



SB 817

New Market Tax Credits aka *Oregon Low Income Community Jobs Initiative*: A Quagmire dressed in low income jobs

Joint Tax Credits Committee testimony 5.19.2011 Jody Wisler

This is the fourth iteration of this bill pushed on Oregon. National organizations attempt and sometimes succeed in selling this idea in several states every year, much to their gain. Over several sessions the New Market Tax Credit legislation for Oregon has shown minor changes. It is now titled the *Oregon Low Income Community Jobs Initiative*.

However, there is no requirement in the bill or in the federal law that the bill follows that the investments stimulate new job creation. Further, the definition of low income community is quite generous. In fact it includes much of the state, including downtown Portland.

In our examination, we have found that after the important but transient constructions jobs generated (in Oregon most NMTC money seems to be used to construct buildings) the majority of jobs related to the NMTC program are relocated jobs, relocated from a now empty building to a new one. The movement of ZGF architectural firm to the new 12W building is a good example. It's a fabulously beautiful building which received \$29m in NMTC federal tax credits.

However, it was built without a \$3 million state contribution, as were the 73 Oregon NMTC projects since the federal program's inception in 2003 and 2009 (the most recent available data).

One of our problems with SB 817 is the absence of a problem to be solved. Oregon already receives far more per capita in federal NMTC than all but eight other states. We lead the western states by large margins, as you can see on your first handout.

Following Federal law, the investments must be in census districts that are "low income" according to one interpretation of census data, but which in fact may not be low income by most standards. Downtown Portland, likely the most valuable property per square foot in the state, for example, qualifies. Many university neighborhoods qualify.

Senate Bill 817 creates a new Oregon tax credit that would piggyback on the Federal New Market Tax Credit, with Oregon providing up to 39% of the value of investments which will be added to the Federal tax credit of 39% of the value bringing public investment to as much as

78% for investments that will be owned privately. The Oregon subsidy for each project is capped at \$3 million.

These tax credits, unlike most, can be carried forward indefinitely. But the bill cleverly forestalls immediate impact to the General Fund in two ways:

- Oregon's NMTC program doesn't begin until 7.1.2012, and
- Use of the tax credits is delayed until two years after their award.

This delays the cost, essentially making a commitment now into a charge against future years' General Fund. It also gives proof that the projects don't actually need the funds to move forward, the investor/owners just want to come to the public trough.

If we have \$16 million a year to spend, we need to name our goal and then evaluate a menu of ideas and choose the best one to meet the goal. This won't be it. Why would the public pay up to 78% of the cost of a building, biomass plant or business and give 100% of the ownership to private interests?

Further \$16 million a year sounds prudent, but actually the program's cost to the General Fund will likely be \$78 million, nearly \$12 million of which need not even be loaned or invested in Oregon.

Most NMTC in Oregon have subsidized buildings, not businesses. And more buildings are not what we need. While we could use construction jobs, we have plenty of empty buildings.

Some states have directed the use of NMTC to technology job creation or traded sector businesses. The legislators of both Texas and Tennessee have shaped their state programs, trying to target their bills.

But SB 817 is purposely designed require first-come, first-served allocations. Its provisions stand in the way of the state providing any criteria for which projects have the most merit given our core values. Business Oregon will handle the program, but is allowed but 15 days to approve or disapprove an application and is give no opportunity to award based on merit or benefit to the state.

Only a few of the 73 Oregon projects have yet been located outside of urban areas. But we have shared with you an example of a rural NMTC funded project that will help create some new jobs. ZeaChem will use poplar trees to produce cellulosic ethanol in Boardman, and potentially in other locations along the river. But again, given the picture of public subsidy that you have in your hands, it's hard to imagine that Oregon throwing another \$3 million of General Fund revenue into the mix would be critical to the job creation at ZeaChem, or that the \$43 million in NMTC investments should get total credit for any jobs that are created.

The remaining of what I've written is REALLY wonky. I'll leave it for you to read these points.

- 1) In the worst case scenario, we help pick winners and losers and vastly advantage some businesses over others.** Imagine a new or remodeled building for small businesses serving a local community with a hair salon, insurance agency, and pizza shop. Any business that moves into this NMTC advantaged building may have a huge competitive advantage over other businesses. How can they compete?

Cost:	\$14,000,000
Federal NMTC	\$5,460,000
Oregon NMTC	\$3,000,000
Investor commitment	\$5,540,000

- 2) Loans as well as direct investments are considered investments, with all loan principal payments, interest and profit going to the “Qualified Community Development entities” not to taxpayers.** After the first 6-7 years, the investments no longer need even be in qualifying census tracts. If Oregon is going to provide more loans, let’s have the principal and interest return to the state.
- 3) The bill makes it appear that one can’t receive a NMTC and another tax credit for the same project.** However, our read of the bill language is that it doesn’t actually keep NMTCs from being awarded to projects getting other kinds of Oregon tax credit benefits; it only asks that no other types of tax credits be claimed by the holder on their taxes in the same year when these are claimed. This might explain why these tax credits can be rolled forward forever.
- 4) While the bill says the tax credits can’t be sold, complex financial arrangements will no doubt be made to fruitfully dispose of the tax credits** just as have been done with BETCs, such as the solar panels located at the at the I-5/206 exchange.

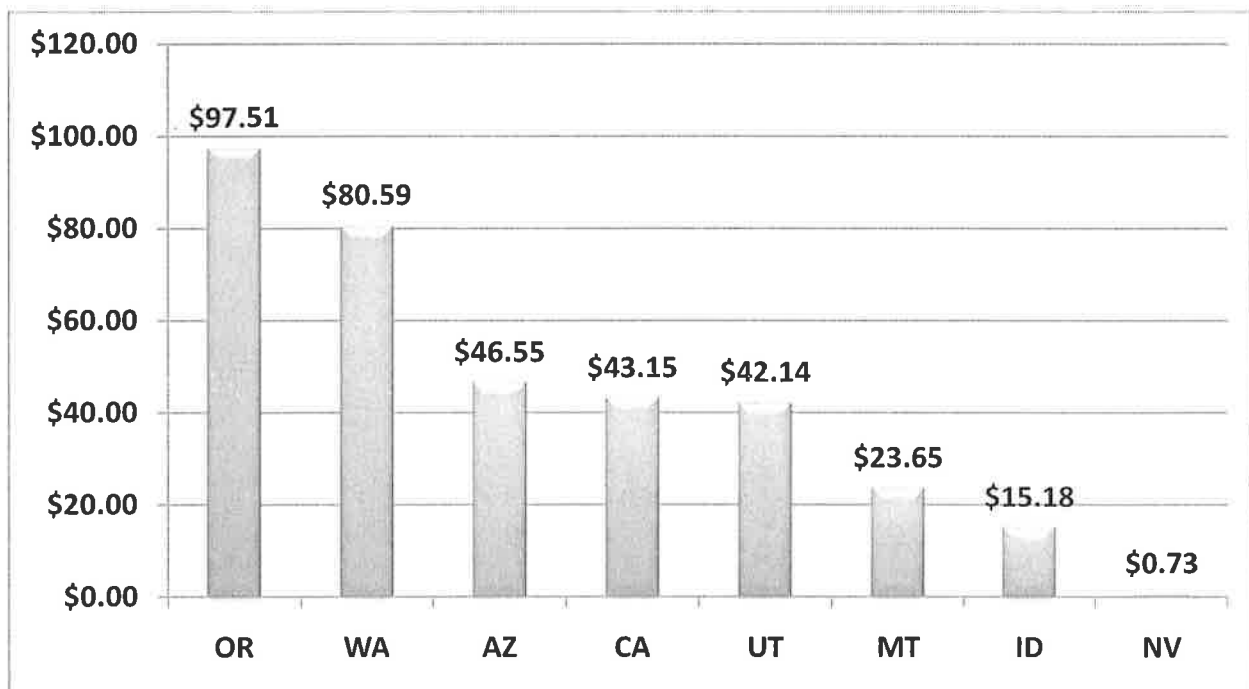
This Bloomberg article <http://www.bloomberg.com/news/2011-02-08/rich-taking-from-poor-as-10-billion-u-s-subsidy-law-funds-luxury-hotels.html> does an excellent job of showing how meeting the census district requirements can be and is gamed. The story focuses on two high end hotels built in tony areas with NMTC, one is the Nines in Portland, which received \$27.3 million in federal NMTC. Would another \$3 million in Oregon NMTCs make it better?

Please oppose SB 817 this year, and any similar bills you see in the years to come, they’ll carry the tell-tale words “section 45D of the Internal Revenue Code.”

Tax Fairness Oregon is a nearly all-volunteer citizen group advocating for fair, adequate and stable revenue



WESTERN STATES NEW MARKET TAX CREDITS PER CAPITA CUM 2003 THRU 2009 BASED ON 2010 CENSUS



Data Sources: 2010 Census data and Treasury CDFI website http://www.cdfifund.gov/what_we_do/nmtc/NMTC-Program-Projects-Financed-Through-2009.asp

New Market Tax Credit Projects in Oregon

Oregon New Market Tax Credits Awarded 2003-2009

Year	Business Description	Project City	Organization Name	Amount QLICI
2006	General Family Medical Practice	Dallas	National New Markets Tax Credit Fund, Inc	683,000
2007	Bed and breakfast inn	Eugene	National New Markets Tax Credit Fund, Inc	750,000
2005	Hotels and Motels	Forest Grove	Community Development Funding, LLC	1,975,000
2007	Chicken Restaurant	Keizer	National New Markets Tax Credit Fund, Inc	240,000
2005	RV Park	North Bend	ShoreBank Enterprise Group Pacific	2,855,000
2005	Lessor of non-residential buildings	Ontario	Community Development Funding, LLC	1,900,000
2004	Owner Occupied Office/Warehouse building	Portland	Key Community Development New Markets LLC	1,585,307
2005	Retail store	Portland	Community Revitalization Fund, Inc.	4,857,381
2006	Motel	Portland	National New Markets Tax Credit Fund, Inc	1,880,000
2006	Brewing	Portland	Portland New Markets Fund I, LLC	25,600
2006	Specialty Food	Portland	Portland New Markets Fund I, LLC	25,000
2006	Pet Boarding	Portland	Portland New Markets Fund I, LLC	25,000
2007	Retail store	Portland	Community Revitalization Fund, Inc.	4,875,381
2007	Art galleries	Portland	HEDC New Markets, Inc	9,408,750
2007	Hair Salon	Portland	Portland New Markets Fund I, LLC	15,000
2007	Specialty Food	Portland	Portland New Markets Fund I, LLC	30,000
2007	Specialty Food	Portland	Portland New Markets Fund I, LLC	50,000
2007	School	Portland	USBCDE, LLC	1,922,147
2005	Flooring Contractor	Salem	National New Markets Tax Credit Fund, Inc	360,000
2006	Support Services to Disadvantaged Persons	Salem	National New Markets Tax Credit Fund, Inc	1,560,000
2006	Welding and Machine Shop	Salem	National New Markets Tax Credit Fund, Inc	1,560,000
2006	Retailer of Sporting Goods	Salem	National New Markets Tax Credit Fund, Inc	182,000
2007	Home Improvement Retailer	Albany	National New Markets Tax Credit Fund, Inc	180,000
2003	Lessors of Nonresidential Buildings	Portland	National Trust Community Investment Corporation	2,400,881
2004	Retail Shopping Center	Portland	Key Community Development New Markets LLC	13,938,118
2005	Elementary school	Portland	ESIC New Markets Partners LP	4,418,292
2005	Real Estate Holding	Portland	Historic Rehabilitation Fund I	6,141,261
2005	17,620 SF Office Building	Portland	Key Community Development New Markets LLC	547,930
2005	Retail Shopping Center	Portland	Key Community Development New Markets LLC	3,761,000
2005	Lessors of Nonresidential Buildings	Portland	National Trust Community Investment Corporation	2,426,905
2005	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	6,400,000
2005	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	17,375,000
2006	Elementary School	Portland	ESIC New Markets Partners LP	8,800,000
2006	Performing Arts Facility	Portland	GS New Markets Fund	26,073,875
2006	Mixed Use/ Residential/Retail/Commercial	Portland	HEDC New Markets, Inc	3,779,237
2006	Real Estate Holding	Portland	Historic Rehabilitation Fund I	6,603,802
2006	Real Estate Holding	Portland	Historic Rehabilitation Fund I	8,925,000
2006	Real Estate Holding	Portland	Hospitality Fund I	61,625,000
2006	Three office buildings to be leased to the University of Oregon	Portland	Key Community Development New Markets LLC	6,848,564

Year	BusinessDescription	Project City	Organization Name	Amount QLICI
2006	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	8,562,566
2006	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	1,000,000
2006	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	3,786,080
2006	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	20,055,000
2006	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	410,000
2006	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	6,697,175
2007	Real Estate Holding	Portland	Historic Rehabilitation Fund I	980,000
2007	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	500,000
2007	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	1,056,321
2007	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	650,000
2007	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	940,000
2007	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	26,862,266
2007	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	500,000
2007	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	355,000
2007	Real Estate for Performance Health Technology	Salem	Merrill Lynch Community Development Company	254,892
2007	Real Estate for Performance Health Technology	Salem	Merrill Lynch Community Development Company	1,444,388
2007	Moulding Manufacturing and Sales	Salem	National New Markets Tax Credit Fund, Inc	600,000
2005	Loan to Construct a Retail Store to Offer Goods to Low Income Individuals	Springfield	Key Community Development New Markets LLC	1,804,000
2008	Real Estate Holding	Portland	National Community Fund I, LLC	\$9,801,000
2008	Restaurant	Portland	Portland New Markets Fund I, LLC	\$20,000
2008	Community College	Astoria	ShoreBank Enterprise Group Pacific, d/b/a ShoreBar	\$10,451,231
2008	Contract Logger	Reedsport	Merrill Lynch Community Development Company	\$669,550
2008	Mixed use (office, retail, education)	Portland	usbcde, llc	\$6,930,000
2008	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	\$50,000
2008	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	\$1,242,266
2008	Real Estate Holding	Portland	Portland New Markets Fund I, LLC	\$200,000
2008	Developer	Astoria	ShoreBank Enterprise Group Pacific, d/b/a ShoreBar	\$806,878
2008	Edit Business Description	Portland	National New Markets Fund, LLC	\$7,275,000
2009	Community Health Clinic	Portland	Community Funding Group	\$7,275,000
2009	Drug/Alcohol Detox Center	Portland	Community Funding Group	\$10,559,867
2009	Non-Profit Multi-Service Center	Portland	Community Funding Group	\$11,640,000
2009	Community-government office center	Salem	Wachovia Community Development Enterprises, LLC	\$15,000,000
2009	Childcare	Portland	Portland New Markets Fund I, LLC	\$5,000
2009	Health Club	Portland	Portland New Markets Fund I, LLC	\$10,000

Oregon Total Federal NMTC \$ 375,402,911

This data is from "Community Development financial Institutions fund of the U.S. Department of the Treasury, NMTC Program We have been unable to find a more current list. We've extracted from the larger list Oregon's NMTC projects list.

For comparison:		State	Population	NMTC Invested	Per Capita	Rank
Similar Populations:		Oklahoma	3.8 m	\$259.8 million	\$69	17
		Oregon	3.8 m	\$373.6 million	\$98	9
		Connecticut	3.6 m	\$145.3 million	\$41	32
Neighbors:		Washington	6.7 m	\$541.9 million	\$80	14
		California	37.3 m	\$1,607.4 million	\$24	27
		Idaho	1.6 m	\$ 23.8 million	\$15	45

Oregon has done quite well in drawing NMTC without adding state-side incentives to the NMTC program.