDIT FOR TRANSPORTATION OF WOODY BIOMASS**

36
 37 **SECTION 6.** ORS 469.790 is amended to read:

38 469.790. To be eligible for the tax credit under ORS 315.141, the biomass must be produced or
 39 collected in Oregon as a feedstock for bioenergy or biofuel production in Oregon. The credit rates
 40 for biomass are:

41 (1) For oil seed crops, \$0.05 per pound.

42 (2) For grain crops, including but not limited to wheat, barley and triticale, \$0.90 per bushel.

43 (3) For virgin oil or alcohol delivered for production in Oregon from Oregon-based feedstock,
 44 \$0.10 per gallon.

45 (4) For used cooking oil or waste grease, \$0.10 per gallon.

1 (5) For wastewater biosolids, \$10.00 per wet ton.

2 (6) For woody biomass collected from nursery, orchard, agricultural, forest or rangeland prop-
3 erty in Oregon, including but not limited to prunings, thinning, plantation rotations, log landing or
4 slash resulting from harvest or forest health stewardship, \$10.00 per green ton.

5 (7) For grass, wheat, straw or other vegetative biomass from agricultural crops, \$10.00 per green
6 ton.

7 (8) For yard debris and municipally generated food waste, \$5.00 per wet ton.

8 (9) For animal manure or rendering offal, \$5.00 per wet ton.

9 **(10) For transportation of woody biomass from forest management operations to a biofuel**
10 **producer, \$ _____ per green ton.**

11 **SECTION 7.** ORS 315.141 is amended to read:

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

13 (a) "Agricultural producer" means a person that produces biomass that is used in Oregon as
14 biofuel or to produce biofuel.

15 (b) "Biofuel" means liquid, gaseous or solid fuels derived from biomass.

16 (c) "Biomass" means organic matter that is available on a renewable or recurring basis and that
17 is derived from:

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

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

21 (C) Agricultural residues;

22 (D) Offal and tallow from animal rendering;

23 (E) Food wastes collected as provided under ORS chapter 459 or 459A;

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

25 (G) Wastewater solids; or

26 (H) Crops grown solely to be used for energy.

27 (d) "Biomass" does not mean wood that has been treated with creosote, pentachlorophenol, in-
28 organic arsenic or other inorganic chemical compounds.

29 (e) "Biomass collector" means a person that collects biomass to be used in Oregon as biofuel
30 or to produce biofuel.

31 **(f) "Woody biomass transporter" means a person that transports woody biomass from**
32 **forest management operations to a biofuel producer.**

33 (2)(a) An agricultural producer, [or] biomass collector **or woody biomass transporter** shall be
34 allowed a credit against the taxes that would otherwise be due under ORS chapter 316 or, if the
35 taxpayer is a corporation, under ORS chapter 317 or 318 for:

36 (A) The production of biomass that is used in Oregon as biofuel or to produce biofuel; or

37 (B) The collection **or transportation** of biomass that is used in Oregon as biofuel or to produce
38 biofuel.

39 (b) A credit under this section may be claimed in the tax year in which the agricultural pro-
40 ducer, [or] biomass collector **or woody biomass transporter** transfers biomass to a biofuel pro-
41 ducer.

42 (c) Notwithstanding paragraph (a) of this subsection, a tax credit is not allowed for grain corn,
43 but a tax credit shall be allowed for other corn material.

44 (3) The amount of the credit shall be calculated as follows:

45 (a) Determine the quantity of biomass transferred to a biofuel producer during the tax year;

1 (b) Categorize the biomass into appropriate categories; and

2 (c) Multiply the quantity of biomass in a particular category by the appropriate credit rate for
3 that category, expressed in dollars and cents, that is prescribed in ORS 469.790.

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

6 (5)(a) A biofuel producer shall provide a written receipt to an agricultural producer, [or] biomass
7 collector **or woody biomass transporter** at the time biomass is transferred from the agricultural
8 producer, [or] biomass collector **or woody biomass transporter** to the biofuel producer. The receipt
9 must state the quantity and type of biomass being transferred and that the biomass is to be used to
10 produce biofuel.

11 (b) Each agricultural producer, [or] biomass collector **and woody biomass transporter** shall
12 maintain the receipts described in this subsection in their records for a period of at least five years
13 after the tax year in which the credit is claimed or for a longer period of time prescribed by the
14 Department of Revenue.

15 (6) The credit shall be claimed on a form prescribed by the Department of Revenue that contains
16 the information required by the department.

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

24 (8) In the case of a credit allowed under this section:

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

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

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

33 **SECTION 8. The amendments to ORS 315.141 and 469.790 by sections 6 and 7 of this 2009**
34 **Act apply to tax years beginning on or after January 1, 2010.**

35
36 **PROPERTY TAX EXEMPTION FOR SMALL**
37 **RENEWABLE ENERGY GENERATORS**
38

39 **SECTION 9. An electrical generator, and all equipment and machinery used to operate**
40 **the generator, is exempt from ad valorem taxation for a period of five years after the gen-**
41 **erator is first placed in operation if:**

42 (1) **The electrical generator has a nominal electric generating capacity, as defined by ORS**
43 **469.300, of less than one megawatt; and**

44 (2) **The electrical generator uses only renewable energy resources, as defined in ORS**
45 **469.185.**

1 **SECTION 10.** Section 9 of this 2009 Act applies to tax years beginning on or after July
2 1, 2010.

3
4 **TAX CREDIT FOR CUSTOMER-OWNED RENEWABLE ENERGY**
5 **GENERATING EQUIPMENT**
6

7 **SECTION 11.** Section 12 of this 2009 Act is added to and made a part of ORS chapter 315.

8 **SECTION 12.** (1) A taxpayer may claim a credit against taxes imposed by ORS chapter
9 316 or, if the taxpayer is a corporation, under ORS chapter 317 for investments in renewable
10 energy generating equipment described in subsection (3) of this section.

11 (2) The amount of the credit allowed under this section is equal to 35 percent of the
12 qualified investment. The credit allowed under this section may not exceed the tax liability
13 of the taxpayer.

14 (3) An investment in renewable energy generating equipment qualifies for the credit
15 provided in this section if:

16 (a) The equipment is located in Oregon;

17 (b) The investment is \$5,000 or more;

18 (c) The equipment generates electricity using only renewable energy resources, as de-
19 fined in ORS 469.185; and

20 (d) The equipment is a net metering facility, as defined in ORS 757.300, or is used by the
21 taxpayer solely for the purpose of providing electricity for the use of the taxpayer in the
22 conduct of the taxpayer's business.

23 (4) The tax credit allowed under this section may be used only against:

24 (a) Income that is produced by the sale of electricity to an electric utility by a
25 customer-generator, as defined in ORS 757.300; and

26 (b) Income from the taxpayer's business that is attributable to activities made possible
27 by the electricity generated by the equipment.

28 (5) The credit provided by this section is not in lieu of any depreciation or amortization
29 deduction for the investment to which the taxpayer otherwise may be entitled under ORS
30 chapter 316 or 317 for the tax year.

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

40 (7) The taxpayer's adjusted basis for determining gain or loss shall not be further de-
41 creased by any tax credits allowed under this section.

42 (8) A nonresident shall be allowed the credit under this section in the proportion provided
43 in ORS 316.117.

44 (9) If a change in the status of a taxpayer from resident to nonresident or from nonres-
45 ident to resident occurs, the credit allowed by this section shall be determined in a manner

1 consistent with ORS 316.117.

2 (10) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or
 3 if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the
 4 credit allowed under this section shall be prorated or computed in a manner consistent with
 5 ORS 314.085.

6 SECTION 13. Section 12 of this 2009 Act applies to tax years beginning on or after Jan-
 7 uary 1, 2010.

8
 9 **BIOMASS GENERATION TAX CREDIT**

10
 11 SECTION 14. Section 15 of this 2009 Act is added to and made a part of ORS chapter 315.

12 SECTION 15. (1) A taxpayer may claim a credit against taxes imposed by ORS chapter
 13 316 or, if the taxpayer is a corporation, under ORS chapter 317 for biomass electrical gener-
 14 ation as described in subsection (4) of this section.

15 (2)(a) The amount of the credit allowed under this section is equal to _____ cents for
 16 every kilowatt hour of electricity generated from biomass by a closed-loop generating oper-
 17 ation that grows the biomass used by the facility on a schedule of sustainable plantings and
 18 harvests.

19 (b) The amount of the credit allowed under this section is equal _____ cents for every
 20 kilowatt hour of electricity generated from biomass by a facility that is not a closed-loop
 21 generating operation.

22 (3) The credit allowed under this section may not exceed the tax liability of the taxpayer.

23 (4) Electricity qualifies for the credit provided in this section if:

24 (a) The electricity is generated by a facility located in Oregon;

25 (b) The equipment generates electricity using only biomass, as defined in ORS 315.141;
 26 and

27 (c) The facility generating the electricity is first put in service on or after _____,
 28 _____.

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

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

40 (7) If a change in the status of a taxpayer from resident to nonresident or from nonres-
 41 ident to resident occurs, the credit allowed by this section shall be determined in a manner
 42 consistent with ORS 316.117.

43 (8) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or
 44 if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the
 45 credit allowed under this section shall be prorated or computed in a manner consistent with

1 **ORS 314.085.**

2 **SECTION 16.** Section 15 of this 2009 Act applies to tax years beginning on or after
3 _____, _____.

4
5 **TAX CREDIT FOR USE OF WASTE MATERIALS**

6
7 **SECTION 17.** Section 18 of this 2009 Act is added to and made a part of ORS chapter 315.

8 **SECTION 18.** (1) As used in this section, “waste material” means materials used in a
9 business that would otherwise be destined for solid waste disposal, including materials and
10 by-products generated from an original manufacturing or fabrication process.

11 (2) A credit against the taxes otherwise due under ORS chapter 316 or, if the taxpayer
12 is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer for expenses related
13 to the purchase of equipment used to collect or process waste materials or used to manu-
14 facture a product from waste materials during the tax year. The taxpayer must be the owner
15 of the equipment.

16 (3) The amount of the tax credit available to a taxpayer under this section shall equal the
17 cost of the equipment.

18 (4) The credit allowed under this section may not exceed the tax liability of the taxpayer
19 for the tax year in which the credit is claimed.

20 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer
21 in a particular tax year may be carried forward and offset against the taxpayer’s tax liability
22 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
23 year may be carried forward and used in the second succeeding tax year, and likewise, any
24 credit not used in that second succeeding tax year may be carried forward and used in the
25 third succeeding tax year, and any credit not used in that third succeeding tax year may be
26 carried forward and used in the fourth succeeding tax year, but may not be carried forward
27 for any tax year thereafter.

28 **SECTION 19.** Section 18 of this 2009 Act applies to tax years beginning on or after Jan-
29 uary 1, 2010.

30
31 **TAX DEDUCTIONS FOR USE OF RECYCLED AND RECLAIMED MATERIALS**

32
33 **SECTION 20.** Section 21 of this 2009 Act is added to and made a part of ORS chapter 316.

34 **SECTION 21.** In addition to the modifications to federal taxable income contained in this
35 chapter, there shall be subtracted from federal taxable income an amount equal to 10 percent
36 of the cost of recycled material, as defined in ORS 459A.650, that is used in a business and
37 other materials used in a business that would otherwise be destined for solid waste disposal,
38 including materials and by-products generated from an original manufacturing or fabrication
39 process.

40 **SECTION 22.** Section 23 of this 2009 Act is added to and made a part of ORS chapter 317.

41 **SECTION 23.** In addition to the modifications to federal taxable income contained in this
42 chapter, there shall be subtracted from federal taxable income an amount equal to 10 percent
43 of the cost of recycled material, as defined in ORS 459A.650, that is used in a business and
44 other materials used in a business that would otherwise be destined for solid waste disposal,
45 including materials and by-products generated from an original manufacturing or fabrication

1 **process.**

2 **SECTION 24. Sections 21 and 23 of this 2009 Act apply to tax years beginning on or after**
 3 **January 1, 2010.**

4
 5 **CONFORMING AMENDMENTS**

6
 7 **SECTION 25.** ORS 314.752 is amended to read:

8 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
 9 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
 10 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
 11 allowable to the shareholders of the S corporation.

12 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
 13 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
 14 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
 15 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
 16 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
 17 manner prescribed under section 1377(a) of the Internal Revenue Code.

18 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
 19 of this section shall be determined as if such item were realized directly from the source from which
 20 realized by the corporation, or incurred in the same manner as incurred by the corporation.

21 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 22 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 23 316.117, then that provision shall apply to the nonresident shareholder.

24 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
 25 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
 26 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
 27 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
 28 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
 29 (tribal taxes on reservation enterprise zones), ORS 315.104 (forestation and reforestation), ORS
 30 315.134 (fish habitat improvement), ORS 315.138 (fish screening, by-pass devices, fishways), ORS
 31 315.156 (crop gleaning), ORS 315.164 and 315.169 (farmworker housing), ORS 315.204 (dependent care
 32 assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS
 33 315.254 (youth apprenticeship sponsorship), ORS 315.304 (pollution control facility), ORS 315.324
 34 (plastics recycling), ORS 315.354 and ORS 469.207 (energy conservation facilities), ORS 315.507
 35 (electronic commerce), ORS 315.511 (advanced telecommunications facilities), ORS 315.604 (bone
 36 marrow transplant expenses), ORS 317.115 (fueling stations necessary to operate an alternative fuel
 37 vehicle) and ORS 315.141 (biomass production for biofuel) **and section 12 of this 2009 Act**
 38 **(renewable energy generating equipment), section 15 of this 2009 Act (biomass electrical**
 39 **generation) and section 18 of this 2009 Act (use of waste materials).**

40 **SECTION 26.** ORS 318.031 is amended to read:

41 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 42 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 43 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
 44 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.134, 315.141, 315.156,
 45 315.204, 315.208, 315.213, 315.254, 315.304, 315.507, 315.511 and 315.604 **and sections 12, 15 and 18**

1 **of this 2009 Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

2

3

BIOMASS SITING STUDY

4

5 **SECTION 27.** The State Department of Energy shall conduct a study of biomass facility
6 sites in this state, including retired or abandoned wood processing plants in rural communi-
7 ties, and of the benefits of favorable tax treatment for biomass generating operations in ru-
8 ral communities. The department shall report the results of the study to the Legislative
9 Assembly in the manner provided by ORS 192.245 before February 1, 2011.

10 **SECTION 28.** The unit captions used in this 2009 Act are provided only for the conven-
11 ience of the reader and do not become part of the statutory law of this state or express any
12 legislative intent in the enactment of this 2009 Act.

13
