

House Bill 3291

Sponsored by Representative J SMITH

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**.

Reduces percentage of certified cost of renewable energy resources facility, renewable energy resource equipment manufacturing facility or high-efficiency combined heat and power facility that is recoverable as tax credit. Changes rate of recovery for tax credit. Creates tax credit for facility that uses nonstandard technology expected to produce energy savings in excess of traditional energy saving technology. Applies to facilities receiving final certification on or after January 1, 2010.

A BILL FOR AN ACT

1
2 Relating to tax credits for energy conservation; creating new provisions; and amending ORS 315.354,
3 469.185, 469.195, 469.197, 469.200 and 469.205.

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

5 **SECTION 1.** ORS 469.185 is amended to read:

6 469.185. As used in ORS 469.185 to 469.225 and 469.878:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (9) "Homebuilder-installed renewable energy system" means a renewable energy resource system
 30 that:

31 (a) Meets the criteria established for a renewable energy resource system under ORS 469.197;
 32 and

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

35 **(10) "Innovative technology" means a nontraditional energy production or conservation**
 36 **system that is likely to produce energy savings for a facility that exceed, to an extent es-**
 37 **tablished by department rule under ORS 469.197, the baseline typical energy savings that**
 38 **could be realized from the use of comparable traditional energy-saving systems.**

39 [(10)] (11) "Qualified transit pass contract" means a purchase agreement entered into between
 40 a transportation provider and a person, the terms of which obligate the person to purchase transit
 41 passes on behalf or for the benefit of employees, students, patients or other individuals over a
 42 specified period of time.

43 [(11)] (12) "Recycling facility" means equipment used by a trade or business solely for recycling:

44 (a) Including:

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

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

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

6 (D) Any equipment used solely for processing recyclable materials such as bailers, flatteners,
7 crushers, separators and scales.

8 (b) But not including equipment used for transporting or processing scrap materials that are
9 recycled as a part of the normal operation of a trade or business as defined by the director.

10 [(12)(a)] (13)(a) “Renewable energy resource” includes, but is not limited to:

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

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

16 (i) That does not exceed 10 megawatts of installed capacity; or

17 (ii) Qualifies as a research, development or demonstration facility.

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

20 [(13)] (14) “Renewable energy resource equipment manufacturing facility” means any structure,
21 building, installation, excavation, machinery, equipment or device, or an addition, reconstruction or
22 improvement to land or an existing structure, building, installation, excavation, machinery, equip-
23 ment or device, that is necessarily acquired, constructed or installed by a person in connection with
24 the conduct of a trade or business, that is used primarily to manufacture equipment, machinery or
25 other products designed to use a renewable energy resource and that meets the criteria established
26 under ORS 469.197.

27 [(14)] (15) “Sustainable building practices facility” means a commercial building in which build-
28 ing practices that reduce the amount of energy, water or other resources needed for construction
29 and operation of the building are used. “Sustainable building practices facility” may be further de-
30 fined by the State Department of Energy by rule, including rules that establish traditional building
31 practice baselines in energy, water or other resource usage for comparative purposes for use in
32 determining whether a facility is a sustainable building practices facility.

33 [(15)] (16) “Transportation facility” means a transportation project that reduces energy use
34 during commuting to and from work or school, during work-related travel, or during travel to obtain
35 medical or other services, and may be further defined by the department by rule. “Transportation
36 facility” includes, but is not limited to, a qualified transit pass contract or a transportation services
37 contract.

38 [(16)] (17) “Transportation provider” means a public, private or nonprofit entity that provides
39 transportation services to members of the public.

40 [(17)] (18) “Transportation services contract” means a contract that is related to a transporta-
41 tion facility, and may be further defined by the department by rule.

42 **SECTION 2.** ORS 469.195 is amended to read:

43 469.195. In determining the eligibility of facilities for tax credits, preference shall be given to
44 those projects which:

45 (1) Provide energy savings for real or personal property within the state inhabited as the prin-

1 cipal residence of a tenant, including:

2 (a) Nonowner occupied single family dwellings; and

3 (b) Multiple unit residential housing; or

4 (2) Provide long-term energy savings from the use of **innovative technology**, renewable re-
5 sources or conservation of energy resources.

6 **SECTION 3.** ORS 469.197, as amended by section 1, chapter 29, Oregon Laws 2008, is amended
7 to read:

8 469.197. The State Department of Energy shall by rule establish all of the following criteria:

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

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

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

23 (4) For a renewable energy resource equipment manufacturing facility:

24 (a) Standards relating to the type of equipment, machinery or other products being manufactured
25 and related performance and efficiency standards applicable to the manufactured products;

26 (b) Standards, consistent with the definitions in ORS 469.185, relating to what constitutes a
27 single renewable energy resource equipment manufacturing facility and what constitutes property
28 that is not included within a renewable energy resource equipment manufacturing facility;

29 (c) Standards relating to the minimum level of increased employment in Oregon for a renewable
30 energy resource equipment manufacturing facility;

31 (d) Standards relating to indicators of financial viability of an applicant for preliminary certif-
32 ication under ORS 469.205;

33 (e) Standards relating to the likelihood of long-term success of a renewable energy resource
34 equipment manufacturing facility; and

35 (f) Standards relating to the likelihood that an applicant seeking preliminary certification of a
36 renewable energy resource equipment manufacturing facility will base decisions to locate or expand
37 a facility in Oregon on the allowance of a tax credit under ORS 315.354.

38 **(5) For a facility using innovative technology, standards relating to the baseline typical**
39 **energy savings produced by the use of comparable traditional energy-saving systems and the**
40 **minimum performance and efficiency standards that a nontraditional energy system must**
41 **achieve to be considered to have produced energy savings in excess of comparable traditional**
42 **energy-saving systems.**

43 **SECTION 4.** ORS 469.200, as amended by section 2, chapter 29, Oregon Laws 2008, is amended
44 to read:

45 469.200. (1) For a facility, the total cost that receives a preliminary certification from the Di-

1 rector of the State Department of Energy for tax credits in any calendar year may not exceed:

2 (a) \$20 million, in the case of a facility using or producing renewable energy resources or a
3 high-efficiency combined heat and power facility;

4 (b) \$40 million, in the case of a renewable energy resource equipment manufacturing facility;
5 [or]

6 (c) **\$_____**, in the case of a facility using innovative technology; or

7 [(c)] (d) \$10 million, in the case of any other facility.

8 (2) Notwithstanding subsection (1)(b) of this section, the director may certify a lesser amount
9 than the total cost of the renewable energy resource equipment manufacturing facility, or need not
10 certify any amount, if any of the following conditions exist at the time of preliminary certification:

11 (a) The last quarterly economic and revenue forecast for a biennium indicates that moneys
12 available to the General Fund for the next biennium will be at least three percent less than appro-
13 priations from the General Fund for the current biennium;

14 (b) A quarterly economic and revenue forecast projects that revenues in the General Fund in
15 the current biennium will be at least two percent below what revenues were projected to be in the
16 revenue forecast on which the legislatively adopted budget, as defined in ORS 291.002, for the cur-
17 rent biennium was based;

18 (c) The proposed facility, in the estimate of the director, does not possess the likelihood of suc-
19 cess established in criteria of success under ORS 469.197 (4);

20 (d) The proposed facility, in the estimate of the director, is not likely to increase employment
21 in Oregon to the minimum threshold level established in rules under ORS 469.197 (4);

22 (e) The applicant lacks the minimum level of financial viability established in rules adopted un-
23 der ORS 469.197 (4); or

24 (f) The applicant is unlikely, in the estimate of the director, to base a decision to relocate or
25 expand a facility in Oregon on allowance of the tax credit, given the criteria established in rules
26 under ORS 469.197 (4).

27 (3) **Notwithstanding subsection (1)(c) of this section, the director may certify a lesser**
28 **amount of the total cost of a facility using innovative technology, but not less than the total**
29 **certified cost for a facility using a comparable traditional energy-saving system, if any of the**
30 **following apply:**

31 (a) **The last quarterly economic and revenue forecast for a biennium indicates that**
32 **moneys available to the General Fund for the next biennium will be at least three percent**
33 **less than appropriations from the General Fund for the current biennium.**

34 (b) **A quarterly economic and revenue forecast projects that revenues in the General**
35 **Fund in the current biennium will be at least two percent below what revenues were**
36 **projected to be in the revenue forecast on which the legislatively adopted budget, as defined**
37 **in ORS 291.002, for the current biennium was based.**

38 (c) **The innovative technology being used is expected to produce energy savings that are**
39 **significantly smaller, as defined by the department, than other innovative technology sys-**
40 **tems being acquired for, constructed or installed in comparable facilities for which an inno-**
41 **vative technology tax credit is being sought under ORS 469.185 to 469.225.**

42 (d) **The extent to which the facility uses innovative technology is significantly less, as**
43 **defined by the department, than the extent to which comparable facilities seeking an inno-**
44 **vative technology tax credit under ORS 469.185 to 469.225 use innovative technology.**

45 [(3)] (4) The director shall determine the dollar amount certified for any facility and the priority

1 between applications for certification based upon the criteria contained in ORS 469.185 to 469.225
 2 and applicable rules and standards adopted under ORS 469.185 to 469.225. The director may consider
 3 the status of a facility as a research, development or demonstration facility of new renewable re-
 4 source generating and conservation technologies or a qualified transit pass contract in the deter-
 5 mination.

6 **SECTION 5.** ORS 469.205, as amended by section 3, chapter 29, Oregon Laws 2008, is amended
 7 to read:

8 469.205. (1) Prior to erection, construction, installation or acquisition of a proposed facility, any
 9 person may apply to the State Department of Energy for preliminary certification under ORS 469.210
 10 if:

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

13 (b) The facility complies with the standards or rules adopted by the Director of the State De-
 14 partment of Energy; and

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

16 (A) The applicant is a person to whom a tax credit has been transferred; or

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

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

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

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

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

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

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

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

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

33 (E) Plans to acquire, construct or install equipment for recycling as defined in ORS 469.185
 34 [(11)] (12);

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

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

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

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

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

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

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

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

44 (N) Is a homebuilder and plans to construct a high-performance home; [or]

45 (O) Plans to acquire, construct or install a renewable energy resource equipment manufacturing

1 facility; or

2 **(P) Plans to acquire, construct or install a facility that uses innovative technology.**

3 (b) A detailed description of the proposed facility and its operation and information showing that
4 the facility will operate as represented in the application.

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

9 (d) The projected cost of the facility.

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

12 (f) Any other information the director considers necessary to determine whether the proposed
13 facility is in accordance with the provisions of ORS 469.185 to 469.225, and any applicable rules or
14 standards adopted by the director.

15 (3) An application for preliminary certification shall be accompanied by a fee established under
16 ORS 469.217. The director may refund the fee if the application for certification is rejected.

17 (4) The director may allow an applicant to file the preliminary application after the start of
18 erection, construction, installation or acquisition of the facility if the director finds:

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

21 (b) The facility would otherwise qualify for tax credit certification pursuant to ORS 469.185 to
22 469.225.

23 (5) A preliminary certification of a sustainable building practices facility shall be applied for and
24 issued as prescribed by the department by rule.

25 (6) A preliminary certification of a renewable energy resource equipment manufacturing facility
26 shall remain valid for a period of five calendar years after the date the preliminary certification is
27 issued by the director.

28 **SECTION 6.** ORS 315.354 is amended to read:

29 315.354. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if
30 the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of the
31 facility during the period for which that facility is certified under ORS 469.185 to 469.225. The credit
32 is allowed as follows:

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

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

41 (c) If the facility uses or produces renewable energy resources or is a renewable energy re-
42 source equipment manufacturing facility, the credit allowed in each of five succeeding tax years
43 shall be [*10*] **six** percent of the certified cost of the facility, but may not exceed the tax liability of
44 the taxpayer.

45 **(d) If the facility uses innovative technology, the credit allowed in each of five succeeding**

1 **tax years shall be 10 percent of the certified cost of the facility, but may not exceed the tax**
 2 **liability of the taxpayer.**

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

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

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

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

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

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

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

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

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

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

23 **(b) 50 percent of the cost of a facility that uses innovative technology;**

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

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

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

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

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

38 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
 39 particular year may be carried forward and offset against the taxpayer's tax liability for the next
 40 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried
 41 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
 42 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,
 43 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
 44 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be
 45 carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that

1 fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and
 2 likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in
 3 the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax
 4 year may be carried forward and used in the eighth succeeding tax year, but may not be carried
 5 forward for any tax year thereafter. Credits may be carried forward to and used in a tax year be-
 6 yond the years specified in subsection (1) of this section only as provided in this subsection.

7 (7) The credit provided by this section is not in lieu of any depreciation or amortization de-
 8 duction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter
 9 316, 317 or 318 for such year.

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

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

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

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

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

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

21 **SECTION 7. The amendments to ORS 315.354, 469.185, 469.195, 469.197, 469.200 and 469.205**
 22 **by sections 1 to 6 of this 2009 Act apply to facilities for which the Director of the State De-**
 23 **partment of Energy issues a final certification under ORS 469.215 on or after January 1, 2010.**
 24