

House Bill 2900

Sponsored by Representative BAILEY, Senator EDWARDS (Presession filed.)

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**.

Abolishes State Department of Energy.

Establishes Oregon Office of Energy Planning and Siting. Transfers duties, functions and powers relating to energy research and regulation and siting of energy facilities and certain other duties, functions and powers from State Department of Energy to office.

Transfers duties, functions and powers relating to administration of alternative energy device and renewable energy resource tax relief programs, Small Scale Local Energy Project Loan program and energy efficiency and sustainable technology loan program and certain other duties, functions and powers from State Department of Energy to Oregon Business Development Department.

Transfers duties, functions and powers relating to administration of utilities and energy conservation programs and certain other duties, functions and powers from State Department of Energy to Public Utility Commission.

Establishes Renewable Energy Resource and Alternative Energy Device Tax Relief Fund. Continuously appropriates moneys in fund to Oregon Business Development Department for purpose of administering specified tax relief programs.

Becomes operative January 1, 2012.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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Relating to restructuring of the State Department of Energy; creating new provisions; amending ORS 176.809, 176.820, 183.457, 183.530, 192.502, 215.044, 223.396, 227.190, 240.855, 244.050, 261.151, 261.161, 261.225, 261.470, 262.025, 262.065, 267.030, 267.517, 276.910, 276.915, 279A.065, 279C.527, 279C.528, 283.337, 285A.070, 285A.075, 286A.630, 286A.710, 286A.712, 286A.716, 286A.718, 291.055, 291.445, 315.141, 315.144, 315.354, 315.356, 317.112, 401.054, 453.347, 455.492, 455.511, 458.505, 466.380, 466.615, 468A.040, 468A.220, 468A.225, 468A.245, 468A.250, 468B.500, 469.020, 469.055, 469.060, 469.070, 469.080, 469.085, 469.097, 469.110, 469.120, 469.135, 469.150, 469.155, 469.160, 469.165, 469.170, 469.171, 469.172, 469.176, 469.180, 469.185, 469.195, 469.197, 469.200, 469.205, 469.206, 469.208, 469.210, 469.215, 469.217, 469.220, 469.225, 469.255, 469.261, 469.300, 469.320, 469.330, 469.350, 469.370, 469.373, 469.375, 469.401, 469.402, 469.405, 469.410, 469.421, 469.430, 469.441, 469.442, 469.503, 469.504, 469.507, 469.520, 469.530, 469.533, 469.534, 469.535, 469.536, 469.540, 469.550, 469.559, 469.560, 469.561, 469.571, 469.594, 469.605, 469.606, 469.609, 469.611, 469.613, 469.615, 469.617, 469.619, 469.651, 469.659, 469.673, 469.675, 469.677, 469.679, 469.681, 469.683, 469.700, 469.717, 469.720, 469.745, 469.754, 469.756, 469.785, 469.840, 469.880, 469.885, 469.890, 469.895, 469.900, 469.992, 469.994, 469A.020, 469A.025, 469A.130, 470.050, 470.060, 470.070, 470.080, 470.090, 470.100, 470.110, 470.130, 470.135, 470.140, 470.145, 470.150, 470.160, 470.170, 470.180, 470.190, 470.200, 470.210, 470.230, 470.270, 470.300, 470.310, 470.500, 470.505, 470.510, 470.520, 470.525, 470.530, 470.535, 470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575, 470.580, 470.585, 470.590, 470.600, 470.605, 470.610, 470.620, 470.630, 470.635, 470.645, 470.650, 470.655, 470.660, 470.665, 470.675, 470.680, 470.685, 470.700, 470.710, 470.715, 522.125, 526.274, 526.280, 526.786, 701.108, 701.119, 756.047, 757.524, 757.528, 757.533, 757.538, 757.600, 757.612, 757.617, 757.687, 757.720, 759.405 and 759.430 and section 8a, chapter 832, Oregon Laws

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.

2005, section 25, chapter 301, Oregon Laws 2007, sections 1, 2 and 4, chapter 551, Oregon Laws 2007, section 8a, chapter 739, Oregon Laws 2007, sections 42, 43, 44, 47a and 48, chapter 753, Oregon Laws 2009, section 37, chapter 865, Oregon Laws 2009, section 1, chapter 912, Oregon Laws 2009, section 4, chapter 17, Oregon Laws 2010, section 2, chapter 76, Oregon Laws 2010, section 5, chapter 85, Oregon Laws 2010, and sections 1, 10 and 12, chapter 92, Oregon Laws 2010; repealing ORS 469.030, 469.040 and 469.050 and section 3, chapter 551, Oregon Laws 2007; appropriating money; and declaring an emergency.

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

ABOLISHMENT OF THE STATE DEPARTMENT OF ENERGY

(Abolish and Transfer)

SECTION 1. (1) The State Department of Energy is abolished. On the operative date of this section, the tenure of office of the officers of the State Department of Energy and of the Director of the State Department of Energy ceases.

(2) All the duties, functions and powers of the State Department of Energy relating to the administration of ORS 176.809, 176.820, 183.457, 183.530, 215.044, 227.190, 240.855, 244.050, 267.030, 267.517, 276.910, 276.915, 279A.065, 279C.527, 279C.528, 283.337, 286A.710, 286A.712, 286A.716, 286A.718, 291.055, 315.141, 315.144, 401.054, 453.347, 455.492, 455.511, 466.380, 466.615, 468A.200 to 468A.260, 469.020, 469.055, 469.060, 469.070, 469.080, 469.085, 469.097, 469.110, 469.120, 469.135, 469.255, 469.261, 469.300 to 469.619, 469.504, 469.571, 469.785, 469.930, 469.992, 522.125, 526.274, 526.280 and 526.786 and sections 1, 2 and 3, chapter 551, Oregon Laws 2007, section 8a, chapter 739, Oregon Laws 2007, section 47a, chapter 753, Oregon Laws 2009, section 37, chapter 865, Oregon Laws 2009, and section 5, chapter 85, Oregon Laws 2010, are imposed upon, transferred to and vested in the Oregon Office of Energy Planning and Siting.

(3) All the duties, functions and powers of the State Department of Energy relating to the administration of ORS 192.502, 223.396, 286A.630, 291.445, 315.354, 315.356, 469.160 to 469.180, 469.185 to 469.225, 469.994, 470.715, 701.108 and 701.119 and ORS chapter 470 and section 8a, chapter 832, Oregon Laws 2005, sections 42, 43, 44 and 48, chapter 753, Oregon Laws 2009, section 1, chapter 912, Oregon Laws 2009, section 2, chapter 76, Oregon Laws 2010, and sections 1, 10 and 12, chapter 92, Oregon Laws 2010, are imposed upon, transferred to and vested in the Oregon Business Development Department.

(4) All the duties, functions and powers of the State Department of Energy relating to the administration of ORS 261.151, 261.161, 261.225, 261.470, 262.025, 262.065, 317.112, 458.505, 469.150, 469.155, 469.649 to 469.659, 469.673 to 469.683, 469.700, 469.710 to 469.720, 469.730 to 469.745, 469.752 to 469.756, 469.860 to 469.900, 469A.005 to 469A.210, 757.522 to 757.536 and 757.538 and ORS chapter 757 and section 25, chapter 301, Oregon Laws 2007, are imposed upon, transferred to and vested in the Public Utility Commission.

(Records, Property and Employees)

SECTION 2. (1) The Director of the State Department of Energy shall:

(a)(A) Deliver to the Oregon Office of Energy Planning and Siting all records and property within the jurisdiction of the director that relate to the duties, functions and powers

1 transferred by section 1 (2) of this 2011 Act; and

2 (B) Transfer to the Oregon Office of Energy Planning and Siting those employees engaged
 3 primarily in the exercise of the duties, functions and powers transferred by section 1 (2) of
 4 this 2011 Act.

5 (b)(A) Deliver to the Oregon Business Development Department all records and property
 6 within the jurisdiction of the director that relate to the duties, functions and powers trans-
 7 ferred by section 1 (3) of this 2011 Act; and

8 (B) Transfer to the Oregon Business Development Department those employees engaged
 9 primarily in the exercise of the duties, functions and powers transferred by section 1 (3) of
 10 this 2011 Act.

11 (c)(A) Deliver to the Public Utility Commission all records and property within the ju-
 12 risdiction of the director that relate to the duties, functions and powers transferred by sec-
 13 tion 1 (4) of this 2011 Act; and

14 (B) Transfer to the Public Utility Commission those employees engaged primarily in the
 15 exercise of the duties, functions and powers transferred by section 1 (4) of this 2011 Act.

16 (2) The Director of the Oregon Office of Energy Planning and Siting shall take possession
 17 of the records and property transferred under subsection (1)(a) of this section. The director
 18 shall take charge of the employees transferred under subsection (1)(a) of this section and
 19 employ them in the exercise of the duties, functions and powers transferred by section 1 (2)
 20 of this 2011 Act, without reduction of compensation but subject to change or termination of
 21 employment or compensation as provided by law.

22 (3) The Director of the Oregon Business Development Department shall take possession
 23 of the records and property transferred under subsection (1)(b) of this section. The director
 24 shall take charge of the employees transferred under subsection (1)(b) of this section and
 25 employ them in the exercise of the duties, functions and powers transferred by section 1 (3)
 26 of this 2011 Act, without reduction of compensation but subject to change or termination of
 27 employment or compensation as provided by law.

28 (4) The Public Utility Commission shall take possession of the records and property
 29 transferred under subsection (1)(c) of this section. The commission shall take charge of the
 30 employees transferred under subsection (1)(c) of this section and employ them in the exer-
 31 cise of the duties, functions and powers transferred by section 1 (4) of this 2011 Act, without
 32 reduction of compensation but subject to change or termination of employment or compen-
 33 sation as provided by law.

34 (5) The Governor shall resolve any dispute between the State Department of Energy and
 35 the Oregon Office of Energy Planning and Siting, the Oregon Business Development De-
 36 partment or the Public Utility Commission relating to transfers of records, property and
 37 employees under this section, and the Governor's decision is final.

38
 39 (Unexpended Revenues)
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41 **SECTION 3.** (1) The unexpended balances of amounts authorized to be expended by the
 42 State Department of Energy for the biennium beginning July 1, 2009, from revenues dedi-
 43 cated, continuously appropriated, appropriated or otherwise made available for the purpose
 44 of administering and enforcing the duties, functions and powers transferred by section 1 of
 45 this 2011 Act are transferred to and are available for expenditure by the Oregon Office of

1 Energy Planning and Siting for the biennium beginning July 1, 2011, for the purpose of ad-
2 ministering and enforcing the duties, functions and powers transferred by section 1 (2) of
3 this 2011 Act.

4 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
5 expenditures by the State Department of Energy remain applicable to expenditures by the
6 Oregon Office of Energy Planning and Siting under this section.

7
8 (Actions, Proceedings and Prosecutions)

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10 **SECTION 4.** The transfer of duties, functions and powers to the Oregon Office of Energy
11 Planning and Siting, the Oregon Business Development Department and the Public Utility
12 Commission by section 1 of this 2011 Act does not affect any action, proceeding or prose-
13 cution involving or with respect to such duties, functions and powers begun before and
14 pending at the time of the transfer, except that:

15 (1) The Oregon Office of Energy Planning and Siting is substituted for the State Depart-
16 ment of Energy in an action, proceeding or prosecution held pursuant to the laws specified
17 in section 1 (2) of this 2011 Act;

18 (2) The Oregon Business Development Department is substituted for the State Depart-
19 ment of Energy in an action, proceeding or prosecution held pursuant to the laws specified
20 in section 1 (3) of this 2011 Act; and

21 (3) The Public Utility Commission is substituted for the State Department of Energy in
22 an action, proceeding or prosecution held pursuant to the laws specified in section 1 (4) of
23 this 2011 Act.

24
25 (Liabilities, Duties and Obligations)

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27 **SECTION 5.** (1) Nothing in sections 1 to 15, 111, 206 or 254 of this 2011 Act, the amend-
28 ments to ORS 176.809, 176.820, 183.457, 183.530, 192.502, 215.044, 223.396, 227.190, 240.855,
29 244.050, 261.151, 261.161, 261.225, 261.470, 262.025, 262.065, 267.030, 267.517, 276.910, 276.915,
30 279A.065, 279C.527, 279C.528, 283.337, 285A.070, 285A.075, 286A.630, 286A.710, 286A.712, 286A.716,
31 286A.718, 291.055, 291.445, 315.141, 315.144, 315.354, 315.356, 317.112, 401.054, 453.347, 455.492,
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36 469.300, 469.320, 469.330, 469.350, 469.370, 469.373, 469.375, 469.401, 469.402, 469.405, 469.410,
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 2 470.715, 522.125, 526.274, 526.280, 526.786, 701.108, 701.119, 756.047, 757.524, 757.528, 757.533,
 3 757.538, 757.600, 757.612, 757.617, 757.687, 757.720, 759.405 and 759.430 and section 8a, chapter
 4 832, Oregon Laws 2005, section 25, chapter 301, Oregon Laws 2007, sections 1, 2 and 4, chapter
 5 551, Oregon Laws 2007, section 8a, chapter 739, Oregon Laws 2007, sections 42, 43, 44, 47a and
 6 48, chapter 753, Oregon Laws 2009, section 37, chapter 865, Oregon Laws 2009, section 1,
 7 chapter 912, Oregon Laws 2009, section 4, chapter 17, Oregon Laws 2010, section 2, chapter
 8 76, Oregon Laws 2010, section 5, chapter 85, Oregon Laws 2010, and sections 1, 10 and 12,
 9 chapter 92, Oregon Laws 2010, by sections 17 to 110, 112 to 205 and 207 to 253a of this 2011
 10 Act or the repeal of ORS 469.030, 469.040 and 469.050 and section 3, chapter 551, Oregon Laws
 11 2007, by section 255 of this 2011 Act relieves a person of a liability, duty or obligation accru-
 12 ing under or with respect to the duties, functions and powers transferred by section 1 of this
 13 2011 Act.

14 (2)(a) The Oregon Office of Energy Planning and Siting may undertake the collection or
 15 enforcement of any liability, duty or obligation relating to the administration of the laws
 16 specified in section 1 (2) of this 2011 Act.

17 (b) The rights and obligations of the State Department of Energy relating to the admin-
 18 istration of the laws specified in section 1 (2) of this 2011 Act that are legally incurred under
 19 contracts, leases and business transactions executed, entered into or begun before the op-
 20 erative date of section 1 of this 2011 Act are transferred to the Oregon Office of Energy
 21 Planning and Siting. For the purpose of succession to these rights and obligations, the
 22 Oregon Office of Energy Planning and Siting is a continuation of the State Department of
 23 Energy and not a new authority.

24 (3)(a) The Oregon Business Development Department may undertake the collection or
 25 enforcement of any liability, duty or obligation relating to the administration of the laws
 26 specified in section 1 (3) of this 2011 Act.

27 (b) The rights and obligations of the State Department of Energy relating to the admin-
 28 istration of the laws specified in section 1 (3) of this 2011 Act that are legally incurred under
 29 contracts, leases and business transactions executed, entered into or begun before the op-
 30 erative date of section 1 of this 2011 Act are transferred to the Oregon Business Develop-
 31 ment Department. For the purpose of succession to these rights and obligations, the Oregon
 32 Business Development Department is a continuation of the State Department of Energy and
 33 not a new authority.

34 (4)(a) The Public Utility Commission may undertake the collection or enforcement of any
 35 liability, duty or obligation relating to the administration of the laws specified in section 1
 36 (4) of this 2011 Act.

37 (b) The rights and obligations of the State Department of Energy relating to the admin-
 38 istration of the laws specified in section 1 (4) of this 2011 Act that are legally incurred under
 39 contracts, leases and business transactions executed, entered into or begun before the op-
 40 erative date of section 1 of this 2011 Act are transferred to the Public Utility Commission.
 41 For the purpose of succession to these rights and obligations, the Public Utility Commission
 42 is a continuation of the State Department of Energy and not a new authority.

43
 44 (Rules)
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SECTION 6. Notwithstanding the transfer of duties, functions and powers by section 1 of this 2011 Act, the rules of the State Department of Energy in effect on the operative date of section 1 of this 2011 Act continue in effect until superseded or repealed by rules of the Oregon Office of Energy Planning and Siting, the Oregon Business Development Department or the Public Utility Commission. References in rules of the State Department of Energy to the State Department of Energy or an officer or employee of the State Department of Energy are considered to be references to:

(1) The Oregon Office of Energy Planning and Siting or an officer or employee of the office for rules relating to the administration of the laws specified in section 1 (2) of this 2011 Act;

(2) The Oregon Business Development Department or an officer or employee of the department for rules relating to the administration of the laws specified in section 1 (3) of this 2011 Act; or

(3) The Public Utility Commission or an officer or employee of the commission for rules relating to the administration of the laws specified in section 1 (4) of this 2011 Act.

SECTION 7. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, reference is made to the State Department of Energy or an officer or employee of the State Department of Energy, the reference is considered to be a reference to:

(1) The Oregon Office of Energy Planning and Siting or an officer or employee of the office for references relating to the administration of the laws specified in section 1 (2) of this 2011 Act;

(2) The Oregon Business Development Department or an officer or employee of the department for references relating to the administration of the laws specified in section 1 (3) of this 2011 Act; or

(3) The Public Utility Commission or an officer or employee of the commission for references relating to the administration of the laws specified in section 1 (4) of this 2011 Act.

(New Director)

SECTION 8. (1) The Director of the Oregon Office of Energy Planning and Siting may be appointed before the operative date of section 1 of this 2011 Act and may take any action before that date that is necessary to enable the director to exercise, on and after the operative date of section 1 of this 2011 Act, the duties, functions and powers of the director pursuant to section 1 (2) of this 2011 Act.

(2) The Director of the Oregon Business Development Department may take any action before the operative date of section 1 of this 2011 Act that is necessary to enable the director to exercise, on and after the operative date of section 1 of this 2011 Act, the duties, functions and powers of the director pursuant to section 1 (3) of this 2011 Act.

(3) The Public Utility Commission may take any action before the operative date of section 1 of this 2011 Act that is necessary to enable the commission to exercise, on and after the operative date of section 1 of this 2011 Act, the duties, functions and powers of the commission pursuant to section 1 (4) of this 2011 Act.

(Agency Name Change)

1 **SECTION 9.** (1) For the purpose of harmonizing and clarifying statutory law, the Legis-
2 lative Counsel may substitute for words designating the “State Department of Energy” or its
3 officers, wherever they occur in the laws of this state that relate to the duties, functions
4 and powers imposed upon, transferred to and vested in the Oregon Office of Energy Planning
5 and Siting under section 1 (2) of this 2011 Act, other words designating the “Oregon Office
6 of Energy Planning and Siting” or its officers.

7 (2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel
8 may substitute for words designating the “State Department of Energy” or its officers,
9 wherever they occur in the laws of this state that relate to the duties, functions and powers
10 imposed upon, transferred to and vested in the Oregon Business Development Department
11 under section 1 (3) of this 2011 Act, other words designating the “Oregon Business Develop-
12 ment Department” or its officers.

13 (3) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel
14 may substitute for words designating the “State Department of Energy” or its officers,
15 wherever they occur in the laws of this state that relate to the duties, functions and powers
16 imposed upon, transferred to and vested in the Public Utility Commission under section 1 (4)
17 of this 2011 Act, other words designating the “Public Utility Commission” or its officers.
18

19 (Account Name Change)

20
21 **SECTION 10.** For the purpose of harmonizing and clarifying statutory law, the Legislative
22 Counsel may substitute for words designating the “State Department of Energy Account,”
23 wherever they occur in statutory law, words designating the “Energy Planning and Siting
24 Account.”
25

26 PROVISIONS RELATING TO THE OREGON
27 OFFICE OF ENERGY PLANNING AND SITING

28
29 (Establishment)

30
31
32 **SECTION 11.** (1) The Oregon Office of Energy Planning and Siting is established.

33 (2) The office shall:

- 34 (a) Be the central repository in the state for the collection of data on energy resources;
- 35 (b) Utilize all available public and private sources to inform and educate the public about
36 energy use and management and ways in which the public can conserve energy resources;
- 37 (c) Conduct research related to energy resources and contract with appropriate agencies
38 or private entities to conduct research related to energy resources;
- 39 (d) Dispense funds available for research projects related to energy resources;
- 40 (e) Be a clearinghouse to which all agencies send information on energy related research;
- 41 (f) Assist the Public Utility Commission in preparing energy curtailment plans that in-
42 clude all forms of energy not addressed in ORS 757.710 and 757.720;
- 43 (g) Maintain an inventory of energy research projects in Oregon and the results of those
44 projects;
- 45 (h) Collect, compile and analyze energy statistics, data and information;

1 (i) Contract with agencies and private entities for energy activities consistent with this
2 section and ORS 469.010;

3 (j) Apply for, accept and disburse or utilize private or federal moneys or services avail-
4 able for the administration of ORS 176.820, 192.501 to 192.505, 192.690, 469.010, 469.055, 469.060,
5 469.070, 469.080, 469.085, 469.097, 469.110, 469.120, 469.135, 469.300 to 469.563 and 469.990 and
6 sections 11, 12, 14 and 15 of this 2011 Act; and

7 (k) Upon request of the governing body of an affected jurisdiction, coordinate a public
8 review of a proposed transmission line under ORS 469.442.

9
10 (Director)

11
12 **SECTION 12.** (1) The Oregon Office of Energy Planning and Siting is under the super-
13 vision and control of a director, who is responsible for the performance of the duties, func-
14 tions and powers of the office. In addition to supervising the functions of the office, the
15 director shall, at the direction of the Energy Facility Siting Council, supervise the process
16 of reviewing energy facility siting applications.

17 (2) The Governor shall appoint the Director of the Oregon Office of Energy Planning and
18 Siting, who holds office at the pleasure of the Governor.

19 (3) The director shall be paid a salary as provided by law or, if not so provided, as pre-
20 scribed by the Governor.

21 (4) For purposes of administration, subject to the approval of the Governor, the director
22 may organize and reorganize the office as the director considers necessary to properly con-
23 duct the work of the office.

24 (5) The director may divide the functions of the office into administrative divisions.
25 Subject to the approval of the Governor, the director may appoint an individual to administer
26 each division. The administrator of each division serves at the pleasure of the director and
27 is not subject to the provisions of ORS chapter 240. Each individual appointed under this
28 subsection must be well qualified by technical training and experience in the functions to be
29 performed by the individual.

30 (6) An individual who has been appointed director under this section may not, within two
31 years after the individual ceases to be the director, be an employee of:

32 (a) An owner or operator of an energy facility;

33 (b) An applicant for a site certificate as defined in ORS 469.300; or

34 (c) A person that engages in the sale or manufacture of any energy resource or of any
35 major component of an energy facility.

36
37 (Confirmation by Senate)

38
39 **SECTION 13.** The appointment of the Director of the Oregon Office of Energy Planning
40 and Siting is subject to confirmation by the Senate in the manner prescribed in ORS 171.562
41 and 171.565.

42
43 (Employees)

44
45 **SECTION 14.** (1) The Director of the Oregon Office of Energy Planning and Siting shall,

1 by written order filed with the Secretary of State, appoint a deputy director. The deputy di-
2 rector serves at the pleasure of the director, has authority to act for the director in the
3 absence of the director and is subject to the control of the director at all times.

4 (2) Subject to any applicable provisions of ORS chapter 240, the director shall appoint all
5 subordinate officers and employees of the Oregon Office of Energy Planning and Siting, pre-
6 scribe their duties and fix their compensation.

7
8 (General Authority to Adopt Rules)

9
10 **SECTION 15.** In accordance with applicable provisions of ORS chapter 183, the Director
11 of the Oregon Office of Energy Planning and Siting may adopt rules necessary for the ad-
12 ministration of the laws that the Oregon Office of Energy Planning and Siting is charged
13 with administering.

14
15 (Chapter Placement)

16
17 **SECTION 16.** Sections 11 to 15 of this 2011 Act are added to and made a part of ORS
18 chapter 469.

19
20 (Conforming Amendments)

21
22 **SECTION 17.** ORS 176.809 is amended to read:

23 176.809. (1) The Governor, in consultation with the [*State Department of Energy*] **Oregon Office**
24 **of Energy Planning and Siting, the Public Utility Commission** and the Oregon Business Devel-
25 opment Department, shall compile existing data and prepare an extensive statewide contingency
26 plan to maintain emergency services, continue productivity and reduce hardship during an energy
27 emergency.

28 (2) As used in this section, “energy emergency” means a severe fuel oil shortage caused by
29 international market conditions or hostilities, or any other emergency threatening the availability
30 of any energy resource necessary to maintain essential services and transportation, the shortage of
31 which jeopardizes the health, safety and welfare of the people of the State of Oregon.

32 **SECTION 18.** ORS 176.820 is amended to read:

33 176.820. There is continuously appropriated from the Motor Vehicle Division Account to the
34 [*State Department of Energy*] **Oregon Office of Energy Planning and Siting**, for deposit in the
35 [*State Department of Energy*] **Energy Planning and Siting** Account, sufficient moneys for the pay-
36 ment of expenses incurred under chapter 606, Oregon Laws 1975, subject to limitations on payment
37 of expenses as approved under legislative authority.

38 **SECTION 19.** ORS 183.457 is amended to read:

39 183.457. (1) Notwithstanding ORS 8.690, 9.160 and 9.320, and unless otherwise authorized by an-
40 other law, a person participating in a contested case hearing conducted by an agency described in
41 this subsection may be represented by an attorney or by an authorized representative subject to the
42 provisions of subsection (2) of this section. The Attorney General shall prepare model rules for
43 proceedings with lay representation that do not have the effect of precluding lay representation.
44 No rule adopted by a state agency shall have the effect of precluding lay representation. The
45 agencies before which an authorized representative may appear are:

1 (a) The State Landscape Contractors Board in the administration of the Landscape Contractors
2 Law.

3 (b) The [State Department of Energy] **Oregon Office of Energy Planning and Siting** and the
4 Energy Facility Siting Council.

5 (c) The Environmental Quality Commission and the Department of Environmental Quality.

6 (d) The Department of Consumer and Business Services for proceedings in which an insured
7 appears pursuant to ORS 737.505.

8 (e) The Department of Consumer and Business Services and any other agency for the purpose
9 of proceedings to enforce the state building code, as defined by ORS 455.010.

10 (f) The State Fire Marshal in the Department of State Police.

11 (g) The Department of State Lands for proceedings regarding the issuance or denial of fill or
12 removal permits under ORS 196.800 to 196.825.

13 (h) The Public Utility Commission.

14 (i) The Water Resources Commission and the Water Resources Department.

15 (j) The Land Conservation and Development Commission and the Department of Land Conser-
16 vation and Development.

17 (k) The State Department of Agriculture, for purposes of hearings under ORS 215.705.

18 (L) The Bureau of Labor and Industries.

19 **(m) The Oregon Business Development Department for proceedings held pursuant to ORS**
20 **469.160 to 469.180 and 469.185 to 469.225 and ORS chapter 470.**

21 (2) A person participating in a contested case hearing as provided in subsection (1) of this sec-
22 tion may appear by an authorized representative if:

23 (a) The agency conducting the contested case hearing has determined that appearance of such
24 a person by an authorized representative will not hinder the orderly and timely development of the
25 record in the type of contested case hearing being conducted;

26 (b) The agency conducting the contested case hearing allows, by rule, authorized representatives
27 to appear on behalf of such participants in the type of contested case hearing being conducted; and

28 (c) The officer presiding at the contested case hearing may exercise discretion to limit an au-
29 thorized representative's presentation of evidence, examination and cross-examination of witnesses,
30 or presentation of factual arguments to ensure the orderly and timely development of the hearing
31 record, and shall not allow an authorized representative to present legal arguments except to the
32 extent authorized under subsection (3) of this section.

33 (3) The officer presiding at a contested case hearing in which an authorized representative ap-
34 pears under the provisions of this section may allow the authorized representative to present evi-
35 dence, examine and cross-examine witnesses, and make arguments relating to the:

36 (a) Application of statutes and rules to the facts in the contested case;

37 (b) Actions taken by the agency in the past in similar situations;

38 (c) Literal meaning of the statutes or rules at issue in the contested case;

39 (d) Admissibility of evidence; and

40 (e) Proper procedures to be used in the contested case hearing.

41 (4) Upon judicial review, no limitation imposed by an agency presiding officer on the partic-
42 ipation of an authorized representative shall be the basis for reversal or remand of agency action
43 unless the limitation resulted in substantial prejudice to a person entitled to judicial review of the
44 agency action.

45 (5) For the purposes of this section, "authorized representative" means a member of a partic-

1 ipating partnership, an authorized officer or regular employee of a participating corporation, asso-
 2 ciation or organized group, or an authorized officer or employee of a participating governmental
 3 authority other than a state agency.

4 **SECTION 20.** ORS 183.530 is amended to read:

5 183.530. A housing cost impact statement shall be prepared upon the proposal for adoption or
 6 repeal of any rule or any amendment to an existing rule by:

- 7 (1) The State Housing Council;
- 8 (2) A building codes division of the Department of Consumer and Business Services or any board
 9 associated with the department with regard to rules adopted under ORS 455.610 to 455.630;
- 10 (3) The Land Conservation and Development Commission;
- 11 (4) The Environmental Quality Commission;
- 12 (5) The Construction Contractors Board;
- 13 (6) The Occupational Safety and Health Division of the Department of Consumer and Business
 14 Services; or
- 15 (7) The [*State Department of Energy*] **Oregon Office of Energy Planning and Siting.**

16 **SECTION 21.** ORS 215.044 is amended to read:

17 215.044. (1) County governing bodies may adopt and implement solar access ordinances. The or-
 18 dinances shall provide and protect to the extent feasible solar access to the south face of buildings
 19 during solar heating hours, taking into account latitude, topography, microclimate, existing devel-
 20 opment, existing vegetation and planned uses and densities. The county governing body shall con-
 21 sider for inclusion in any solar access ordinance, but not be limited to, standards for:

- 22 (a) The orientation of new streets, lots and parcels;
- 23 (b) The placement, height, bulk and orientation of new buildings;
- 24 (c) The type and placement of new trees on public street rights of way and other public prop-
 25 erty; and
- 26 (d) Planned uses and densities to conserve energy, facilitate the use of solar energy, or both.

27 (2) The [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** shall ac-
 28 tively encourage and assist county governing bodies' efforts to protect and provide for solar access.

29 (3) As used in this section, "solar heating hours" means those hours between three hours before
 30 and three hours after the sun is at its highest point above the horizon on December 21.

31 **SECTION 22.** ORS 227.190 is amended to read:

32 227.190. (1) City councils may adopt and implement solar access ordinances. The ordinances
 33 shall provide and protect to the extent feasible solar access to the south face of buildings during
 34 solar heating hours, taking into account latitude, topography, microclimate, existing development,
 35 existing vegetation and planned uses and densities. The city council shall consider for inclusion in
 36 any solar access ordinance, but not be limited to, standards for:

- 37 (a) The orientation of new streets, lots and parcels;
- 38 (b) The placement, height, bulk and orientation of new buildings;
- 39 (c) The type and placement of new trees on public street rights of way and other public prop-
 40 erty; and
- 41 (d) Planned uses and densities to conserve energy, facilitate the use of solar energy, or both.

42 (2) The [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** shall ac-
 43 tively encourage and assist city councils' efforts to protect and provide for solar access.

44 (3) As used in this section, "solar heating hours" means those hours between three hours before
 45 and three hours after the sun is at its highest point above the horizon on December 21.

1 **SECTION 23.** ORS 240.855 is amended to read:

2 240.855. (1) As used in this section:

3 (a) "State agency" means any state office, department, division, bureau, board and commission,
4 whether in the executive, legislative or judicial branch.

5 (b) "Telecommute" means to work from the employee's home or from an office near the
6 employee's home, rather than from the principal place of employment.

7 (2) It is the policy of the State of Oregon to encourage state agencies to allow employees to
8 telecommute when there are opportunities for improved employee performance, reduced commuting
9 miles or agency savings.

10 (3) Each state agency shall adopt a written policy that:

11 (a) Defines specific criteria and procedures for telecommuting;

12 (b) Is applied consistently throughout the agency; and

13 (c) Requires the agency, in exercising its discretion, to consider an employee request to tele-
14 commute in relation to the agency's operating and customer needs.

15 (4) Each state agency that has an electronic bulletin board, home page or similar means of
16 communication shall post the policy adopted under subsection (3) of this section on the bulletin
17 board, home page or similar site.

18 (5) The Oregon Department of Administrative Services, in consultation with the [*State Depart-*
19 *ment of Energy*] **Oregon Office of Energy Planning and Siting**, shall provide a biennial report to
20 the Joint Committee on Technology, or a similar committee of the Legislative Assembly, containing
21 at least the following:

22 (a) The number of employees telecommuting;

23 (b) The number of trips, miles and hours of travel time saved annually;

24 (c) A summary of efforts made by the state agency to promote and encourage telecommuting;

25 (d) An evaluation of the effectiveness of efforts to encourage employees to telecommute; and

26 (e) Such other matters as may be requested by the committee.

27 **SECTION 24.** ORS 244.050 is amended to read:

28 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon
29 Government Ethics Commission a verified statement of economic interest as required under this
30 chapter:

31 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the
32 Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and mem-
33 bers of the Legislative Assembly.

34 (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem
35 judicial officer who does not otherwise serve as a judicial officer.

36 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

37 (d) The Deputy Attorney General.

38 (e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
39 Secretary of the Senate and the Chief Clerk of the House of Representatives.

40 (f) The Chancellor and Vice Chancellors of the Oregon University System and the president and
41 vice presidents, or their administrative equivalents, in each institution under the jurisdiction of the
42 State Board of Higher Education.

43 (g) The following state officers:

44 (A) Adjutant General.

45 (B) Director of Agriculture.

- 1 (C) Manager of State Accident Insurance Fund Corporation.
- 2 (D) Water Resources Director.
- 3 (E) Director of Department of Environmental Quality.
- 4 (F) Director of Oregon Department of Administrative Services.
- 5 (G) State Fish and Wildlife Director.
- 6 (H) State Forester.
- 7 (I) State Geologist.
- 8 (J) Director of Human Services.
- 9 (K) Director of the Department of Consumer and Business Services.
- 10 (L) Director of the Department of State Lands.
- 11 (M) State Librarian.
- 12 (N) Administrator of Oregon Liquor Control Commission.
- 13 (O) Superintendent of State Police.
- 14 (P) Director of the Public Employees Retirement System.
- 15 (Q) Director of Department of Revenue.
- 16 (R) Director of Transportation.
- 17 (S) Public Utility Commissioner.
- 18 (T) Director of Veterans' Affairs.
- 19 (U) Executive director of Oregon Government Ethics Commission.
- 20 (V) Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and**
- 21 **Siting.**
- 22 (W) Director and each assistant director of the Oregon State Lottery.
- 23 (X) Director of the Department of Corrections.
- 24 (Y) Director of the Oregon Department of Aviation.
- 25 (Z) Executive director of the Oregon Criminal Justice Commission.
- 26 (AA) Director of the Oregon Business Development Department.
- 27 (BB) Director of the Office of Emergency Management.
- 28 (CC) Director of the Employment Department.
- 29 (DD) Chief of staff for the Governor.
- 30 (EE) Administrator of the Office for Oregon Health Policy and Research.
- 31 (FF) Director of the Housing and Community Services Department.
- 32 (GG) State Court Administrator.
- 33 (HH) Director of the Department of Land Conservation and Development.
- 34 (II) Board chairperson of the Land Use Board of Appeals.
- 35 (JJ) State Marine Director.
- 36 (KK) Executive director of the Oregon Racing Commission.
- 37 (LL) State Parks and Recreation Director.
- 38 (MM) Public defense services executive director.
- 39 (NN) Chairperson of the Public Employees' Benefit Board.
- 40 (OO) Director of the Department of Public Safety Standards and Training.
- 41 (PP) Chairperson of the Oregon Student Assistance Commission.
- 42 (QQ) Executive director of the Oregon Watershed Enhancement Board.
- 43 (RR) Director of the Oregon Youth Authority.
- 44 (SS) Director of the Oregon Health Authority.
- 45 (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.

- 1 (i) Every elected city or county official.
- 2 (j) Every member of a city or county planning, zoning or development commission.
- 3 (k) The chief executive officer of a city or county who performs the duties of manager or prin-
4 cipal administrator of the city or county.
- 5 (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 6 (m) Every member of a governing body of a metropolitan service district and the executive of-
7 ficer thereof.
- 8 (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 9 (o) The chief administrative officer and the financial officer of each common and union high
10 school district, education service district and community college district.
- 11 (p) Every member of the following state boards and commissions:
 - 12 (A) Board of Geologic and Mineral Industries.
 - 13 (B) Oregon Business Development Commission.
 - 14 (C) State Board of Education.
 - 15 (D) Environmental Quality Commission.
 - 16 (E) Fish and Wildlife Commission of the State of Oregon.
 - 17 (F) State Board of Forestry.
 - 18 (G) Oregon Government Ethics Commission.
 - 19 (H) Oregon Health Policy Board.
 - 20 (I) State Board of Higher Education.
 - 21 (J) Oregon Investment Council.
 - 22 (K) Land Conservation and Development Commission.
 - 23 (L) Oregon Liquor Control Commission.
 - 24 (M) Oregon Short Term Fund Board.
 - 25 (N) State Marine Board.
 - 26 (O) Mass transit district boards.
 - 27 (P) Energy Facility Siting Council.
 - 28 (Q) Board of Commissioners of the Port of Portland.
 - 29 (R) Employment Relations Board.
 - 30 (S) Public Employees Retirement Board.
 - 31 (T) Oregon Racing Commission.
 - 32 (U) Oregon Transportation Commission.
 - 33 (V) Wage and Hour Commission.
 - 34 (W) Water Resources Commission.
 - 35 (X) Workers' Compensation Board.
 - 36 (Y) Oregon Facilities Authority.
 - 37 (Z) Oregon State Lottery Commission.
 - 38 (AA) Pacific Northwest Electric Power and Conservation Planning Council.
 - 39 (BB) Columbia River Gorge Commission.
 - 40 (CC) Oregon Health and Science University Board of Directors.
 - 41 (DD) Capitol Planning Commission.
- 42 (q) The following officers of the State Treasurer:
 - 43 (A) Chief Deputy State Treasurer.
 - 44 (B) Chief of staff for the office of the State Treasurer.
 - 45 (C) Director of the Investment Division.

1 (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
2 or 777.915 to 777.953.

3 (s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

4 (2) By April 15 next after the date an appointment takes effect, every appointed public official
5 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-
6 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070
7 and 244.090.

8 (3) By April 15 next after the filing deadline for the primary election, each candidate described
9 in subsection (1) of this section shall file with the commission a statement of economic interest as
10 required under ORS 244.060, 244.070 and 244.090.

11 (4) Within 30 days after the filing deadline for the general election, each candidate described in
12 subsection (1) of this section who was not a candidate in the preceding primary election, or who
13 was nominated for public office described in subsection (1) of this section at the preceding primary
14 election by write-in votes, shall file with the commission a statement of economic interest as re-
15 quired under ORS 244.060, 244.070 and 244.090.

16 (5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or
17 appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections
18 (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the
19 filing deadline for the statewide general election.

20 (6) If a statement required to be filed under this section has not been received by the commis-
21 sion within five days after the date the statement is due, the commission shall notify the public of-
22 ficial or candidate and give the public official or candidate not less than 15 days to comply with the
23 requirements of this section. If the public official or candidate fails to comply by the date set by the
24 commission, the commission may impose a civil penalty as provided in ORS 244.350.

25 **SECTION 25.** ORS 267.030 is amended to read:

26 267.030. (1) To the maximum extent possible, motor vehicles subject to the control of a district
27 shall use alternative fuel for operation.

28 (2) To the extent that it is economically and technologically possible, all motor vehicles pur-
29 chased or leased by the board of the district shall be capable of using alternative fuel. However, this
30 subsection does not apply if the vehicle will be primarily used in an area that does not have and
31 cannot reasonably be expected to establish an alternative fuel refueling station or if the district is
32 unable to secure financing sufficient to cover additional costs resulting from the requirement of this
33 subsection.

34 (3) Prior to July 1 of each year, the board of the district shall submit an annual report to the
35 Department of Environmental Quality and the [State Department of Energy] **Oregon Office of En-
36 ergy Planning and Siting**. The report shall contain at a minimum:

37 (a) The number of purchases and leases of vehicles capable of using alternative fuel;

38 (b) The number of conversions of vehicles from the use of gasoline or diesel fuel to the use of
39 alternative fuel;

40 (c) The quantity of each type of alternative fuel used; and

41 (d) Any other information required by the [Department of Environmental Quality and the State
42 Department of Energy] **department and office** to carry out their functions under subsection (4) of
43 this section.

44 (4) If the [Department of Environmental Quality and State Department of Energy] **department
45 and office** determine that the use of alternative fuel required by this section has been effective in

1 reducing total annual motor vehicle emissions in the district, the motor vehicles subject to the
 2 control of the board of the district shall be capable of using alternative fuel, to the maximum extent
 3 possible.

4 (5) The board of the district shall comply with all safety standards established by the United
 5 States Department of Transportation in the conversion, operation and maintenance of vehicles using
 6 alternative fuel.

7 (6) As used in this section, “alternative fuel” means any fuel determined by the Department of
 8 Environmental Quality to be less polluting than conventional gasoline, including but not necessarily
 9 limited to reformulated gasoline, low sulfur diesel fuel, natural gas, liquefied petroleum gas,
 10 methanol, ethanol, any fuel mixture containing at least 85 percent methanol or ethanol and elec-
 11 tricity.

12 **SECTION 26.** ORS 267.517 is amended to read:

13 267.517. (1) To the maximum extent possible, motor vehicles subject to the control of a trans-
 14 portation district established under ORS 267.510 to 267.650 having a city within the district with a
 15 population exceeding 30,000 shall use alternative fuel for operation.

16 (2) To the extent that it is economically and technologically possible, all motor vehicles pur-
 17 chased or leased by the board of the district shall be capable of using alternative fuel. However, this
 18 subsection does not apply if the vehicle will be primarily used in an area that does not have and
 19 cannot reasonably be expected to establish an alternative fuel refueling station or if the district is
 20 unable to secure financing sufficient to cover additional costs resulting from the requirement of this
 21 subsection.

22 (3) Prior to July 1 of each year, the board of the district shall submit an annual report to the
 23 Department of Environmental Quality and the [*State Department of Energy*] **Oregon Office of En-
 24 ergy Planning and Siting**. The report shall contain at a minimum:

- 25 (a) The number of purchases and leases of vehicles capable of using alternative fuel;
- 26 (b) The number of conversions of vehicles from the use of gasoline or diesel fuel to the use of
 27 alternative fuel;
- 28 (c) The quantity of each type of alternative fuel used; and
- 29 (d) Any other information required by the [*Department of Environmental Quality and the State
 30 Department of Energy*] **department and office** to carry out their functions under subsection (4) of
 31 this section.

32 (4) If the [*Department of Environmental Quality and State Department of Energy*] **department
 33 and office** determine that the use of alternative fuel required by this section has been effective in
 34 reducing total annual motor vehicle emissions in the district, the motor vehicles subject to the
 35 control of the board of the district shall be capable of using alternative fuel, to the maximum extent
 36 possible.

37 (5) The board of the district shall comply with all safety standards established by the United
 38 States Department of Transportation in the conversion, operation and maintenance of vehicles using
 39 alternative fuel.

40 (6) As used in this section, “alternative fuel” means any fuel determined by the Department of
 41 Environmental Quality to be less polluting than conventional gasoline, including but not necessarily
 42 limited to reformulated gasoline, low sulfur diesel fuel, natural gas, liquefied petroleum gas,
 43 methanol, ethanol, any fuel mixture containing at least 85 percent methanol or ethanol and elec-
 44 tricity.

45 **SECTION 27.** ORS 276.910 is amended to read:

1 276.910. (1) Before constructing or renovating a major facility, an authorized state agency shall,
2 after comparing various equipment options and to the greatest extent practicable, use fuel cell
3 power systems for emergency backup power applications and for critical power applications in lieu
4 of other equipment options.

5 (2)(a) The [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** shall,
6 in consultation with the Oregon Department of Administrative Services, adopt rules establishing
7 criteria for the comparison of fuel cell power systems and other equipment options required by
8 subsection (1) of this section.

9 (b) Criteria to be established under this subsection must address:

10 (A) The impact of emissions, including but not limited to nitrous oxide, sulfur oxide, carbon
11 monoxide, carbon dioxide and particulates, from various equipment options, on the environment, re-
12 gardless of whether the equipment is installed indoors or installed outdoors;

13 (B) Life cycle costs, including but not limited to acquisition costs, installation and commission-
14 ing costs, siting and permitting costs, maintenance costs and fueling and decommissioning costs; and

15 (C) The complexity of equipment options and any ancillary equipment.

16 **SECTION 28.** ORS 276.915 is amended to read:

17 276.915. (1) An authorized state agency may construct or renovate a facility only if the author-
18 ized state agency determines that the design incorporates all reasonable cost-effective energy con-
19 servation measures and alternative energy systems. The determination by the authorized state
20 agency shall include consideration of indoor air quality issues and operation and maintenance costs.

21 (2) Whenever an authorized state agency determines that a major facility is to be constructed
22 or renovated, the authorized state agency shall cause to be included in the design phase of the
23 construction or renovation a provision that requires an energy consumption analysis to be prepared
24 for the facility under the direction of a professional engineer or licensed architect or under the di-
25 rection of a person that is prequalified in accordance with this section. The authorized state agency
26 and the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** shall agree to
27 the list of energy conservation measures and alternative energy systems that the energy consump-
28 tion analysis will include. The energy consumption analysis and facility design shall be delivered to
29 the [*State Department of Energy*] **office** during the design development phase of the facility design.
30 The [*State Department of Energy*] **office** shall review the energy consumption analysis and forward
31 its findings to the authorized state agency within 10 working days after receiving the energy con-
32 sumption analysis, if practicable.

33 (3) The [*State Department of Energy*] **office**, in consultation with authorized state agencies, shall
34 adopt rules to carry out the provisions of ORS 276.900 to 276.915. These rules shall:

35 (a) Include a simplified and usable method for determining which energy conservation measures
36 and alternative energy systems are cost-effective. The method shall reflect the energy costs of the
37 utility serving the facility.

38 (b) Prescribe procedures for determining if a facility design incorporates all reasonable cost-
39 effective energy conservation measures and alternative energy systems.

40 (c) Establish fees through which an authorized state agency will reimburse the [*State Department*
41 *of Energy*] **office** for the [*department's*] **office's** review of energy consumption analyses and facility
42 designs and the [*department's*] **office's** reporting tasks. The fees imposed may not exceed 0.2 percent
43 of the capital construction cost of the facility and must be included in the energy consumption
44 analysis required in subsection (2) of this section. The [*State Department of Energy*] **office** may pro-
45 vide for a waiver of fees and reviews if the authorized state agency demonstrates that the facility

1 will be designed and constructed in a manner that incorporates only cost-effective energy conser-
2 vation measures or in a manner that exceeds the energy conservation provisions of the state build-
3 ing code by 20 percent or more.

4 (d) Periodically define highly efficient facilities. A facility constructed or renovated after June
5 30, 2001, shall exceed the energy conservation provisions of the state building code by 20 percent
6 or more, unless otherwise required by rules adopted under this section.

7 (e) Establish guidelines for implementing subsection (4) of this section.

8 (f) Establish guidelines for incorporating energy efficiency requirements into lease agreements
9 of 10 or more years to be phased in as current lease agreements expire or as new lease agreements
10 are entered into, allowing reasonable time for the owner to implement the requirements of this
11 section.

12 (g) Establish criteria by which the [*State Department of Energy*] **office** determines that a person
13 is prequalified to perform work in accordance with this section.

14 (4) Before June 30, 2015, an authorized state agency shall reduce the total amount of energy the
15 authorized state agency uses in the authorized state agency's owned facilities by at least 20 percent
16 from a baseline amount the [*State Department of Energy*] **office** determines by rule based on usage
17 in calendar year 2000.

18 (5) An authorized state agency shall report annually to the [*State Department of Energy*] **office**
19 concerning energy use in the authorized state agency's facilities. The [*State Department of Energy*]
20 **office** shall specify by rule the form and content of and deadlines for the reports.

21 (6) An authorized state agency that fails to achieve and maintain a 20 percent reduction in en-
22 ergy use on and after June 30, 2015, shall submit biennial energy conservation plans to the [*State*
23 *Department of Energy. The State Department of Energy*] **office. The office** shall specify by rule the
24 form and content of and deadlines for the energy conservation plans.

25 (7) The [*State Department of Energy*] **office** by rule may require mandatory prequalification as
26 a condition for a person to submit a bid or proposal to perform the following work for an authorized
27 state agency:

28 (a) Direct an energy consumption analysis for an authorized state agency under subsection (2)
29 of this section, unless the person is a professional engineer or architect;

30 (b) Enter into an energy savings performance contract; or

31 (c) Perform energy audits, building commissioning, monitoring and verification services and
32 other services related to the operation and management of a facility's energy systems, except for
33 architectural, engineering and land surveying services as defined in ORS 279C.100.

34 (8) The [*State Department of Energy*] **office** may recover from authorized state agencies the costs
35 associated with administering the provisions of this section, including costs associated with adopting
36 rules, maintaining a state energy use database and prequalifying a person under this section.

37 (9) The [*State Department of Energy*] **office**, the Oregon Department of Administrative Services
38 and the Oregon University System shall jointly prepare a biennial report summarizing the progress
39 toward achieving the goals of this section. The biennial report shall be made available to the public.

40 **SECTION 29.** ORS 279A.065 is amended to read:

41 279A.065. (1) The Attorney General shall prepare and maintain model rules of procedure appro-
42 priate for use by all contracting agencies governing public contracting under the Public Contracting
43 Code and may devise and publish forms for use therewith. The Attorney General shall adopt the
44 model rules in the manner provided by ORS chapter 183. Before adopting or amending a model rule,
45 the Attorney General shall consult with the Director of the Oregon Department of Administrative

1 Services, the Director of Transportation, representatives of county governments, representatives of
2 city governments, representatives of school boards and other knowledgeable persons.

3 (2) The Attorney General shall adopt model rules appropriate for use by all contracting agencies
4 to govern the procedures for entering into energy savings performance contracts. Before adopting
5 or amending a rule under this subsection, the Attorney General shall consult with the Oregon De-
6 partment of Administrative Services, the [*State Department of Energy,*] **Oregon Office of Energy**
7 **Planning and Siting, the Public Utility Commission**, the Oregon University System, local con-
8 tracting agencies and other knowledgeable persons. The Attorney General may develop standard
9 contract forms for use with energy savings performance contracts.

10 (3) After each legislative session, the Attorney General shall review all laws passed by the
11 Legislative Assembly that affect public contracting to determine if the model rules prepared under
12 this section should be modified by the adoption of a new rule or by the amendment or repeal of an
13 existing rule. If the Attorney General determines that a modification of the model rules is necessary,
14 the Attorney General shall prepare the modification within such time as to allow the modification
15 to take effect no later than 120 days after the effective date of the legislation that caused the rule
16 to be modified. However, the Attorney General may prepare a modification to take effect 121 or
17 more days after the effective date of the legislation if the Attorney General provides notice desig-
18 nating the time period within which the modification will take effect to the state agencies and per-
19 sons listed in subsection (1) of this section.

20 (4) A contracting agency that has not adopted its own rules of procedure in accordance with
21 subsection (5) of this section is subject to the model rules adopted by the Attorney General under
22 this section, including all modifications to the model rules that the Attorney General may adopt.
23 This subsection does not apply to personal services contracts of local contracting agencies except
24 for contracts for architectural, engineering and land surveying services and related services.

25 (5)(a) A contracting agency may adopt its own rules of procedure for public contracts that:

26 (A) Specifically state that the model rules adopted by the Attorney General under this section
27 do not apply to the contracting agency; and

28 (B) Prescribe the rules of procedure that the contracting agency will use for public contracts,
29 which may include portions of the model rules adopted by the Attorney General.

30 (b) A contracting agency that adopts rules under this section shall review the rules each time
31 the Attorney General modifies the model rules under this section to determine whether the con-
32 tracting agency should modify its rules to ensure compliance with statutory changes.

33 **SECTION 30.** ORS 279C.527 is amended to read:

34 279C.527. (1) Except as otherwise provided in this section, a public improvement contract for the
35 construction of a public building or for the reconstruction or major renovation of a public building,
36 if the cost of the reconstruction or major renovation exceeds 50 percent of the value of the public
37 building, is considered to contain an amount equal to at least 1.5 percent of the total contract price
38 for the inclusion of appropriate solar energy technology in the public building. Solar energy tech-
39 nology shall include solar electric or solar thermal systems and may include passive solar energy
40 systems when a proposed passive solar energy system will achieve a reduction in energy usage of
41 at least 20 percent.

42 (2) Before entering into a public improvement contract described in subsection (1) of this sec-
43 tion, a contracting agency shall prepare a written determination of whether the inclusion of solar
44 energy technology in the construction, reconstruction or major renovation of the public building is
45 appropriate. The contracting agency shall include in the determination the total contract price and

1 the amount the agency intends to expend on the inclusion of solar energy technology in the public
 2 building. The [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** shall
 3 develop a form usable by contracting agencies for preparing the written determination described in
 4 this subsection.

5 (3) If the contracting agency determines that it would be inappropriate to include solar energy
 6 technology in the construction, reconstruction or major renovation of the public building, subsection
 7 (1) of this section does not apply to the public improvement contract. However:

8 (a) The contracting agency shall spend an amount equal to at least 1.5 percent of the total
 9 contract price on the inclusion of appropriate solar energy technology in a future public building
 10 project; and

11 (b) The amount spent by the contracting agency on the future public building project pursuant
 12 to paragraph (a) of this subsection is in addition to any amount required under subsection (1) of this
 13 section for the inclusion of appropriate solar energy technology in the future public building project.

14 (4) Subsection (3)(a) and (b) of this section does not apply to a public improvement contract for
 15 which no state funds are directly or indirectly used.

16 (5) This section does not exempt an authorized state agency, as defined in ORS 276.905, from
 17 complying with ORS 276.900 to 276.915, except that an authorized state agency, without complying
 18 with ORS 276.900 to 276.915, may determine that solar energy technology described in this section
 19 is appropriate for inclusion in the construction, reconstruction or major renovation of a public
 20 building.

21 (6)(a) As used in this section, “public building” means a building owned or controlled by a public
 22 body, as defined in ORS 174.109, and:

23 (A) Used or occupied by employees of the public body; or

24 (B) Used for conducting public business.

25 (b) Notwithstanding the provisions of ORS 174.108 (3), this section applies to intergovernmental
 26 entities described in ORS 174.108 (3).

27 **SECTION 31.** ORS 279C.528 is amended to read:

28 279C.528. Public improvement contracts subject to ORS 279C.527 are also subject to rules
 29 adopted by the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** that
 30 include, but are not limited to, requirements and specifications for:

31 (1) Using particular solar energy systems or technologies in public improvements;

32 (2) Determining the cost-effectiveness of solar energy systems or technologies;

33 (3) Reporting the use of solar energy systems or technologies in public improvements or sub-
 34 mitting documents to the [*department*] **office** for review, as appropriate; and

35 (4) Determining whether a structure is a public building subject to the requirements of ORS
 36 279C.527.

37 **SECTION 32.** ORS 283.337 is amended to read:

38 283.337. Prior to December 31 of each year, each agency owning motor vehicles shall submit an
 39 annual report to the Department of Environmental Quality and the [*State Department of Energy*]
 40 **Oregon Office of Energy Planning and Siting**. The report shall contain at a minimum:

41 (1) The number of vehicles acquired that are capable of using alternative fuel;

42 (2) The number of vehicles converted from the use of gasoline to the use of alternative fuel;

43 (3) The quantity of each type of alternative fuel used; and

44 (4) Any other information required by the [*Department of Environmental Quality and the State*
 45 *Department of Energy*] **department and the office**.

SECTION 33. ORS 286A.710 is amended to read:

286A.710. As used in ORS 286A.710 to 286A.720:

(1) “Article XI-D bonds” means general obligation bonds issued under the authority of Article XI-D of the Oregon Constitution.

(2) “Bond-related costs” means:

(a) The costs of paying the principal of, the interest on and the premium, if any, on Article XI-D bonds;

(b) The costs and expenses of issuing, administering and maintaining Article XI-D bonds including, but not limited to, redeeming Article XI-D bonds and paying amounts due in connection with credit enhancements or the administrative costs and expenses of the State Treasurer, the [State Department of Energy] **Oregon Office of Energy Planning and Siting** and the Oregon Department of Administrative Services, including costs of consultants or advisers retained by the State Treasurer, the [State Department of Energy or the Oregon Department of Administrative Services] **office or the department** for the purpose of issuing, administering or maintaining Article XI-D bonds;

(c) Capitalized interest on Article XI-D bonds;

(d) Costs of funding reserves for Article XI-D bonds, including costs of surety bonds and similar instruments;

(e) Rebates or penalties due the United States Government in connection with Article XI-D bonds; and

(f) Other costs or expenses that the Director of the Oregon Department of Administrative Services determines are necessary or desirable in connection with issuing, administering or maintaining Article XI-D bonds.

SECTION 34. ORS 286A.712 is amended to read:

286A.712. (1) Article XI-D bonds are a general obligation of the State of Oregon and must contain a direct promise on behalf of the State of Oregon to pay the principal of, the interest on and the premium, if any, on the Article XI-D bonds. The State of Oregon shall pledge its full faith and credit and taxing power to pay Article XI-D bonds, except that the ad valorem taxing power of the State of Oregon may not be pledged to pay Article XI-D bonds.

(2) In accordance with the applicable provisions of this chapter, the State Treasurer, with the concurrence of the Director of the Oregon Department of Administrative Services, may issue Article XI-D bonds:

(a) At the request of the Director of the [State Department of Energy] **Oregon Office of Energy Planning and Siting** for any of the purposes specified in Article XI-D of the Oregon Constitution, plus an amount determined by the State Treasurer to pay estimated bond-related costs; and

(b) Subject to the limit on bond issuance established for the particular biennium in ORS 286A.035.

(3) The State Treasurer may issue Article XI-D bonds for the purpose of financing the refund of Article XI-D bonds.

(4) The State Treasurer shall transfer the net proceeds of Article XI-D bonds issued for the purpose described in subsection (2)(a) of this section to the [State Department of Energy] **Oregon Office of Energy Planning and Siting** for deposit in the Renewable Energy Fund established under ORS 286A.718.

SECTION 35. ORS 286A.716 is amended to read:

286A.716. (1) The Article XI-D Bond Administration Fund is established in the State Treasury, separate and distinct from the General Fund. Amounts in the bond administration fund may be in-

1 vested as provided in ORS 293.701 to 293.820, and interest earned on the bond administration fund
 2 must be credited to the bond administration fund. Amounts credited to the bond administration fund
 3 are continuously appropriated to the Oregon Department of Administrative Services for payment of
 4 bond-related costs. The department shall credit to the bond administration fund:

5 (a) Proceeds of Article XI-D bonds that were issued to pay bond-related costs;

6 (b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the
 7 bond administration fund; and

8 (c) Amounts transferred from the Renewable Energy Fund by the [*State Department of Energy*]
 9 **Oregon Office of Energy Planning and Siting** as provided in ORS 286A.718.

10 (2) The department may create separate accounts in the bond administration fund.

11 **SECTION 36.** ORS 286A.718 is amended to read:

12 286A.718. (1) The Renewable Energy Fund is established in the State Treasury, separate and
 13 distinct from the General Fund. Amounts in the fund may be invested as provided in ORS 293.701
 14 to 293.820, and interest earned on the fund must be credited to the fund. Amounts credited to the
 15 fund are continuously appropriated to the [*State Department of Energy*] **Oregon Office of Energy**
 16 **Planning and Siting** for the purpose described in ORS 286A.712 (2)(a) and for the purpose of paying
 17 bond-related costs. The [*department*] **office** shall deposit in the fund:

18 (a) The net proceeds of Article XI-D bonds transferred pursuant to ORS 286A.712 (4);

19 (b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the
 20 fund; and

21 (c) Gifts, grants or contributions received by the [*department*] **office** for the purpose described
 22 in ORS 286A.712 (2)(a).

23 (2) The [*State Department of Energy*] **office** may create separate accounts in the Renewable En-
 24 ergy Fund as appropriate for the management of moneys in the fund.

25 (3) The [*State Department of Energy*] **office** and any other state agency or other entity receiving
 26 or holding net proceeds of Article XI-D bonds shall, at the direction of the Oregon Department of
 27 Administrative Services, take action necessary to maintain the excludability of interest on Article
 28 XI-D bonds from gross income under the Internal Revenue Code.

29 (4) If at any time the [*Oregon Department of Administrative Services or the State Department of*
 30 *Energy*] **department or the office** determines that there are moneys in the Renewable Energy Fund
 31 in excess of the amounts necessary for the purpose described in ORS 286A.712 (2)(a), the [*Oregon*
 32 *Department of Administrative Services or the State Department of Energy*] **department or the office**
 33 may transfer the excess amounts to the Article XI-D Bond Fund or to the Article XI-D Bond Ad-
 34 ministration Fund.

35 (5) The [*State Department of Energy*] **office** may adopt rules to carry out this section, including
 36 procedures for distributing and monitoring the use of moneys from the Renewable Energy Fund.

37 **SECTION 37.** ORS 291.055 is amended to read:

38 291.055. (1) Notwithstanding any other law that grants to a state agency the authority to es-
 39 tablish fees, all new state agency fees or fee increases adopted after July 1 of any odd-numbered
 40 year:

41 (a) Are not effective for agencies in the executive department of government unless approved
 42 in writing by the Director of the Oregon Department of Administrative Services;

43 (b) Are not effective for agencies in the judicial department of government unless approved in
 44 writing by the Chief Justice of the Supreme Court;

45 (c) Are not effective for agencies in the legislative department of government unless approved

1 in writing by the President of the Senate and the Speaker of the House of Representatives;

2 (d) Shall be reported by the state agency to the Oregon Department of Administrative Services
3 within 10 days of their adoption; and

4 (e) Are rescinded on July 1 of the next following odd-numbered year, or on adjournment sine
5 die of the regular session of the Legislative Assembly meeting in that year, whichever is later, un-
6 less otherwise authorized by enabling legislation setting forth the approved fees.

7 (2) This section does not apply to:

8 (a) Any tuition or fees charged by the State Board of Higher Education and state institutions
9 of higher education.

10 (b) Taxes or other payments made or collected from employers for unemployment insurance re-
11 quired by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contri-
12 butions and assessments calculated by cents per hour for workers' compensation coverage required
13 by ORS 656.506.

14 (c) Fees or payments required for:

15 (A) Health care services provided by the Oregon Health and Science University, by the Oregon
16 Veterans' Homes and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.

17 (B) Assessments and premiums paid to the Oregon Medical Insurance Pool established by ORS
18 735.614 and 735.625.

19 (C) Copayments and premiums paid to the Oregon medical assistance program.

20 (D) Assessments paid to the Department of Consumer and Business Services under ORS 743.951
21 and 743.961.

22 (d) Fees created or authorized by statute that have no established rate or amount but are cal-
23 culated for each separate instance for each fee payer and are based on actual cost of services pro-
24 vided.

25 (e) State agency charges on employees for benefits and services.

26 (f) Any intergovernmental charges.

27 (g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the
28 Oregon Forest Land Protection Fund fees established by ORS 477.760.

29 (h) [*State Department of Energy*] Assessments required by ORS 469.421 (8) and 469.681.

30 (i) Any charges established by the State Parks and Recreation Director in accordance with ORS
31 565.080 (3).

32 (j) Assessments on premiums charged by the Insurance Division of the Department of Consumer
33 and Business Services pursuant to ORS 731.804 or fees charged by the Division of Finance and
34 Corporate Securities of the Department of Consumer and Business Services to banks, trusts and
35 credit unions pursuant to ORS 706.530 and 723.114.

36 (k) Public Utility Commission operating assessments required by ORS 756.310 or charges paid
37 to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987.

38 (L) Fees charged by the Housing and Community Services Department for intellectual property
39 pursuant to ORS 456.562.

40 (m) New or increased fees that are anticipated in the legislative budgeting process for an
41 agency, revenues from which are included, explicitly or implicitly, in the legislatively adopted
42 budget for the agency.

43 (n) Tolls approved by the Oregon Transportation Commission pursuant to ORS 383.004.

44 (o) Convenience fees as defined in ORS 182.126 and established by the Oregon Department of
45 Administrative Services under ORS 182.132 (3) and recommended by the Electronic Government

1 Portal Advisory Board.

2 (3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unex-
 3 pected and temporary revenue surpluses may be increased to not more than their prior level without
 4 compliance with subsection (1) of this section if, at the time the fee is decreased, the state agency
 5 specifies the following:

6 (A) The reason for the fee decrease; and

7 (B) The conditions under which the fee will be increased to not more than its prior level.

8 (b) Fees that are decreased for reasons other than those described in paragraph (a) of this sub-
 9 section may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160.

10 **SECTION 38.** ORS 315.141 is amended to read:

11 315.141. (1) As used in this section:

12 (a) “Agricultural producer” means a person that produces biomass in Oregon that is used, in
 13 Oregon, as biofuel or to produce biofuel.

14 (b) “Biofuel” means liquid, gaseous or solid fuels, derived from biomass, that have been con-
 15 verted into a processed fuel ready for use as energy by a biofuel producer’s customers or for direct
 16 biomass energy use at the biofuel producer’s site.

17 (c) “Biofuel producer” means a person that through activities in Oregon:

18 (A) Alters the physical makeup of biomass to convert it into biofuel;

19 (B) Changes one biofuel into another type of biofuel; or

20 (C) Uses biomass in Oregon to produce energy.

21 (d) “Biomass” means organic matter that is available on a renewable or recurring basis and that
 22 is derived from:

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

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

26 (C) Agricultural residues;

27 (D) Offal and tallow from animal rendering;

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

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

30 (G) Wastewater solids; or

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

32 (e) “Biomass” does not mean wood that has been treated with creosote, pentachlorophenol, in-
 33 organic arsenic or other inorganic chemical compounds or waste, other than matter described in
 34 paragraph (d) of this subsection.

35 (f) “Biomass collector” means a person that collects biomass in Oregon to be used, in Oregon,
 36 as biofuel or to produce biofuel.

37 (2) The Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and**
 38 **Siting** may adopt rules to define criteria, only as the criteria apply to organic biomass, to determine
 39 additional characteristics of biomass for purposes of this section.

40 (3)(a) An agricultural producer or biomass collector shall be allowed a credit against the taxes
 41 that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS
 42 chapter 317 or 318 for:

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

45 (B) The collection of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

1 (b) A credit under this section may be claimed in the tax year in which the credit is certified
2 under subsection (5) of this section.

3 (c) A taxpayer may be allowed a credit under this section for more than one of the roles defined
4 in subsection (1) of this section, but a biofuel producer that is not also an agricultural producer or
5 a biomass collector may not claim a credit under this section.

6 (d) Notwithstanding paragraph (a) of this subsection, a tax credit is not allowed for grain corn,
7 but a tax credit shall be allowed for other corn material.

8 (4) The amount of the credit shall equal the amount certified under subsection (5) of this section.

9 (5)(a) The [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** may
10 establish by rule procedures and criteria for determining the amount of the tax credit to be certified
11 under this section, consistent with ORS 469.790. The [*department*] **office** shall provide written cer-
12 tification to taxpayers that are eligible to claim the credit under this section.

13 (b) The [*State Department of Energy*] **office** may charge and collect a fee from taxpayers for
14 certification of credits under this section. The fee may not exceed the cost to the [*department*] **office**
15 of determining the amount of certified cost.

16 (c) The [*State Department of Energy*] **office** shall provide to the Department of Revenue a list,
17 by tax year, of taxpayers for which a credit is certified under this section, upon request of the de-
18 partment [*of Revenue*].

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

21 (7) Each agricultural producer or biomass collector shall maintain the written documentation
22 of the amount certified for tax credit under this section in its records for a period of at least five
23 years after the tax year in which the credit is claimed and provide the written documentation to the
24 department [*of Revenue*] upon request.

25 (8) The credit shall be claimed on a form prescribed by the department [*of Revenue*] that con-
26 tains the information required by the department.

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

34 (10) In the case of a credit allowed under this section:

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

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

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

43 **SECTION 39.** ORS 315.144 is amended to read:

44 315.144. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit
45 to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

1 (2) A tax credit allowed under ORS 315.141 may be transferred on or before the date on which
 2 the return is due for the tax year in which the credit may first be claimed. After that date, no
 3 portion of a credit allowed under ORS 315.141 may be transferred.

4 (3) To transfer the tax credit, the taxpayer earning the credit and the taxpayer that will claim
 5 the credit shall, on or before the date prescribed in subsection (2) of this section, jointly file a notice
 6 of tax credit transfer with the Department of Revenue. The notice shall be given on a form pre-
 7 scribed by the department that contains all of the following:

- 8 (a) The name and address of the transferor and transferee;
- 9 (b) The amount of the tax credit that is being transferred;
- 10 (c) The amount of the tax credit that is being retained by the transferor; and
- 11 (d) Any other information required by the department.

12 (4) The [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** may es-
 13 tablish by rule a minimum discounted value of a tax credit under this section.

14 (5) The department, [*of Revenue, in consultation with the State Department of Energy*] **in con-**
 15 **sultation with the Oregon Office of Energy Planning and Siting**, may by rule establish proce-
 16 dures for the transfer of tax credits provided by this section.

17 **SECTION 40.** ORS 469.255 is amended to read:

18 469.255. (1) A manufacturer of a product specified in ORS 469.238 that is sold or offered for sale,
 19 or installed or offered for installation, in this state shall test samples of the manufacturer's products
 20 in accordance with the test methods specified in ORS 469.233 or, if more stringent, those specified
 21 in the state building code.

22 (2) If the test methods for products required to be tested under this section are not provided for
 23 in ORS 469.233 or in the state building code, the [*State Department of Energy*] **Oregon Office of**
 24 **Energy Planning and Siting** shall adopt test methods for these products. The [*department*] **office**
 25 shall use test methods approved by the United States Department of Energy or, in the absence of
 26 federal test methods, other appropriate nationally recognized test methods for guidance in adopting
 27 test methods. The [*State Department of Energy*] **office** may periodically review and revise its test
 28 methods.

29 (3) A manufacturer of a product regulated pursuant to ORS 469.229 to 469.261, except for man-
 30 ufacturers of single-voltage external AC to DC power supplies, walk-in refrigerators and walk-in
 31 freezers, shall certify to the [*State Department of Energy*] **office** that the products are in compliance
 32 with the minimum energy efficiency standards specified in ORS 469.233. The [*department*] **office** shall
 33 establish rules governing the certification of these products and may coordinate with the certif-
 34 ication and testing programs of other states and federal agencies with similar standards.

35 (4)(a) The [*department*] **office** shall establish rules governing the identification of the products
 36 that comply with the minimum energy efficiency standards specified in ORS 469.233. The rules shall
 37 be coordinated to the greatest extent practicable with the labeling programs of other states and
 38 federal agencies with equivalent efficiency standards.

39 (b) Identification required under paragraph (a) of this subsection shall be by means of a mark,
 40 label or tag on the product and packaging at the time of sale or installation.

41 (c) The [*department*] **office** shall waive marking, labeling or tagging requirements for products
 42 marked, labeled or tagged in compliance with federal requirements or for products certified pursuant
 43 to subsection (3) of this section, unless the [*department*] **office** determines that state marking, la-
 44 beling or tagging is required to provide adequate energy efficiency information to the consumer.

45 **SECTION 41.** ORS 469.261 is amended to read:

1 469.261. (1)(a) Notwithstanding ORS 469.233, the [*State Department of Energy*] **Oregon Office**
 2 **of Energy Planning and Siting** shall periodically review the minimum energy efficiency standards
 3 specified in ORS 469.233.

4 (b) After the review pursuant to paragraph (a) of this subsection, the [*Director of the State De-*
 5 *partment of Energy*] **office** may adopt rules to update the minimum energy efficiency standards
 6 specified in ORS 469.233 if the [*director*] **office** determines that the standards need to be updated:

7 (A) To promote energy conservation in the state;

8 (B) To achieve cost-effectiveness for consumers; or

9 (C) Due to federal action or to the outcome of collaborative consultations with manufacturers
 10 and the energy departments of other states.

11 (c)(A) In addition to the rules adopted under paragraph (b) of this subsection, the [*director*] **of-**
 12 **office** may postpone by rule the operative date of any of the minimum energy efficiency standards
 13 specified in ORS 469.233 if the [*director*] **office** determines that:

14 (i) Adjoining states with similar minimum energy efficiency standards have postponed the oper-
 15 ative date of their corresponding minimum energy efficiency standards; or

16 (ii) Failure to modify the operative date of any of the minimum energy efficiency standards
 17 would impose a substantial hardship on manufacturers, retailers or the public.

18 (B)(i) The [*director*] **office** may not postpone the operative date of a minimum energy efficiency
 19 standard under subparagraph (A) of this paragraph for more than one year.

20 (ii) If at the end of the first postponement period the [*director*] **office** determines that adjoining
 21 states have further postponed the operative date of minimum energy efficiency standards and the
 22 requirements of subparagraph (A) of this paragraph continue to be met, the [*director*] **office** may
 23 postpone the operative date for not more than one additional year.

24 (d) After the review pursuant to paragraph (a) of this subsection, the [*director*] **office** may adopt
 25 rules to establish new minimum energy efficiency standards if the [*director*] **office** determines that
 26 new standards are needed:

27 (A) To promote energy conservation in the state;

28 (B) To achieve cost-effectiveness for consumers; or

29 (C) Due to federal action or to the outcome of collaborative consultations with manufacturers
 30 and the energy departments of other states.

31 (e) If the [*director*] **office** adopts rules under paragraph (b) of this subsection to update the
 32 minimum energy efficiency standards specified in ORS 469.233 or under paragraph (d) of this sub-
 33 section to establish new minimum energy efficiency standards:

34 (A) The rules may not take effect until one year following their adoption by the [*director*]
 35 **office**; and

36 (B) The Governor shall cause to be introduced at the next Legislative Assembly a bill to con-
 37 form the statutory minimum energy efficiency standards to the minimum energy efficiency standards
 38 adopted by the [*director*] **office** by rule.

39 (2) If the [*director*] **office** determines that implementation of a state minimum energy efficiency
 40 standard requires a waiver of federal preemption, the [*director*] **office** shall apply for a waiver of
 41 federal preemption pursuant to 42 U.S.C. 6297(d).

42 **SECTION 42.** ORS 401.054 is amended to read:

43 401.054. (1) The following state agencies shall designate a person within each agency to act as
 44 a liaison with the Office of Emergency Management:

45 (a) The Department of Transportation;

- 1 (b) The State Department of Agriculture;
- 2 (c) The Department of Environmental Quality;
- 3 (d) The Department of Human Services;
- 4 (e) The *[State Department of Energy]* **Oregon Office of Energy Planning and Siting**;
- 5 (f) The Oregon Department of Administrative Services;
- 6 (g) The Department of State Police;
- 7 (h) The State Department of Geology and Mineral Industries;
- 8 (i) The Oregon Health Authority; and
- 9 (j) The Oregon Military Department.

10 (2) Each person designated as a liaison under subsection (1) of this section shall assist in the
 11 coordination of the functions of the person's agency that relate to emergency preparedness and re-
 12 sponse with similar functions of the Office of Emergency Management.

13 **SECTION 43.** ORS 453.347 is amended to read:

14 453.347. (1) The State Fire Marshal shall assist with emergency response planning by appropri-
 15 ate agencies of government at the local, state and national levels to assure that the response to a
 16 hazardous substance fixed site or transportation accident is swift and appropriate to minimize dam-
 17 age to any person, property or wildlife. This planning shall include assisting in and training for the
 18 preparation of localized plans setting forth agency responsibilities for on-scene response.

19 (2) The State Fire Marshal may apply for funds as available to train, equip and maintain an
 20 appropriate response capability at the state and local level.

21 (3) The State Fire Marshal shall issue certificates to local agency personnel who have completed
 22 the training.

23 (4) To the extent practicable, the emergency preparedness and response program for hazardous
 24 substances as provided in this section shall be consistent with the program for radioactive material,
 25 wastes and substances developed by the *[State Department of Energy and the]* Oregon Health Au-
 26 thority **and the Oregon Office of Energy Planning and Siting** under *[ORS chapters 453 and]* **this**
 27 **chapter and ORS chapter 469.**

28 **SECTION 44.** ORS 455.492 is amended to read:

29 455.492. (1) There is established a Construction Industry Energy Board, consisting of seven
 30 members. The membership shall consist of the following:

31 (a) Two members selected by the Electrical and Elevator Board from the members of the Elec-
 32 trical and Elevator Board who have practical experience in the electric industry.

33 (b) Two members selected by the Residential and Manufactured Structures Board from the
 34 members of the Residential and Manufactured Structures Board who have practical experience in
 35 the residential structure industry or manufactured structure industry.

36 (c) Two members selected by the Building Codes Structures Board from the members of the
 37 Building Codes Structures Board who have practical experience in construction.

38 (d) One member who is an employee or officer of the *[State Department of Energy appointed by*
 39 *the Director of the State Department of Energy]* **Oregon Office of Energy Planning and Siting ap-**
 40 **pointed by the Director of the Oregon Office of Energy Planning and Siting.**

41 (2) The Construction Industry Energy Board shall select one of its members as chairperson and
 42 another as vice chairperson, for such terms and with duties and powers necessary for the perform-
 43 ance of the functions of those positions as the board determines.

44 (3) Except as provided in ORS 455.496 (2), a majority of the members of the board constitutes
 45 a quorum for the transaction of business.

1 (4) The board shall meet at least twice each year, at times and places specified by the Director
 2 of the Department of Consumer and Business Services or by the call of a majority of the members.

3 (5) A member of the board is not entitled to compensation, but at the discretion of the director
 4 may be reimbursed from funds available to the Department of Consumer and Business Services for
 5 actual and necessary travel and other expenses incurred by the member in the performance of the
 6 member’s official duties in the manner and amount provided in ORS 292.495.

7 **SECTION 45.** ORS 455.511 is amended to read:

8 455.511. (1) As used in this section, “energy efficiency” means the use of construction and design
 9 standards, construction methods, products, equipment and devices to increase efficient use of, and
 10 reduce consumption of, electricity, natural gas and fossil fuels in buildings undergoing new con-
 11 struction, reconstruction, alteration or repair.

12 (2) The Director of the Department of Consumer and Business Services, after consultation with
 13 the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** and subject to the
 14 approval of the appropriate advisory boards, shall adopt amendments to the state building code un-
 15 der ORS 455.030 to increase energy efficiency in buildings that are newly constructed, recon-
 16 structed, altered or repaired. In adopting the amendments, the director shall consider generally
 17 accepted model codes, products and product standards, the Reach Code adopted under ORS 455.500
 18 and other available data to evaluate codes and standards that promote energy efficiency in
 19 buildings.

20 (3) The director, in consultation with the appropriate advisory boards, shall develop a schedule
 21 for the periodic review of energy efficiency standards and shall establish goals for increasing the
 22 level of energy conservation achieved by the use of energy efficiency standards contained in the
 23 state building code and the Reach Code. In establishing goals and the schedule for periodic review
 24 of standards under this section, the director shall consider the publication schedule of generally
 25 accepted construction codes and standards. If the director determines that the adopted review
 26 schedule or energy efficiency goals are not practicable for economic or technical reasons, the di-
 27 rector may amend the schedule or goals as the director considers appropriate.

28 **SECTION 46.** ORS 466.380 is amended to read:

29 466.380. The Department of Environmental Quality and the [*State Department of Energy*] **Oregon**
 30 **Office of Energy Planning and Siting** shall enter into an interagency agreement providing for the
 31 implementation of the provisions of ORS 466.360 to 466.385 relating to radioactive waste disposal
 32 sites.

33 **SECTION 47.** ORS 466.615 is amended to read:

34 466.615. Nothing in ORS 466.605 to 466.680, 466.990 (3) and (4) and 466.995 (2) is intended to
 35 grant the Environmental Quality Commission or the Department of Environmental Quality authority
 36 over any radioactive substance regulated by the Oregon Health Authority under ORS chapter 453,
 37 or any radioactive material or waste regulated by the [*State Department of Energy*] **Oregon Office**
 38 **of Energy Planning and Siting** or Energy Facility Siting Council under ORS chapter 469.

39 **SECTION 48.** ORS 468A.220 is amended to read:

40 468A.220. (1) In addition to the members appointed under ORS 468A.215, the Oregon Global
 41 Warming Commission shall include the following ex officio members:

- 42 (a) The Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and**
- 43 **Siting;**
- 44 (b) The Director of Transportation;
- 45 (c) The chairperson of the Public Utility Commission of Oregon;

1 (d) The Director of the Department of Environmental Quality;

2 (e) The Director of Agriculture;

3 (f) The State Forester;

4 (g) The Water Resources Director; and

5 (h) Three additional ex officio nonvoting members, each from a state agency or an academic
6 institution.

7 (2) The following representatives of the Legislative Assembly also shall serve as ex officio non-
8 voting members:

9 (a) Two members of the Senate, not from the same political party, appointed by the President
10 of the Senate; and

11 (b) Two members of the House of Representatives, not from the same political party, appointed
12 by the Speaker of the House of Representatives.

13 (3) Each legislative member serves at the pleasure of the appointing authority and may serve
14 so long as the member remains in the chamber of the Legislative Assembly from which the member
15 was appointed.

16 **SECTION 49.** ORS 468A.225 is amended to read:

17 468A.225. (1) A majority of the members of the Oregon Global Warming Commission constitutes
18 a quorum for the transaction of business.

19 (2) The commission shall meet at times and places specified by a majority of the members of the
20 commission.

21 (3) The [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** shall pro-
22 vide clerical, technical and management personnel to serve the commission. Other agencies shall
23 provide support as requested by the [*department*] **office** or the commission.

24 **SECTION 50.** ORS 468A.245 is amended to read:

25 468A.245. The Oregon Global Warming Commission shall develop an outreach strategy to edu-
26 cate Oregonians about the scientific aspects and economic impacts of global warming and to inform
27 Oregonians of ways to reduce greenhouse gas emissions and ways to prepare for the effects of global
28 warming. The commission, at a minimum, shall work with state and local governments, the [*State*
29 *Department of Energy*] **Oregon Office of Energy Planning and Siting**, the Department of Educa-
30 tion, the State Board of Higher Education and businesses to implement the outreach strategy.

31 **SECTION 51.** ORS 468A.250 is amended to read:

32 468A.250. (1) The Oregon Global Warming Commission shall track and evaluate:

33 (a) Economic, environmental, health and social assessments of global warming impacts on
34 Oregon and the Pacific Northwest;

35 (b) Existing greenhouse gas emissions reduction policies and measures;

36 (c) Economic, environmental, health and social costs, and the risks and benefits of alternative
37 strategies, including least-cost options;

38 (d) The physical science of global warming;

39 (e) Progress toward the greenhouse gas emissions reduction goals established by ORS 468A.205;

40 (f) Greenhouse gases emitted by various sectors of the state economy, including but not limited
41 to industrial, transportation and utility sectors;

42 (g) Technological progress on sources of energy the use of which generates no or low
43 greenhouse gas emissions and methods for carbon sequestration;

44 (h) Efforts to identify the greenhouse gas emissions attributable to the residential and commer-
45 cial building sectors;

1 (i) The carbon sequestration potential of Oregon’s forests, alternative methods of forest man-
 2 agement that can increase carbon sequestration and reduce the loss of carbon sequestration to
 3 wildfire, changes in the mortality and distribution of tree and other plant species and the extent to
 4 which carbon is stored in tree-based building materials;

5 (j) The advancement of regional, national and international policies to reduce greenhouse gas
 6 emissions;

7 (k) Local and regional efforts to prepare for the effects of global warming; and

8 (L) Any other information, policies or analyses that the commission determines will aid in the
 9 achievement of the greenhouse gas emissions reduction goals established by ORS 468A.205.

10 (2) The commission shall:

11 (a) Work with the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting**
 12 and the Department of Environmental Quality to evaluate all gases with the potential to be
 13 greenhouse gases and to determine a carbon dioxide equivalency for those gases; and

14 (b) Use regional and national baseline studies of building performance to identify incremental
 15 targets for the reduction of greenhouse gas emissions attributable to residential and commercial
 16 building construction and operations.

17 **SECTION 52.** ORS 469.020 is amended to read:

18 469.020. As used in ORS 176.820, [*469.010 to 469.225,*] **469.010, 469.055, 469.060, 469.070, 469.080,**
 19 **469.085, 469.110, 469.120, 469.135, 469.160 to 469.180, 469.185 to 469.225,** 469.860 (3), 469.880 to
 20 469.895, 469.900 (3), 469.990, 469.992, 757.710 and 757.720 **and sections 11 and 12 of this 2011 Act,**
 21 unless the context requires otherwise:

22 (1) “Agency” includes a department or other agency of state government, city, county, municipal
 23 corporation, political subdivision, port, people’s utility district, joint operating agency and electric
 24 cooperative.

25 (2) “Coal supplier” means any person engaged in the wholesale distribution in this state of coal
 26 intended for use in this state for an energy facility.

27 (3) “Cost-effective” means that an energy resource, facility or conservation measure during its
 28 life cycle results in delivered power costs to the ultimate consumer no greater than the comparable
 29 incremental cost of the least cost alternative new energy resource, facility or conservation measure.
 30 Cost comparison under this definition shall include but not be limited to:

31 (a) Cost escalations and future availability of fuels;

32 (b) Waste disposal and decommissioning costs;

33 (c) Transmission and distribution costs;

34 (d) Geographic, climatic and other differences in the state; and

35 (e) Environmental impact.

36 (4) “Council” means the Energy Facility Siting Council established under ORS 469.450.

37 [(5) “Department” means the State Department of Energy created under ORS 469.030.]

38 [(6) “Director” means the Director of the State Department of Energy appointed under ORS
 39 469.040.]

40 [(7)] (5) “Energy facility” has the meaning given in ORS 469.300.

41 [(8)] (6) “Energy generation area” means an area within which the effects of two or more small
 42 generating plants may accumulate so the small generating plants have effects of a magnitude similar
 43 to a single generating plant of 25 megawatts or more. An energy generation area for facilities using
 44 a geothermal resource and covered by a unit agreement, as provided in ORS 522.405 to 522.545 or
 45 by federal law, shall be defined in that unit agreement. If no such unit agreement exists, an energy

1 generation area for facilities using a geothermal resource shall be the area that is within two miles,
 2 measured from the electrical generating equipment of the facility, of an existing or proposed
 3 geothermal electric power generating plant, not including the site of any other such plant not owned
 4 or controlled by the same person.

5 [(9)] (7) “Geothermal reservoir” means an aquifer or aquifers containing a common geothermal
 6 fluid.

7 [(10)] (8) “Nominal electric generating capacity” has the meaning given in ORS 469.300.

8 [(11)] (9) “Person” means an individual, partnership, joint venture, private or public corporation,
 9 association, firm, public service company, political subdivision, municipal corporation, government
 10 agency, people’s utility district, or any other entity, public or private, however organized.

11 [(12)] (10) “Petroleum supplier” means a petroleum refiner in this state, or any person engaged
 12 in the wholesale distribution of crude petroleum or derivative thereof or of propane in this state.

13 [(13)] (11) “Related or supporting facilities” means any structure, proposed by the applicant, to
 14 be constructed or substantially modified in connection with the construction of an energy facility,
 15 including associated transmission lines, reservoirs, storage facilities, intake structure, road and rail
 16 access, pipelines, barge basins, office or public buildings, and commercial and industrial structures.
 17 “Related or supporting facilities” does not include geothermal or underground gas storage reser-
 18 voirs, production, injection or monitoring wells or wellhead equipment or pumps.

19 [(14)] (12) “Site” means a proposed location of an energy facility, and its related or supporting
 20 facilities.

21 [(15)] (13) “Thermal power plant” has the meaning given that term by ORS 469.300.

22 [(16)] (14) “Utility” includes:

23 (a) An individual, a regulated electrical company, a people’s utility district, a joint operating
 24 agency, an electric cooperative, municipality or any combination thereof, engaged in or authorized
 25 to engage in the business of generating, transmitting or distributing electric energy;

26 (b) A person or public agency generating electric energy from an energy facility for its own
 27 consumption; and

28 (c) A person engaged in this state in the transmission or distribution of natural or synthetic gas.

29 **SECTION 53.** ORS 469.055 is amended to read:

30 469.055. For the purpose of requesting a state or nationwide criminal records check under ORS
 31 181.534, the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** may re-
 32 quire the fingerprints of a person who:

33 (1)(a) Is employed or applying for employment by the [*department*] **office**; or

34 (b) Provides services or seeks to provide services to the [*department*] **office** as a contractor or
 35 volunteer; and

36 (2) Is, or will be, working or providing services in a position:

37 (a) In the Hanford nuclear safety program;

38 [(b) *In which the person conducts energy audits in schools, colleges, universities or medical facili-*
 39 *ties;*]

40 [(c)] (b) In the budget and finance section of the [*department*] **office**;

41 [(d)] (c) That has personnel or human resources functions as one of the position’s primary re-
 42 sponsibilities;

43 [(e)] (d) In which the person is providing information technology services and has control over,
 44 or access to, information technology systems that would allow the person to harm the information
 45 technology systems or the information contained in the systems;

1 [(f)] (e) In which the person has access to personal information about employees or members of
 2 the public including Social Security numbers, dates of birth, driver license numbers or criminal
 3 background information; or

4 [(g)] (f) In which the person has access to tax or financial information about individuals or
 5 business entities or processes tax credits.

6 **SECTION 54.** ORS 469.060 is amended to read:

7 469.060. (1) Every odd-numbered year, the [*State Department of Energy*] **Oregon Office of En-**
 8 **ergy Planning and Siting** shall transmit to the Governor and the Legislative Assembly a compre-
 9 hensive plan including comments on the energy forecasts of the utilities and on the [*department's*]
 10 **office's** independent analysis and evaluation. The plan shall be designed to identify emerging trends
 11 related to energy supply, need and conservation and public health and safety factors, to estimate the
 12 level of statewide energy need for each year in the forthcoming five-year period and for the 10th
 13 and 20th year following issuance of the plan.

14 (2) [*Notwithstanding ORS 469.030 (2)(c), the department*] **The office** shall conduct research into
 15 all energy pricing structures, relating price to consumption and considering the interchangeability
 16 of the various energy forms. In conducting the research, the [*department*] **office** shall consider mat-
 17 ters including, but not limited to, price elasticity, cross elasticity of demand and energy rate struc-
 18 tures, as well as the rate structure studies of the Public Utility Commission. This research shall be
 19 submitted biennially to the Legislative Assembly and the Governor as a part of the plan described
 20 in subsection (1) of this section.

21 (3) Consistent with the legislatively approved budget, the plan described in subsections (1) and
 22 (2) of this section shall include, but not be limited to:

23 (a) An inventory of existing energy resources available to Oregon.

24 (b) An estimation of the potential contribution that various energy resources could make in
 25 satisfying Oregon's future energy needs consistent with the policy stated in ORS 469.010 and where
 26 appropriate, the energy plan and fish and wildlife program adopted by the Pacific Northwest Electric
 27 Power and Conservation Planning Council pursuant to P.L. 96-501.

28 (c) Recommendations for state and local governments to assist in the development and maximum
 29 use of cost-effective conservation and renewable resources, consistent with the policy stated in ORS
 30 469.010 and, where appropriate, the energy plan and fish and wildlife program adopted by the Pacific
 31 Northwest Electric Power and Conservation Planning Council pursuant to P.L. 96-501.

32 (d) Recommendations for proposed research, development and demonstration projects and pro-
 33 grams necessary to evaluate the availability and cost-effectiveness of conservation and renewable
 34 resources in Oregon.

35 (4) [*The plan described in this section shall be compiled by organizing and refining data acquired*
 36 *by the department in the performance of its existing duties.*] **In preparing the plan required by this**
 37 **section, the office must:**

38 (a) **Use data acquired in the performance of its existing duties; and**

39 (b) **Consult with and acquire appropriate data from the Public Utility Commission.**

40 **SECTION 55.** ORS 469.070 is amended to read:

41 469.070. (1) At least biennially the [*State Department of Energy*] **Oregon Office of Energy**
 42 **Planning and Siting** shall issue a forecast on the energy situation as it affects Oregon. The forecast
 43 shall include, but not be limited to, an estimate of:

44 (a) Energy demand and the resources available to meet that demand; and

45 (b) Impacts of conservation and new technology, increased efficiency of present energy facilities,

1 additions to present facilities, and construction of new facilities, on the availability of energy to
2 Oregon.

3 (2) The forecast shall include summary forecasts for:

4 (a) Each of the first five years immediately following issuance of the forecast; and

5 (b) The 10th and 20th year following the issuance of the forecast.

6 (3) The forecast shall identify all major components of demand and any anticipated increase in
7 demand, including but not limited to population, commercial, agricultural and industrial growth.

8 (4) The *[State Department of Energy]* **office**, by July 1 of each even-numbered year, shall issue
9 a statement setting forth the methodology and assumptions it intends to employ in preparing the
10 forthcoming forecast, any changes in the preceding forecast, and an outline of the contents of the
11 biennial plan to be published by the *[department]* **office** on the following January 1, and not later
12 than the 45th day thereafter, commence public hearings thereon.

13 (5) **The Director of the Oregon Office of Energy Planning and Siting shall supply a copy**
14 **of the statement issued under subsection (4) of this section to** all state agencies, energy sup-
15 pliers, owners of energy facilities, and other persons whom the director *[of the State Department of*
16 *Energy]* believes have an interest in the subject or who have applied to the director *[therefor, shall*
17 *be supplied a copy of the statement issued by the department on July 1 of each even-numbered year]*
18 **for a copy of the statement.** The director may charge a reasonable fee for a copy of *[this statement*
19 *not to exceed the cost thereof]* **the statement that does not exceed the cost of copying the**
20 **statement.**

21 (6) After the public hearings required by subsection (4) of this section, but not later than Janu-
22 ary 1 following the issuance of its statement, the *[department]* **office** shall issue the forecast required
23 by subsection (1) of this section.

24 (7) The forecast shall be included *[within the plan provided for in]* **in the plan required under**
25 **ORS 469.060 (1).**

26 (8) **In preparing the forecast required by this section, the office must consult with and**
27 **acquire appropriate data from the Public Utility Commission.**

28 **SECTION 56.** ORS 469.080 is amended to read:

29 469.080. (1) The Director of the *[State Department of Energy]* **Oregon Office of Energy Plan-**
30 **ning and Siting** may obtain all necessary information from producers, suppliers and consumers of
31 energy resources within Oregon, and from political subdivisions in this state, as necessary to carry
32 out ORS 176.820, 192.501 to 192.505, 192.690, *[469.010 to 469.225,]* **469.010, 469.055, 469.060, 469.070,**
33 **469.080, 469.085, 469.097, 469.110, 469.120, 469.135,** 469.300 to 469.563, 469.990[,] **and** 469.992[,
34 *757.710 and 757.720]* **and sections 11 and 12 of this 2011 Act.** Such information may include, but
35 not be limited to:

36 (a) Sales volume;

37 (b) Forecasts of energy resource requirements;

38 (c) Inventory of energy resources; and

39 (d) Local distribution patterns of information under paragraphs (a) to (c) of this subsection.

40 (2) In obtaining information under subsection (1) of this section, the director, with the written
41 consent of the Governor, may subpoena witnesses*[, material and relevant books, papers, accounts,*
42 *records and memoranda]* **and relevant documents, accounts and communications,** administer
43 oaths[,] and *[may]* cause the depositions of persons residing within or without Oregon to be taken
44 in the manner prescribed for depositions in civil actions in circuit courts, to obtain information
45 relevant to energy resources.

(3) In obtaining information under this section, the director:

(a) Shall avoid eliciting information already furnished by a person or political subdivision in this state to a federal, state or local regulatory authority that is available to the director for such study; and

(b) Shall cause reporting procedures, including forms, to conform to existing requirements of federal, state and local regulatory authorities.

(4) Any person who is served with a subpoena to give testimony orally or in writing or to produce [*books, papers, correspondence, memoranda, agreements or the documents or records as provided in ORS 176.820, 192.501 to 192.505, 192.690, 469.010 to 469.225, 469.300 to 469.563, 469.990, 469.992, 757.710 and 757.720,*] **documents, accounts or communications required under this section** may apply to any circuit court in Oregon for protection against abuse or hardship in the manner provided in ORCP 36 C.

SECTION 57. ORS 469.085 is amended to read:

469.085. (1) Except as otherwise provided in this section, civil penalties under ORS 469.992 shall be imposed as provided in ORS 183.745.

(2) Notwithstanding ORS 183.745 (2), the notice to the person against whom a civil penalty is to be imposed shall reflect a complete statement of the consideration given to the factors listed in subsection (7) of this section. The notice may be served by either the Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** or the Energy Facility Siting Council.

(3) Notwithstanding ORS 183.745, if a hearing is not requested or if the person requesting a hearing fails to appear, a final order shall be entered upon a prima facie case made on the record of the agency.

(4) The provisions of this section are in addition to and not in lieu of any other penalty or sanction provided by law. An action taken by the director or the council under this section may be joined by the director or the council with any other action against the same person under this chapter.

(5) Any civil penalty recovered under this section shall be paid into the General Fund.

(6) The director or the council shall adopt by rule a schedule of the amount of civil penalty that may be imposed for a particular violation.

(7) In imposing a penalty under ORS 469.992, the director or the council shall consider:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct or prevent any violation;

(b) Any prior violations of ORS [*chapter 469 or rules, orders or permits relating to the alleged violation*] **469.300 to 469.619 or 469.930, a rule adopted under ORS 469.300 to 469.619 or 469.930, a site certificate or amended site certificate issued under ORS 469.300 to 469.601 or an order issued pursuant to ORS 469.405 (3)**;

(c) The impact of the violation on public health and safety or public interests in fishery, navigation and recreation;

(d) Any other factors determined by the director or the council to be relevant; and

(e) The alleged violator's cooperativeness and effort to correct the violation.

(8) The penalty imposed under ORS 469.992 may be remitted or mitigated upon such terms and conditions as the director or council determines to be proper. Upon the request of the person incurring the penalty, the director or council shall consider evidence of the economic and financial condition of the person in determining whether a penalty shall be remitted or mitigated.

1 **SECTION 58.** ORS 469.097 is amended to read:

2 469.097. (1) [*The State Department of Energy shall to the extent permitted by its resources*] **The**
3 **Director of the Oregon Office of Energy Planning and Siting shall, to the extent permitted**
4 **by the resources of the Oregon Office of Energy Planning and Siting,** monitor industry progress
5 in achieving energy conservation.

6 (2) **In performing the duties required by subsection (1) of this section, the director may**
7 **consult with and acquire appropriate data from the Public Utility Commission.**

8 **SECTION 59.** ORS 469.110 is amended to read:

9 469.110. (1) As to any matter involving the federal government, its departments or agencies,
10 [*which*] **that** is within the scope of the power and duties of the [*State Department of Energy, the*
11 *department*] **Oregon Office of Energy Planning and Siting, the office** may represent its interest
12 or, upon request, may represent the interest of any county, city, state agency, special district or
13 owner or operator of any energy facility.

14 (2) The [*department*] **office** may intervene in any proceeding undertaken by an agency for the
15 purpose of expressing [*its views*] **the views of the office** as to the effect of an agency action, upon
16 state energy resources and state energy policy.

17 **SECTION 60.** ORS 469.120 is amended to read:

18 469.120. (1) The [*State Department of Energy*] **Energy Planning and Siting** Account is estab-
19 lished.

20 (2) All funds received by the [*State Department of Energy*] **Oregon Office of Energy Planning**
21 **and Siting** pursuant to law shall be paid into the State Treasury and credited to the [*State Depart-*
22 *ment of Energy*] account. All moneys in the account are continuously appropriated to the [*State De-*
23 *partment of Energy*] **office** for payment of expenses of the [*State Department of Energy*] **office,** the
24 Oregon Department of Administrative Services and the Energy Facility Siting Council.

25 (3) The Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and**
26 **Siting** shall keep a record of all moneys deposited in the [*State Department of Energy*] account. The
27 record shall indicate by special cumulative accounts the source from which moneys are derived and
28 the individual activity against which each withdrawal is charged.

29 **SECTION 61.** ORS 469.135 is amended to read:

30 469.135. The [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** shall
31 expand the Energy Conservation Clearinghouse for Commerce and Industry so that it provides:

32 (1) Current information to business and industry on:

- 33 (a) State and federal financing mechanisms;
- 34 (b) Tax advantages of energy conservation investments; and
- 35 (c) General economic advantages of energy conservation investments.

36 (2) Teaching on conservation techniques and management of energy by corporations.

37 **SECTION 62.** ORS 469.300 is amended to read:

38 469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992, unless the
39 context requires otherwise:

40 (1) "Applicant" means any person who makes application for a site certificate in the manner
41 provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

42 (2) "Application" means a request for approval of a particular site or sites for the construction
43 and operation of an energy facility or the construction and operation of an additional energy facility
44 upon a site for which a certificate has already been issued, filed in accordance with the procedures
45 established pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

1 (3) “Associated transmission lines” means new transmission lines constructed to connect an en-
 2 ergy facility to the first point of junction of such transmission line or lines with either a power
 3 distribution system or an interconnected primary transmission system or both or to the Northwest
 4 Power Grid.

5 (4) “Average electric generating capacity” means the peak generating capacity of the facility
 6 divided by one of the following factors:

7 (a) For wind or solar energy facilities, 3.00;

8 (b) For geothermal energy facilities, 1.11; or

9 (c) For all other energy facilities, 1.00.

10 (5) “Combustion turbine power plant” means a thermal power plant consisting of one or more
 11 fuel-fired combustion turbines and any associated waste heat combined cycle generators.

12 (6) “Construction” means work performed on a site, excluding surveying, exploration or other
 13 activities to define or characterize the site, the cost of which exceeds \$250,000.

14 (7) “Council” means the Energy Facility Siting Council established under ORS 469.450.

15 [(8) “Department” means the State Department of Energy created under ORS 469.030.]

16 [(9) “Director” means the Director of the State Department of Energy appointed under ORS
 17 469.040.]

18 [(10)] (8) “Electric utility” means persons, regulated electrical companies, people’s utility dis-
 19 tricts, joint operating agencies, electric cooperatives, municipalities or any combination thereof,
 20 engaged in or authorized to engage in the business of generating, supplying, transmitting or dis-
 21 tributing electric energy.

22 [(11)] (9)(a) “Energy facility” means any of the following:

23 (A) An electric power generating plant with a nominal electric generating capacity of 25 mega-
 24 watts or more, including but not limited to:

25 (i) Thermal power; or

26 (ii) Combustion turbine power plant.

27 (B) A nuclear installation as defined in this section.

28 (C) A high voltage transmission line of more than 10 miles in length with a capacity of 230,000
 29 volts or more to be constructed in more than one city or county in this state, but excluding:

30 (i) Lines proposed for construction entirely within 500 feet of an existing corridor occupied by
 31 high voltage transmission lines with a capacity of 230,000 volts or more; and

32 (ii) Lines of 57,000 volts or more that are rebuilt and upgraded to 230,000 volts along the same
 33 right of way.

34 (D) A solar collecting facility using more than 100 acres of land.

35 (E) A pipeline that is:

36 (i) At least six inches in diameter, and five or more miles in length, used for the transportation
 37 of crude petroleum or a derivative thereof, liquefied natural gas, a geothermal energy form in a
 38 liquid state or other fossil energy resource, excluding a pipeline conveying natural or synthetic gas;

39 (ii) At least 16 inches in diameter, and five or more miles in length, used for the transportation
 40 of natural or synthetic gas, but excluding:

41 (I) A pipeline proposed for construction of which less than five miles of the pipeline is more than
 42 50 feet from a public road, as defined in ORS 368.001; or

43 (II) A parallel or upgraded pipeline up to 24 inches in diameter that is constructed within the
 44 same right of way as an existing 16-inch or larger pipeline that has a site certificate, if all studies
 45 and necessary mitigation conducted for the existing site certificate meet or are updated to meet

1 current site certificate standards; or

2 (iii) At least 16 inches in diameter and five or more miles in length used to carry a geothermal
3 energy form in a gaseous state but excluding a pipeline used to distribute heat within a geothermal
4 heating district established under ORS chapter 523.

5 (F) A synthetic fuel plant which converts a natural resource including, but not limited to, coal
6 or oil to a gas, liquid or solid product intended to be used as a fuel and capable of being burned to
7 produce the equivalent of two billion Btu of heat a day.

8 (G) A plant which converts biomass to a gas, liquid or solid product, or combination of such
9 products, intended to be used as a fuel and if any one of such products is capable of being burned
10 to produce the equivalent of six billion Btu of heat a day.

11 (H) A storage facility for liquefied natural gas constructed after September 29, 1991, that is de-
12 signed to hold at least 70,000 gallons.

13 (I) A surface facility related to an underground gas storage reservoir that, at design injection
14 or withdrawal rates, will receive or deliver more than 50 million cubic feet of natural or synthetic
15 gas per day, or require more than 4,000 horsepower of natural gas compression to operate, but ex-
16 cluding:

17 (i) The underground storage reservoir;

18 (ii) The injection, withdrawal or monitoring wells and individual wellhead equipment; and

19 (iii) An underground gas storage reservoir into which gas is injected solely for testing or res-
20 ervoir maintenance purposes or to facilitate the secondary recovery of oil or other hydrocarbons.

21 (J) An electric power generating plant with an average electric generating capacity of 35
22 megawatts or more if the power is produced from geothermal, solar or wind energy at a single en-
23 ergy facility or within a single energy generation area.

24 (b) "Energy facility" does not include a hydroelectric facility.

25 [(12)] (10) "Energy generation area" means an area within which the effects of two or more
26 small generating plants may accumulate so the small generating plants have effects of a magnitude
27 similar to a single generating plant of 35 megawatts average electric generating capacity or more.
28 An "energy generation area" for facilities using a geothermal resource and covered by a unit
29 agreement, as provided in ORS 522.405 to 522.545 or by federal law, shall be defined in that unit
30 agreement. If no such unit agreement exists, an energy generation area for facilities using a
31 geothermal resource shall be the area that is within two miles, measured from the electrical gener-
32 ating equipment of the facility, of an existing or proposed geothermal electric power generating
33 plant, not including the site of any other such plant not owned or controlled by the same person.

34 [(13)] (11) "Extraordinary nuclear occurrence" means any event causing a discharge or dispersal
35 of source material, special nuclear material or by-product material as those terms are defined in
36 ORS 453.605, from its intended place of confinement off-site, or causing radiation levels off-site, that
37 the United States Nuclear Regulatory Commission or its successor determines to be substantial and
38 to have resulted in or to be likely to result in substantial damages to persons or property off-site.

39 [(14)] (12) "Facility" means an energy facility together with any related or supporting facilities.

40 [(15)] (13) "Geothermal reservoir" means an aquifer or aquifers containing a common geothermal
41 fluid.

42 [(16)] (14) "Local government" means a city or county.

43 [(17)] (15) "Nominal electric generating capacity" means the maximum net electric power output
44 of an energy facility based on the average temperature, barometric pressure and relative humidity
45 at the site during the times of the year when the facility is intended to operate.

1 [(18)] (16) “Nuclear incident” means any occurrence, including an extraordinary nuclear occur-
2 rence, that results in bodily injury, sickness, disease, death, loss of or damage to property or loss
3 of use of property due to the radioactive, toxic, explosive or other hazardous properties of source
4 material, special nuclear material or by-product material as those terms are defined in ORS 453.605.

5 [(19)] (17) “Nuclear installation” means any power reactor, nuclear fuel fabrication plant, nu-
6 clear fuel reprocessing plant, waste disposal facility for radioactive waste, and any facility handling
7 that quantity of fissionable materials sufficient to form a critical mass. “Nuclear installation” does
8 not include any such facilities that are part of a thermal power plant.

9 [(20)] (18) “Nuclear power plant” means an electrical or any other facility using nuclear energy
10 with a nominal electric generating capacity of 25 megawatts or more, for generation and distribution
11 of electricity, and associated transmission lines.

12 [(21)] (19) “Person” means an individual, partnership, joint venture, private or public corpo-
13 ration, association, firm, public service company, political subdivision, municipal corporation, gov-
14 ernment agency, people’s utility district, or any other entity, public or private, however organized.

15 [(22)] (20) “Project order” means the order, including any amendments, issued by the [*State De-*
16 *partment of Energy*] **Oregon Office of Energy Planning and Siting** under ORS 469.330.

17 [(23)] (21)(a) “Radioactive waste” means all material which is discarded, unwanted or has no
18 present lawful economic use, and contains mined or refined naturally occurring isotopes, accelerator
19 produced isotopes and by-product material, source material or special nuclear material as those
20 terms are defined in ORS 453.605. The term does not include those radioactive materials identified
21 in OAR 345-50-020, 345-50-025 and 345-50-035, adopted by the council on December 12, 1978, and re-
22 vised periodically for the purpose of adding additional isotopes which are not referred to in OAR
23 345-50 as presenting no significant danger to the public health and safety.

24 (b) Notwithstanding paragraph (a) of this subsection, “radioactive waste” does not include ura-
25 nium mine overburden or uranium mill tailings, mill wastes or mill by-product materials as those
26 terms are defined in Title 42, United States Code, section 2014, on June 25, 1979.

27 [(24)] (22) “Related or supporting facilities” means any structure, proposed by the applicant, to
28 be constructed or substantially modified in connection with the construction of an energy facility,
29 including associated transmission lines, reservoirs, storage facilities, intake structures, road and rail
30 access, pipelines, barge basins, office or public buildings, and commercial and industrial structures.
31 “Related or supporting facilities” does not include geothermal or underground gas storage reser-
32 vairs, production, injection or monitoring wells or wellhead equipment or pumps.

33 [(25)] (23) “Site” means any proposed location of an energy facility and related or supporting
34 facilities.

35 [(26)] (24) “Site certificate” means the binding agreement between the State of Oregon and the
36 applicant, authorizing the applicant to construct and operate a facility on an approved site, incor-
37 porating all conditions imposed by the council on the applicant.

38 [(27)] (25) “Thermal power plant” means an electrical facility using any source of thermal en-
39 ergy with a nominal electric generating capacity of 25 megawatts or more, for generation and dis-
40 tribution of electricity, and associated transmission lines, including but not limited to a
41 nuclear-fueled, geothermal-fueled or fossil-fueled power plant, but not including a portable power
42 plant the principal use of which is to supply power in emergencies. “Thermal power plant” includes
43 a nuclear-fueled thermal power plant that has ceased to operate.

44 [(28)] (26) “Transportation” means the transport within the borders of the State of Oregon of
45 radioactive material destined for or derived from any location.

1 [(29)] (27) “Underground gas storage reservoir” means any subsurface sand, strata, formation,
 2 aquifer, cavern or void, whether natural or artificially created, suitable for the injection, storage
 3 and withdrawal of natural gas or other gaseous substances. “Underground gas storage reservoir”
 4 includes a pool as defined in ORS 520.005.

5 [(30)] (28) “Utility” includes:

6 (a) A person, a regulated electrical company, a people’s utility district, a joint operating agency,
 7 an electric cooperative, municipality or any combination thereof, engaged in or authorized to engage
 8 in the business of generating, transmitting or distributing electric energy;

9 (b) A person or public agency generating electric energy from an energy facility for its own
 10 consumption; and

11 (c) A person engaged in this state in the transmission or distribution of natural or synthetic gas.

12 [(31)] (29) “Waste disposal facility” means a geographical site in or upon which radioactive
 13 waste is held or placed but does not include a site at which radioactive waste used or generated
 14 pursuant to a license granted under ORS 453.635 is stored temporarily, a site of a thermal power
 15 plant used for the temporary storage of radioactive waste from that plant for which a site certificate
 16 has been issued [*pursuant to this chapter*] or a site used for temporary storage of radioactive waste
 17 from a reactor operated by a college, university or graduate center for research purposes and not
 18 connected to the Northwest Power Grid. As used in this subsection, “temporary storage” includes
 19 storage of radioactive waste on the site of a nuclear-fueled thermal power plant for which a site
 20 certificate has been issued until a permanent storage site is available by the federal government.

21 **SECTION 62a.** ORS 469.320 is amended to read:

22 469.320. (1) Except as provided in subsections (2) and (5) of this section, no facility shall be
 23 constructed or expanded unless a site certificate has been issued for the site thereof in the manner
 24 provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992. No facility shall be
 25 constructed or operated except in conformity with the requirements of ORS 469.300 to 469.563,
 26 469.590 to 469.619, 469.930 and 469.992.

27 (2) A site certificate is not required for:

28 (a) An energy facility for which no site certificate has been issued that, on August 2, 1993, had
 29 operable electric generating equipment for a modification that uses the same fuel type and increases
 30 electric generating capacity, if:

31 (A) The site is not enlarged; and

32 (B) The ability of the energy facility to use fuel for electricity production under peak steady
 33 state operating conditions is not more than 200 million Btu per hour greater than it was on August
 34 2, 1993, or the energy facility expansion is called for in the short-term plan of action of an energy
 35 resource plan that has been acknowledged by the Public Utility Commission of Oregon.

36 (b) Construction or expansion of any interstate natural gas pipeline or associated underground
 37 natural gas storage facility authorized by and subject to the continuing regulation of the Federal
 38 Energy Regulatory Commission or successor agency.

39 (c) An energy facility, except coal and nuclear power plants, if the energy facility:

40 (A) Sequentially produces electrical energy and useful thermal energy from the same fuel source;
 41 and

42 (B) Under average annual operating conditions, has a nominal electric generating capacity:

43 (i) Of less than 50 megawatts and the fuel chargeable to power heat rate value is not greater
 44 than 6,000 Btu per kilowatt hour;

45 (ii) Of 50 megawatts or more and the fuel chargeable to power heat rate value is not greater

1 than 5,500 Btu per kilowatt hour; or

2 (iii) Specified by the Energy Facility Siting Council by rule based on the council's determination
3 relating to emissions of the energy facility.

4 (d) Temporary storage, at the site of a nuclear-fueled thermal power plant for which a site cer-
5 tificate has been issued by the State of Oregon, of radioactive waste from the plant.

6 (e) An energy facility as defined in ORS 469.300 [(11)(a)(G)] **(9)(a)(G)**, if the plant also produces
7 a secondary fuel used on site for the production of heat or electricity, if the output of the primary
8 fuel is less than six billion Btu of heat a day.

9 (f) An energy facility as defined in ORS 469.300 [(11)(a)(G)] **(9)(a)(G)**, if the facility:

10 (A) Exclusively uses biomass, including but not limited to grain, whey, potatoes, oil seeds, waste
11 vegetable oil or cellulosic biomass, as the source of material for conversion to a liquid fuel;

12 (B) Has received local land use approval under the applicable acknowledged comprehensive plan
13 and land use regulations of the affected local government and the facility complies with any state-
14 wide planning goals or rules of the Land Conservation and Development Commission that are di-
15 rectly applicable to the facility;

16 (C) Requires no new electric transmission lines or gas or petroleum product pipelines that would
17 require a site certificate under subsection (1) of this section;

18 (D) Produces synthetic fuel, at least 90 percent of which is used in an industrial or refueling
19 facility located within one mile of the facility or is transported from the facility by rail or barge;
20 and

21 (E) Emits less than 118 pounds of carbon dioxide per million Btu from fossil fuel used for con-
22 version energy.

23 (g) A standby generation facility, if the facility complies with all of the following:

24 (A) The facility has received local land use approval under the applicable acknowledged com-
25 prehensive plan and land use regulations of the affected local government and the facility complies
26 with all statewide planning goals and applicable rules of the Land Conservation and Development
27 Commission;

28 (B) The standby generators have been approved by the Department of Environmental Quality
29 as having complied with all applicable air and water quality requirements. For an applicant that
30 proposes to provide the physical facilities for the installation of standby generators, the requirement
31 of this subparagraph may be met by agreeing to require such a term in the lease contract for the
32 facility; and

33 (C) The standby generators are electrically incapable of being interconnected to the trans-
34 mission grid. For an applicant that proposes to provide the physical facilities for the installation of
35 standby generators, the requirement of this subparagraph may be met by agreeing to require such
36 a term in the lease contract for the facility.

37 (3) The Energy Facility Siting Council may review and, if necessary, revise the fuel chargeable
38 to power heat rate value set forth in subsection (2)(c)(B) of this section. In making its determination,
39 the council shall ensure that the fuel chargeable to power heat rate value for facilities set forth in
40 subsection (2)(c)(B) of this section remains significantly lower than the fuel chargeable to power
41 heat rate value for the best available, commercially viable thermal power plant technology at the
42 time of the revision.

43 (4) Any person who proposes to construct or enlarge an energy facility and who claims an ex-
44 emption under subsection (2)(a), (c), (f) or (g) of this section from the requirement to obtain a site
45 certificate shall request the Energy Facility Siting Council to determine whether the proposed fa-

1 cility qualifies for the claimed exemption. The council shall make its determination within 60 days
 2 after the request for exemption is filed. An appeal from the council's determination on a request for
 3 exemption shall be made under ORS 469.403, except that the scope of review by the Supreme Court
 4 shall be the same as a review by a circuit court under ORS 183.484. The record on review by the
 5 Supreme Court shall be the record established in the council proceeding on the exemption.

6 (5) Notwithstanding subsection (1) of this section, a separate site certificate shall not be re-
 7 quired for:

8 (a) Transmission lines, storage facilities, pipelines or similar related or supporting facilities, if
 9 such related or supporting facilities are addressed in and are subject to a site certificate for another
 10 energy facility;

11 (b) Expansion within the site or within the energy generation area of a facility for which a site
 12 certificate has been issued, if the existing site certificate has been amended to authorize expansion;
 13 or

14 (c) Expansion, either within the site or outside the site, of an existing council certified surface
 15 facility related to an underground gas storage reservoir, if the existing site certificate is amended
 16 to authorize expansion.

17 (6) If the substantial loss of the steam host causes a facility exempt under subsection (2)(c) of
 18 this section to substantially fail to meet the exemption requirements under subsection (2)(c) of this
 19 section, the electric generating facility shall cease to operate one year after the substantial loss of
 20 the steam host unless an application for a site certificate has been filed in accordance with the
 21 provisions of ORS 469.300 to 469.563.

22 (7) As used in this section:

23 (a) "Standby generation facility" means an electric power generating facility, including standby
 24 generators and the physical structures necessary to install and connect standby generators, that
 25 provides temporary electric power in the event of a power outage and that is electrically incapable
 26 of being interconnected with the transmission grid.

27 (b) "Total energy output" means the sum of useful thermal energy output and useful electrical
 28 energy output.

29 (c) "Useful thermal energy" means the verifiable thermal energy used in any viable industrial
 30 or commercial process, heating or cooling application.

31 (8) Notwithstanding the definition of "energy facility" in ORS 469.300 [(11)(a)(J)] **(9)(a)(J)**, an
 32 electric power generating plant with an average electric generating capacity of less than 35 mega-
 33 watts produced from wind energy at a single energy facility or within a single energy generation
 34 area may elect to obtain a site certificate in the manner provided in ORS 469.300 to 469.563, 469.590
 35 to 469.619, 469.930 and 469.992. An election to obtain a site certificate under this subsection shall
 36 be final upon submission of an application for a site certificate.

37 **SECTION 63.** ORS 469.330 is amended to read:

38 469.330. (1) Each applicant for a site certificate shall submit to the Energy Facility Siting
 39 Council a notice of intent to file an application for a site certificate. The notice of intent must
 40 provide information about the proposed site and the characteristics of the facility sufficient for the
 41 [preparation of the State Department of Energy's] **Oregon Office of Energy Planning and Siting**
 42 **to prepare a project order.**

43 (2) The council shall cause public notice to be given upon receipt of a notice of intent by the
 44 council. The public notice shall provide a description of the proposed site and facility in sufficient
 45 detail to inform the public of the location and proposed use of the site.

1 (3) Following review of the notice of intent and any public comments received in response to the
2 notice of intent, the [department] **office** may hold a preapplication conference with state agencies
3 and local governments that have regulatory or advisory responsibility with respect to the facility.
4 After the preapplication conference, the [department] **office** shall issue a project order establishing
5 the statutes, administrative rules, council standards, local ordinances, application requirements and
6 study requirements for the site certificate application. A project order is not a final order.

7 (4) A project order issued under subsection (3) of this section may be amended at any time by
8 either the [department] **office** or the council.

9 **SECTION 64.** ORS 469.350 is amended to read:

10 469.350. (1) Applications for site certificates shall be made to the Energy Facility Siting Council
11 in a form prescribed by the council and accompanied by the fee required by ORS 469.421.

12 (2) Copies of the notice of intent and of the application shall be sent for comment and recom-
13 mendation within specified deadlines established by the council to the Department of Environmental
14 Quality, the Water Resources Commission, the State Fish and Wildlife Commission, the Water Re-
15 sources Director, the State Geologist, the State Forestry Department, the Public Utility Commission
16 of Oregon, the State Department of Agriculture, the Department of Land Conservation and Devel-
17 opment, the Oregon Department of Aviation, any other state agency that has regulatory or advisory
18 responsibility with respect to the facility and any city or county affected by the application.

19 (3) Any state agency, city or county that is requested by the council to comment and make
20 recommendations under this section shall respond to the council by the specified deadline. If a state
21 agency, city or county determines that it cannot respond to the council by the specified deadline
22 because the state agency, city or county lacks sufficient resources to review and comment on the
23 application, the state agency, city or county shall contract with another entity to assist in preparing
24 a response. A state agency, city or county that enters into a contract to assist in preparing a re-
25 sponse may request funding to pay for that contract from the council pursuant to ORS 469.360.

26 (4) The [State Department of Energy] **Oregon Office of Energy Planning and Siting** shall notify
27 the applicant whether the application is complete. When the [department] **office** determines an ap-
28 plication is complete, the [department] **office** shall notify the applicant and provide notice to the
29 public.

30 **SECTION 65.** ORS 469.370 is amended to read:

31 469.370. (1) Based on its review of the application and the comments and recommendations on
32 the application from state agencies and local governments, the [State Department of Energy] **Oregon**
33 **Office of Energy Planning and Siting** shall prepare and issue a draft proposed order on the ap-
34 plication.

35 (2) Following issuance of the draft proposed order, the Energy Facility Siting Council shall hold
36 one or more public hearings on the application for a site certificate in the affected area and else-
37 where, as the council considers necessary. Notice of the hearing shall be mailed at least 20 days
38 before the hearing. The notice shall, at a minimum:

39 (a) Comply with the requirements of ORS 197.763 (2), with respect to the persons notified;

40 (b) Include a description of the facility and the facility's general location;

41 (c) Include the name of an agency representative to contact and the telephone number where
42 additional information may be obtained;

43 (d) State that copies of the application and draft proposed order are available for inspection at
44 no cost and will be provided at a reasonable cost; and

45 (e) State that failure to raise an issue in person or in writing prior to the close of the record

1 of the public hearing with sufficient specificity to afford the decision maker an opportunity to re-
2 spond to the issue precludes consideration of the issue in a contested case.

3 (3) Any issue that may be the basis for a contested case shall be raised not later than the close
4 of the record at or following the final public hearing prior to issuance of the [*department's*] **office's**
5 proposed order. Such issues shall be raised with sufficient specificity to afford the council, the [*de-*
6 *partment*] **office** and the applicant an adequate opportunity to respond to each issue. A statement
7 of this requirement shall be made at the commencement of any public hearing on the application.

8 (4) After reviewing the application, the draft proposed order and any testimony given at the
9 public hearing and after consulting with other agencies, the [*department*] **office** shall issue a pro-
10 posed order recommending approval or rejection of the application. The [*department*] **office** shall
11 issue public notice of the proposed order, that shall include notice of a contested case hearing
12 specifying a deadline for requests to participate as a party or limited party and a date for the pre-
13 hearing conference.

14 (5) Following receipt of the proposed order from the [*department*] **office**, the council shall con-
15 duct a contested case hearing on the application for a site certificate in accordance with the ap-
16 plicable provisions of ORS chapter 183 and any procedures adopted by the council. The applicant
17 shall be a party to the contested case. The council may permit any other person to become a party
18 to the contested case in support of or in opposition to the application only if the person appeared
19 in person or in writing at the public hearing on the site certificate application. Issues that may be
20 the basis for a contested case shall be limited to those raised on the record of the public hearing
21 under subsection (3) of this section, unless:

22 (a) The [*department*] **office** failed to follow the requirements of subsection (2) or (3) of this sec-
23 tion; or

24 (b) The action recommended in the proposed order, including any recommended conditions of the
25 approval, differs materially from that described in the draft proposed order, in which case only new
26 issues related to such differences may be raised.

27 (6) If no person requests party status to challenge the [*department's*] **office's** proposed order, the
28 proposed order shall be forwarded to the council and the contested case hearing shall be concluded.

29 (7) At the conclusion of the contested case, the council shall issue a final order, either approving
30 or rejecting the application based upon the standards adopted under ORS 469.501 and any additional
31 statutes, rules or local ordinances determined to be applicable to the facility by the project order,
32 as amended. The council shall make its decision by the affirmative vote of at least four members
33 approving or rejecting any application for a site certificate. The council may amend or reject the
34 proposed order, so long as the council provides public notice of its hearing to adopt a final order,
35 and provides an opportunity for the applicant and any party to the contested case to comment on
36 material changes to the proposed order, including material changes to conditions of approval re-
37 sulting from the council's review. The council's order shall be considered a final order for purposes
38 of appeal.

39 (8) Rejection or approval of an application, together with any conditions that may be attached
40 to the certificate, shall be subject to judicial review as provided in ORS 469.403.

41 (9) The council shall either approve or reject an application for a site certificate:

42 (a) Within 24 months after filing an application for a nuclear installation, or for a thermal power
43 plant, other than that described in paragraph (b) of this subsection, with a nameplate rating of more
44 than 200,000 kilowatts;

45 (b) Within nine months after filing of an application for a site certificate for a combustion tur-

1 bine power plant, a geothermal-fueled power plant or an underground storage facility for natural
 2 gas;

3 (c) Within six months after filing an application for a site certificate for an energy facility, if
 4 the application is:

5 (A) To expand an existing industrial facility to include an energy facility;

6 (B) To expand an existing energy facility to achieve a nominal electric generating capacity of
 7 between 25 and 50 megawatts; or

8 (C) To add injection or withdrawal capacity to an existing underground gas storage facility; or

9 (d) Within 12 months after filing an application for a site certificate for any other energy facil-
 10 ity.

11 (10) At the request of the applicant, the council shall allow expedited processing of an applica-
 12 tion for a site certificate for an energy facility with an average electric generating capacity of less
 13 than 100 megawatts. No notice of intent shall be required. Following approval of a request for ex-
 14 pedited review, the [department] office shall issue a project order, which may be amended at any
 15 time. The council shall either approve or reject an application for a site certificate within six
 16 months after filing the site certificate application if there are no intervenors in the contested case
 17 conducted under subsection (5) of this section. If there are intervenors in the contested case, the
 18 council shall either approve or reject an application within nine months after filing the site certif-
 19 icate application. For purposes of this subsection, the generating capacity of a thermal power plant
 20 is the nameplate rating of the electrical generator proposed to be installed in the plant.

21 (11) Failure of the council to comply with the deadlines set forth in subsection (9) or (10) of this
 22 section shall not result in the automatic issuance or denial of a site certificate.

23 (12) The council shall specify in the site certificate a date by which construction of the facility
 24 must begin.

25 (13) For a facility that is subject to and has been or will be reviewed by a federal agency under
 26 the National Environmental Policy Act, 42 U.S.C. Section 4321, et seq., the council shall conduct its
 27 site certificate review, to the maximum extent feasible, in a manner that is consistent with and does
 28 not duplicate the federal agency review. Such coordination shall include, but need not be limited to:

29 (a) Elimination of duplicative application, study and reporting requirements;

30 (b) Council use of information generated and documents prepared for the federal agency review;

31 (c) Development with the federal agency and reliance on a joint record to address applicable
 32 council standards;

33 (d) Whenever feasible, joint hearings and issuance of a site certificate decision in a time frame
 34 consistent with the federal agency review; and

35 (e) To the extent consistent with applicable state standards, establishment of conditions in any
 36 site certificate that are consistent with the conditions established by the federal agency.

37 **SECTION 66.** ORS 469.373 is amended to read:

38 469.373. (1) Notwithstanding the expedited review process established pursuant to ORS 469.370,
 39 an applicant may apply under the provisions of this section for expedited review of an application
 40 for a site certificate for an energy facility if the energy facility:

41 (a) Is a combustion turbine energy facility fueled by natural gas or is a reciprocating engine
 42 fueled by natural gas, including an energy facility that uses petroleum distillate fuels for backup
 43 power generation;

44 (b) Is a permitted or conditional use allowed under an applicable local acknowledged compre-
 45 hensive plan, land use regulation or federal land use plan, and is located:

- 1 (A) At or adjacent to an existing energy facility; or
 2 (B)(i) At, adjacent to or in close proximity to an existing industrial use; and
 3 (ii) In an area currently zoned or designated for industrial use;
 4 (c)(A) Requires no more than three miles of associated transmission lines or three miles of new
 5 natural gas pipelines outside of existing rights of way for transmission lines or natural gas pipelines;
 6 or
 7 (B) Imposes, in the determination of the Energy Facility Siting Council, no significant impact in
 8 the locating of associated transmission lines or new natural gas pipelines outside of existing rights
 9 of way;
 10 (d) Requires no new water right or water right transfer;
 11 (e) Provides funds to a qualified organization in an amount determined by the council to be
 12 sufficient to produce any required reduction in carbon dioxide emissions as specified in ORS 469.503
 13 (2)(c)(C) and in rules adopted under ORS 469.503 for the total carbon dioxide emissions produced by
 14 the energy facility for the life of the energy facility; and
 15 (f)(A) Discharges process wastewater to a wastewater treatment facility that has an existing
 16 National Pollutant Discharge Elimination System permit, can obtain an industrial pretreatment
 17 permit, if needed, within the expedited review process time frame and has written confirmation from
 18 the wastewater facility permit holder that the additional wastewater load will be accommodated by
 19 the facility without resulting in a significant thermal increase in the facility effluent or without re-
 20 quiring any changes to the wastewater facility National Pollutant Discharge Elimination System
 21 permit;
 22 (B) Plans to discharge process wastewater to a wastewater treatment facility owned by a mu-
 23 nicipal corporation that will accommodate the wastewater from the energy facility and supplies ev-
 24 idence from the municipal corporation that:
 25 (i) The municipal corporation has included, or intends to include, the process wastewater load
 26 from the energy facility in an application for a National Pollutant Discharge Elimination System
 27 permit; and
 28 (ii) All conditions required of the energy facility to allow the discharge of process wastewater
 29 from the energy facility will be satisfied; or
 30 (C) Obtains a National Pollutant Discharge Elimination System or water pollution control fa-
 31 cility permit for process wastewater disposal, supplies evidence to support a finding that the dis-
 32 charge can likely be permitted within the expedited review process time frame and that the
 33 discharge will not require:
 34 (i) A new National Pollutant Discharge Elimination System permit, except for a storm water
 35 general permit for construction activities; or
 36 (ii) A change in any effluent limit or discharge location under an existing National Pollutant
 37 Discharge Elimination System or water pollution control facility permit.
 38 (2) An applicant seeking expedited review under this section shall submit documentation to the
 39 [State Department of Energy] **Oregon Office of Energy Planning and Siting**, prior to the sub-
 40 mission of an application for a site certificate, that demonstrates that the energy facility meets the
 41 qualifications set forth in subsection (1) of this section. The [department] **office** shall determine,
 42 within 14 days of receipt of the documentation, on a preliminary, nonbinding basis, whether the en-
 43 ergy facility qualifies for expedited review.
 44 (3) If the [department] **office** determines that the energy facility preliminarily qualifies for ex-
 45 pedited review, the applicant may submit an application for expedited review. Within 30 days after

1 the date that the application for expedited review is submitted, the *[department]* **office** shall deter-
 2 mine whether the application is complete. If the *[department]* **office** determines that the application
 3 is complete, the application shall be deemed filed on the date that the *[department]* **office** sends the
 4 applicant notice of its determination. If the *[department]* **office** determines that the application is
 5 not complete, the *[department]* **office** shall notify the applicant of the deficiencies in the application
 6 and shall deem the application filed on the date that the *[department]* **office** determines that the
 7 application is complete. The *[department]* **office** or the council may request additional information
 8 from the applicant at any time.

9 (4) The *[State Department of Energy]* **office** shall send a copy of a filed application to the De-
 10 partment of Environmental Quality, the Water Resources Department, the State Department of Fish
 11 and Wildlife, the State Department of Geology and Mineral Industries, the State Department of Ag-
 12 riculture, the Department of Land Conservation and Development, the Public Utility Commission
 13 and any other state agency, city, county or political subdivision of the state that has regulatory or
 14 advisory responsibility with respect to the proposed energy facility. The *[State Department of*
 15 *Energy]* **office** shall send with the copy of the filed application a notice specifying that:

16 (a) In the event the council issues a site certificate for the energy facility, the site certificate
 17 will bind the state and all counties, cities and political subdivisions in the state as to the approval
 18 of the site, the construction of the energy facility and the operation of the energy facility, and that
 19 after the issuance of a site certificate, all permits, licenses and certificates addressed in the site
 20 certificate must be issued as required by ORS 469.401 (3); and

21 (b) The comments and recommendations of state agencies, counties, cities and political subdi-
 22 visions concerning whether the proposed energy facility complies with any statute, rule or local
 23 ordinance that the state agency, county, city or political subdivision would normally administer in
 24 determining whether a permit, license or certificate required for the construction or operation of the
 25 energy facility should be approved will be considered only if the comments and recommendations
 26 are received by the *[department]* **office** within a reasonable time after the date the application and
 27 notice of the application are sent by the *[department]* **office**.

28 (5) Within 90 days after the date that the application was filed, the *[department]* **office** shall is-
 29 sue a draft proposed order setting forth:

30 (a) A description of the proposed energy facility;

31 (b) A list of the permits, licenses and certificates that are addressed in the application and that
 32 are required for the construction or operation of the proposed energy facility;

33 (c) A list of the statutes, rules and local ordinances that are the standards and criteria for ap-
 34 proval of any permit, license or certificate addressed in the application and that are required for the
 35 construction or operation of the proposed energy facility; and

36 (d) Proposed findings specifying how the proposed energy facility complies with the applicable
 37 standards and criteria for approval of a site certificate.

38 (6) The council shall review the application for site certification in the manner set forth in
 39 subsections (7) to (10) of this section and shall issue a site certificate for the facility if the council
 40 determines that the facility, with any required conditions to the site certificate, will comply with:

41 (a) The requirements for expedited review as specified in this section;

42 (b) The standards adopted by the council pursuant to ORS 469.501 (1)(a), (c) to (e), (g), (h) and
 43 (L) to (o);

44 (c) The requirements of ORS 469.503 (3); and

45 (d) The requirements of ORS 469.504 (1)(b).

1 (7) Following submission of an application for a site certificate, the council shall hold a public
2 informational meeting on the application. Following the issuance of the proposed order, the council
3 shall hold at least one public hearing on the application. The public hearing shall be held in the area
4 affected by the energy facility. The council shall mail notice of the hearing at least 20 days prior
5 to the hearing. The notice shall comply with the notice requirements of ORS 197.763 (2) and shall
6 include, but need not be limited to, the following:

7 (a) A description of the energy facility and the general location of the energy facility;

8 (b) The name of [a department] **an office** representative to contact and the telephone number
9 at which people may obtain additional information;

10 (c) A statement that copies of the application and proposed order are available for inspection
11 at no cost and will be provided at reasonable cost; and

12 (d) A statement that the record for public comment on the application will close at the conclu-
13 sion of the hearing and that failure to raise an issue in person or in writing prior to the close of
14 the record, with sufficient specificity to afford the decision maker an opportunity to respond to the
15 issue, will preclude consideration of the issue, by the council or by a court on judicial review of the
16 council's decision.

17 (8) Prior to the conclusion of the hearing, the applicant may request an opportunity to present
18 additional written evidence, arguments or testimony regarding the application. In the alternative,
19 prior to the conclusion of the hearing, the applicant may request a contested case hearing on the
20 application. If the applicant requests an opportunity to present written evidence, arguments or tes-
21 timony, the council shall leave the record open for that purpose only for a period not to exceed 14
22 days after the date of the hearing. Following the close of the record, the [department] **office** shall
23 prepare a draft final order for the council. If the applicant requests a contested case hearing, the
24 council may grant the request if the applicant has shown good cause for a contested case hearing.
25 If a request for a contested case hearing is granted, subsections (9) to (11) of this section do not
26 apply, and the application shall be considered under the same contested case procedures used for
27 a nonexpedited application for a site certificate.

28 (9) The council shall make its decision based on the record and the draft final order prepared
29 by the [department] **office**. The council shall, within six months of the date that the application is
30 deemed filed:

31 (a) Grant the application;

32 (b) Grant the application with conditions;

33 (c) Deny the application; or

34 (d) Return the application to the site certification process required by ORS 469.320.

35 (10) If the application is granted, the council shall issue a site certificate pursuant to ORS
36 469.401 and 469.402. Notwithstanding subsection (6) of this section, the council may impose condi-
37 tions based on standards adopted under ORS 469.501 (1)(b), (f) and (i) to (k), but may not deny an
38 application based on those standards.

39 (11) Judicial review of the approval or rejection of a site certificate by the council under this
40 section shall be as provided in ORS 469.403.

41 **SECTION 67.** ORS 469.375 is amended to read:

42 469.375. The Energy Facility Siting Council shall not issue a site certificate for a waste disposal
43 facility for uranium mine overburden or uranium mill tailings, mill wastes or mill by-product or for
44 radioactive waste or radioactively contaminated containers or receptacles used in the transporta-
45 tion, storage, use or application of radioactive material, unless, accompanying its decision it finds:

- 1 (1) The site is:
- 2 (a) Suitable for disposal of such wastes, and the amount of the wastes, intended for disposal at
- 3 the site;
- 4 (b) Not located in or adjacent to:
- 5 (A) An area determined to be potentially subject to river or creek erosion within the lifetime
- 6 of the facility;
- 7 (B) Within the 500-year floodplain of a river, taking into consideration the area determined to
- 8 be potentially subject to river or creek erosion within the lifetime of the facility;
- 9 (C) An active fault or an active fault zone;
- 10 (D) An area of ancient, recent or active mass movement including land sliding, flow or creep;
- 11 (E) An area subject to ocean erosion; or
- 12 (F) An area having experienced volcanic activity within the last two million years.
- 13 (2) There is no available disposal technology and no available alternative site for disposal of
- 14 such wastes that would better protect the health, safety and welfare of the public and the environ-
- 15 ment;
- 16 (3) The disposal of such wastes and the amount of the wastes, at the site will be compatible with
- 17 the regulatory programs of federal government for disposal of such wastes;
- 18 (4) The disposal of such wastes, and the amount of the wastes, at the site will be coordinated
- 19 with the regulatory programs of adjacent states for disposal of such wastes;
- 20 (5) That following closure of the site, there will be no release of radioactive materials or radi-
- 21 ation from the waste;
- 22 (6) That suitable deed restrictions have been placed on the site recognizing the hazard of the
- 23 material; and
- 24 (7) That, where federal funding for remedial actions is not available, a surety bond in the name
- 25 of the state has been provided in an amount determined by the [*State Department of Energy*] **Oregon**
- 26 **Office of Energy Planning and Siting** to be sufficient to cover any costs of closing the site and
- 27 monitoring it or providing for its security after closure and to secure performance of any site cer-
- 28 tificate conditions. The bond may be withdrawn when the council finds that:
- 29 (a) The radioactive waste has been disposed of at a waste disposal facility for which a site
- 30 certificate has been issued; and
- 31 (b) A fee has been paid to the State of Oregon sufficient for monitoring the site after closure.
- 32 (8) If any section, portion, clause or phrase of this section is for any reason held to be invalid
- 33 or unconstitutional the remaining sections, portions, clauses and phrases shall not be affected but
- 34 shall remain in full force or effect, and to this end the provisions of this section are severable.
- 35 **SECTION 68.** ORS 469.402 is amended to read:
- 36 469.402. If the Energy Facility Siting Council elects to impose conditions on a site certificate
- 37 or an amended site certificate, that require subsequent review and approval of a future action, the
- 38 council may delegate the future review and approval to the [*State Department of Energy*] **Oregon**
- 39 **Office of Energy Planning and Siting** if, in the council's discretion, the delegation is warranted
- 40 under the circumstances of the case.
- 41 **SECTION 69.** ORS 469.405 is amended to read:
- 42 469.405. (1) A site certificate may be amended with the approval of the Energy Facility Siting
- 43 Council. The council may establish by rule the type of amendment that must be considered in a
- 44 contested case proceeding. Judicial review of an amendment to a site certificate shall be as provided
- 45 in ORS 469.403.

1 (2) Notwithstanding ORS 34.020 or 197.825, or any other provision of law, the land use approval
 2 by an affected local government of a proposed amendment to a facility and the recommendation of
 3 the special advisory group of applicable substantive criteria shall be subject to judicial review only
 4 as provided in ORS 469.403. If the applicant elects to show compliance with the statewide planning
 5 goals by demonstrating that the facility has received local land use approval, the provisions of this
 6 section shall apply only to proposed projects for which the land use approval by the local govern-
 7 ment occurs after the date an application for amendment is submitted to the [*State Department of*
 8 *Energy*] **Oregon Office of Energy Planning and Siting**.

9 (3) An amendment to a site certificate is not required for a pipeline less than 16 inches in di-
 10 ameter and less than five miles in length that is proposed to be constructed to test or maintain an
 11 underground gas storage reservoir. If the proposed pipeline will connect to a council certified sur-
 12 face facility related to an underground gas storage reservoir or to a council certified gas pipeline,
 13 whether the proposed pipeline is to be located inside or outside the site of a council certified facil-
 14 ity, the certificate holder must obtain, prior to construction, the approval of the [*department*] **office**
 15 for the construction, operation and retirement of the proposed pipeline. The [*department*] **office** shall
 16 approve such a proposed pipeline if the pipeline meets applicable council substantive standards.
 17 Notwithstanding ORS 469.503 (3), the [*department*] **office** may not review the proposed pipeline for
 18 compliance with other state standards. Notwithstanding ORS 469.503 (4), or any council rule ad-
 19 dressing compliance with land use standards, the [*department*] **office** shall not review such a pro-
 20 posed pipeline for compliance with land use requirements. Notwithstanding ORS 469.401 (3), the
 21 approval by the [*department*] **office** of such pipeline shall not bind any state or local agency. The
 22 council may adopt appropriate procedural rules for the [*department*] **office** review. The
 23 [*department*] **office** shall issue an order approving or rejecting the proposed pipeline. Judicial review
 24 of [*a department*] **an office** order under this section shall be as provided in ORS 469.403.

25 **SECTION 70.** ORS 469.410 is amended to read:

26 469.410. (1) Any applicant for a site certificate for an energy facility shall be deemed to have
 27 met all the requirements of ORS 176.820, 192.501 to 192.505, 192.690, [*469.010 to 469.225,*] 469.300 to
 28 469.563, 469.990, 757.710 and 757.720 relating to eligibility for a site certificate and a site certificate
 29 shall be issued by the Energy Facility Siting Council for:

30 (a) Any transmission lines for which application has been filed with the federal government and
 31 the Public Utility Commission of Oregon prior to July 2, 1975; and

32 (b) Any energy facility under construction on July 2, 1975.

33 (2) Each applicant for a site certificate under this section shall pay the fees required by ORS
 34 469.421 (2) to (9), if applicable, and shall execute a site certificate in which the applicant agrees:

35 (a) To abide by the conditions of all licenses, permits and certificates required by the State of
 36 Oregon or any subdivision in the state to operate the energy facility and issued prior to July 2, 1975;
 37 and

38 (b) On and after July 2, 1975, to abide by the rules of the Director of the [*State Department of*
 39 *Energy adopted pursuant to ORS 469.040 (1)(d) and rules of the council adopted*] **Oregon Office of**
 40 **Energy Planning and Siting and the council adopted** pursuant to ORS 469.300 to 469.563, 469.590
 41 to 469.619 and 469.930.

42 (3) The council has continuing authority over the site for which the site certificate is issued and
 43 may inspect, or direct the [*State Department of Energy*] **Oregon Office of Energy Planning and**
 44 **Siting** to inspect, or request another state agency or local government to inspect, the site at any
 45 time in order to ensure that the facility is being operated consistently with the terms and conditions

1 of the site certificate and any applicable health or safety standards.

2 (4) The council shall establish programs for monitoring the environmental and ecological effects
3 of the operation and the decommissioning of energy facilities subject to site certificates issued prior
4 to July 2, 1975, to ensure continued compliance with the terms and conditions of the site certificate
5 and any applicable health or safety standards.

6 (5) Site certificates executed by the Governor under ORS 469.400 (1991 Edition) prior to July
7 2, 1975, shall bind successor agencies created hereunder in accordance with the terms of such site
8 certificates. Any holder of a site certificate issued prior to July 2, 1975, shall abide by the rules of
9 the director [*adopted pursuant to ORS 469.040 (1)(d) and rules of*] **and** the council adopted pursuant
10 to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

11 **SECTION 71.** ORS 469.430 is amended to read:

12 469.430. The Energy Facility Siting Council has continuing authority over the site for which the
13 site certificate is issued and may inspect, or direct the [*State Department of Energy*] **Oregon Office**
14 **of Energy Planning and Siting** to inspect, or request another state agency or local government to
15 inspect, the site at any time in order to assure that the facility is being operated consistently with
16 the terms and conditions of the site certificate or any order issued by the [*department*] **office** under
17 ORS 469.405 (3). The council shall avoid duplication of effort with site inspections by other state and
18 federal agencies and local governments that have issued permits or licenses for the facility.

19 **SECTION 72.** ORS 469.441 is amended to read:

20 469.441. (1) All expenses incurred by the Energy Facility Siting Council and the [*State Depart-*
21 *ment of Energy*] **Oregon Office of Energy Planning and Siting** under ORS 469.360 (1) and 469.421
22 that are charged to or allocated to the fee paid by an applicant or the holder of a site certificate
23 shall be necessary, just and reasonable. Upon request, [*the department or*] the council **or the office**
24 shall provide a detailed justification for all charges to the applicant or site certificate holder. Not
25 later than January 1 of each odd-numbered year, the council by order shall establish a schedule of
26 fees which those persons submitting a notice of intent, a request for an exemption, a request for a
27 pipeline described in ORS 469.405 (3) or a request for an expedited review must submit under ORS
28 469.421 at the time of submitting the notice of intent, request for exemption, request for pipeline or
29 request for expedited review. The fee schedule shall be designed to recover the council's actual costs
30 of evaluating the notice of intent, request for exemption, request for pipeline or request for expe-
31 dited review subject to any applicable expenditure limitation in the council's budget. Fees shall be
32 based upon actual, historical costs incurred by the council and [*department*] **office** to the extent
33 historical costs are available. The fees established by the schedule shall reflect the size and com-
34 plexity of the project for which a notice of intent, request for exemption, request for pipeline or
35 request for expedited review is submitted, whether the notice of intent, request for exemption, re-
36 quest for pipeline or request for expedited review is for a new or existing facility and other appro-
37 priate variables having an effect on the expense of evaluation.

38 (2) If a dispute arises regarding the necessity or reasonableness of expenses charged to or allo-
39 cated to the fee paid by an applicant or site certificate holder, the applicant or holder may seek
40 judicial review for the amount of expenses charged or allocated in circuit court as provided in ORS
41 183.480, 183.484, 183.490 and 183.500. If the applicant or holder establishes that any of the charges
42 or allocations are unnecessary or unreasonable, the council or the [*department*] **office** shall refund
43 the amount found to be unnecessary or unreasonable. The applicant or holder shall not waive the
44 right to judicial review by paying the portion of the fee or expense in dispute.

45 **SECTION 73.** ORS 469.442 is amended to read:

1 469.442. (1) Any person who proposes to construct a transmission line in excess of 230,000 volts
2 capacity that is not otherwise under the jurisdiction of the Energy Facility Siting Council shall:

3 (a) Give public notice of the proposed action at least six months before beginning any process
4 to obtain local permits required for the proposed transmission line. Notification shall be given:

5 (A) By publication once a week for four consecutive weeks in a newspaper of general circulation
6 in the county or counties in which the transmission line is to be constructed; and

7 (B) To the governing bodies and planning directors of cities and counties which are within or
8 partially within the project study area.

9 (b) Provide an opportunity for public comment on the proposed transmission line and conduct
10 public meetings to review the proposal.

11 (c) Respond specifically and in writing to local concerns and recommendations regarding the
12 proposed transmission line.

13 (2) The Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and**
14 **Siting** shall establish a committee to include technical experts and members of the public to coor-
15 dinate public review of a proposed transmission line under subsection (1) of this section when re-
16 quested to do so by ordinance or resolution of the affected governing body.

17 (3) At the conclusion of the public review, the committee shall make a summary report to the
18 affected governing body including public concerns and recommendations concerning the proposed
19 transmission line.

20 (4) The scope of work and cost of conducting the review shall be negotiated between the [*State*
21 *Department of Energy*] **Oregon Office of Energy Planning and Siting** and the project sponsor. The
22 negotiated cost shall be paid by the project sponsor.

23 (5) Subsections (1) to (4) of this section shall not apply to a person who proposes to construct
24 transmission lines entirely within 500 feet of an existing corridor occupied by transmission lines
25 with a capacity in excess of 230,000 volts.

26 **SECTION 74.** ORS 469.503 is amended to read:

27 469.503. In order to issue a site certificate, the Energy Facility Siting Council shall determine
28 that the preponderance of the evidence on the record supports the following conclusions:

29 (1) The facility complies with the standards adopted by the council pursuant to ORS 469.501 or
30 the overall public benefits of the facility outweigh the damage to the resources protected by the
31 standards the facility does not meet.

32 (2) If the energy facility is a fossil-fueled power plant, the energy facility complies with any
33 applicable carbon dioxide emissions standard adopted by the council or enacted by statute. Base
34 load gas plants shall comply with the standard set forth in subsection (2)(a) of this section. Other
35 fossil-fueled power plants shall comply with any applicable standard adopted by the council by rule
36 pursuant to subsection (2)(b) of this section. Subsections (2)(c) and (d) of this section prescribe the
37 means by which an applicant may comply with the applicable standard.

38 (a) The net carbon dioxide emissions rate of the proposed base load gas plant shall not exceed
39 0.70 pounds of carbon dioxide emissions per kilowatt hour of net electric power output, with carbon
40 dioxide emissions and net electric power output measured on a new and clean basis.
41 Notwithstanding the foregoing, the council may by rule modify the carbon dioxide emissions stand-
42 ard for base load gas plants if the council finds that the most efficient stand-alone combined cycle,
43 combustion turbine, natural gas-fired energy facility that is commercially demonstrated and operat-
44 ing in the United States has a net heat rate of less than 7,200 Btu per kilowatt hour higher heating
45 value adjusted to ISO conditions. In modifying the carbon dioxide emission standard, the council

1 shall determine the rate of carbon dioxide emissions per kilowatt hour of net electric output of such
2 energy facility, adjusted to ISO conditions, and reset the carbon dioxide emissions standard at 17
3 percent below this rate.

4 (b) The council shall adopt carbon dioxide emissions standards for other types of fossil-fueled
5 power plants. Such carbon dioxide emissions standards shall be promulgated by rule. In adopting
6 or amending such carbon dioxide emissions standards, the council shall consider and balance at
7 least the following principles, the findings on which shall be contained in the rulemaking record:

8 (A) Promote facility fuel efficiency;

9 (B) Promote efficiency in the resource mix;

10 (C) Reduce net carbon dioxide emissions;

11 (D) Promote cogeneration that reduces net carbon dioxide emissions;

12 (E) Promote innovative technologies and creative approaches to mitigating, reducing or avoiding
13 carbon dioxide emissions;

14 (F) Minimize transaction costs;

15 (G) Include an alternative process that separates decisions on the form and implementation of
16 offsets from the final decision on granting a site certificate;

17 (H) Allow either the applicant or third parties to implement offsets;

18 (I) Be attainable and economically achievable for various types of power plants;

19 (J) Promote public participation in the selection and review of offsets;

20 (K) Promote prompt implementation of offset projects;

21 (L) Provide for monitoring and evaluation of the performance of offsets; and

22 (M) Promote reliability of the regional electric system.

23 (c) The council shall determine whether the applicable carbon dioxide emissions standard is met
24 by first determining the gross carbon dioxide emissions that are reasonably likely to result from the
25 operation of the proposed energy facility. Such determination shall be based on the proposed design
26 of the energy facility. The council shall adopt site certificate conditions to ensure that the predicted
27 carbon dioxide emissions are not exceeded on a new and clean basis. For any remaining emissions
28 reduction necessary to meet the applicable standard, the applicant may elect to use any of subpara-
29 graphs (A) to (D) of this paragraph, or any combination thereof. The council shall determine the
30 amount of carbon dioxide emissions reduction that is reasonably likely to result from the applicant's
31 offsets and whether the resulting net carbon dioxide emissions meet the applicable carbon dioxide
32 emissions standard. If the council or a court on judicial review concludes that the applicant has
33 not demonstrated compliance with the applicable carbon dioxide emissions standard under subpara-
34 graphs (A), (B) or (D) of this paragraph, or any combination thereof, and the applicant has agreed
35 to meet the requirements of subparagraph (C) of this paragraph for any deficiency, the council or
36 a court shall find compliance based on such agreement.

37 (A) The facility will sequentially produce electrical and thermal energy from the same fuel
38 source, and the thermal energy will be used to displace another source of carbon dioxide emissions
39 that would have otherwise continued to occur, in which case the council shall adopt site certificate
40 conditions ensuring that the carbon dioxide emissions reduction will be achieved.

41 (B) The applicant or a third party will implement particular offsets, in which case the council
42 may adopt site certificate conditions ensuring that the proposed offsets are implemented but shall
43 not require that predicted levels of avoidance, displacement or sequestration of carbon dioxide
44 emissions be achieved. The council shall determine the quantity of carbon dioxide emissions re-
45 duction that is reasonably likely to result from each of the proposed offsets based on the criteria in

1 sub-subparagraphs (i) to (iii) of this subparagraph. In making this determination, the council shall
2 not allow credit for offsets that have already been allocated or awarded credit for carbon dioxide
3 emissions reduction in another regulatory setting. In addition, the fact that an applicant or other
4 parties involved with an offset may derive benefits from the offset other than the reduction of car-
5 bon dioxide emissions is not, by itself, a basis for withholding credit for an offset.

6 (i) The degree of certainty that the predicted quantity of carbon dioxide emissions reduction
7 will be achieved by the offset;

8 (ii) The ability of the council to determine the actual quantity of carbon dioxide emissions re-
9 duction resulting from the offset, taking into consideration any proposed measurement, monitoring
10 and evaluation of mitigation measure performance; and

11 (iii) The extent to which the reduction of carbon dioxide emissions would occur in the absence
12 of the offsets.

13 (C) The applicant or a third party agrees to provide funds in an amount deemed sufficient to
14 produce the reduction in carbon dioxide emissions necessary to meet the applicable carbon dioxide
15 emissions standard, in which case the funds shall be used as specified in paragraph (d) of this sub-
16 section. Unless modified by the council as provided below, the payment of 57 cents shall be deemed
17 to result in a reduction of one ton of carbon dioxide emissions. The council shall determine the
18 offset funds using the monetary offset rate and the level of emissions reduction required to meet the
19 applicable standard. If a site certificate is approved based on this subparagraph, the council may
20 not adjust the amount of such offset funds based on the actual performance of offsets. After three
21 years from June 26, 1997, the council may by rule increase or decrease the monetary offset rate of
22 57 cents per ton of carbon dioxide emissions. Any change to the monetary offset rate shall be based
23 on empirical evidence of the cost of carbon dioxide offsets and the council's finding that the stand-
24 ard will be economically achievable with the modified rate for natural gas-fired power plants. Fol-
25 lowing the initial three-year period, the council may increase or decrease the monetary offset rate
26 no more than 50 percent in any two-year period.

27 (D) Any other means that the council adopts by rule for demonstrating compliance with any
28 applicable carbon dioxide emissions standard.

29 (d) If the applicant elects to meet the applicable carbon dioxide emissions standard in whole or
30 in part under paragraph (c)(C) of this subsection the applicant shall identify the qualified organiza-
31 tion. The applicant may identify an organization that has applied for, but has not received, an ex-
32 emption from federal income taxation, but the council may not find that the organization is a
33 qualified organization unless the organization is exempt from federal taxation under section 501(c)(3)
34 of the Internal Revenue Code as amended and in effect on December 31, 1996. The site certificate
35 holder shall provide a bond or comparable security in a form reasonably acceptable to the council
36 to ensure the payment of the offset funds and the amount required under subparagraph (A)(ii) of this
37 paragraph. Such security shall be provided by the date specified in the site certificate, which shall
38 be no later than the commencement of construction of the facility. The site certificate shall require
39 that the offset funds be disbursed as specified in subparagraph (A) of this paragraph, unless the
40 council finds that no qualified organization exists, in which case the site certificate shall require
41 that the offset funds be disbursed as specified in subparagraph (B) of this paragraph.

42 (A) The site certificate holder shall disburse the offset funds and any other funds required by
43 sub-subparagraph (ii) of this subparagraph to the qualified organization as follows:

44 (i) When the site certificate holder receives written notice from the qualified organization cer-
45 tifying that the qualified organization is contractually obligated to pay any funds to implement off-

1 sets using the offset funds, the site certificate holder shall make the requested amount available to
2 the qualified organization unless the total of the amount requested and any amounts previously re-
3 quested exceeds the offset funds, in which case only the remaining amount of the offset funds shall
4 be made available. The qualified organization shall use at least 80 percent of the offset funds for
5 contracts to implement offsets. The qualified organization may use up to 20 percent of the offset
6 funds for monitoring, evaluation, administration and enforcement of contracts to implement offsets.

7 (ii) At the request of the qualified organization and in addition to the offset funds, the site cer-
8 tificate holder shall pay the qualified organization an amount equal to 10 percent of the first
9 \$500,000 of the offset funds and 4.286 percent of any offset funds in excess of \$500,000. This amount
10 shall not be less than \$50,000 unless a lesser amount is specified in the site certificate. This amount
11 compensates the qualified organization for its costs of selecting offsets and contracting for the im-
12 plementation of offsets.

13 (iii) Notwithstanding any provision to the contrary, a site certificate holder subject to this sub-
14 paragraph shall have no obligation with regard to offsets, the offset funds or the funds required by
15 sub-subparagraph (ii) of this subparagraph other than to make available to the qualified organization
16 the total amount required under paragraph (c) of this subsection and sub-subparagraph (ii) of this
17 subparagraph, nor shall any nonperformance, negligence or misconduct on the part of the qualified
18 organization be a basis for revocation of the site certificate or any other enforcement action by the
19 council with respect to the site certificate holder.

20 (B) If the council finds there is no qualified organization, the site certificate holder shall select
21 one or more offsets to be implemented pursuant to criteria established by the council. The site cer-
22 tificate holder shall give written notice of its selections to the council and to any person requesting
23 notice. On petition by the [*State Department of Energy*] **Oregon Office of Energy Planning and**
24 **Siting**, or by any person adversely affected or aggrieved by the site certificate holder's selection
25 of offsets, or on the council's own motion, the council may review such selection. The petition must
26 be received by the council within 30 days of the date the notice of selection is placed in the United
27 States mail, with first-class postage prepaid. The council shall approve the site certificate holder's
28 selection unless it finds that the selection is not consistent with criteria established by the council.
29 The site certificate holder shall contract to implement the selected offsets within 18 months after
30 commencing construction of the facility unless good cause is shown requiring additional time. The
31 contracts shall obligate the expenditure of at least 85 percent of the offset funds for the implemen-
32 tation of offsets. No more than 15 percent of the offset funds may be spent on monitoring, evaluation
33 and enforcement of the contract to implement the selected offsets. The council's criteria for se-
34 lection of offsets shall be based on the criteria set forth in paragraphs (b)(C) and (c)(B) of this sub-
35 section and may also consider the costs of particular types of offsets in relation to the expected
36 benefits of such offsets. The council's criteria shall not require the site certificate holder to select
37 particular offsets, and shall allow the site certificate holder a reasonable range of choices in se-
38 lecting offsets. In addition, notwithstanding any other provision of this section, the site certificate
39 holder's financial liability for implementation, monitoring, evaluation and enforcement of offsets
40 pursuant to this subsection shall be limited to the amount of any offset funds not already
41 contractually obligated. Nonperformance, negligence or misconduct by the entity or entities imple-
42 menting, monitoring or evaluating the selected offset shall not be a basis for revocation of the site
43 certificate or any other enforcement action by the council with respect to the site certificate holder.

44 (C) Every qualified organization that has received funds under this paragraph shall, at five-year
45 intervals beginning on the date of receipt of such funds, provide the council with the information

1 the council requests about the qualified organization's performance. The council shall evaluate the
2 information requested and, based on such information, shall make any recommendations to the
3 Legislative Assembly that the council deems appropriate.

4 (e) As used in this subsection:

5 (A) "Adjusted to ISO conditions" means carbon dioxide emissions and net electric power output
6 as determined at 59 degrees Fahrenheit, 14.7 pounds per square inch atmospheric pressure and 60
7 percent humidity.

8 (B) "Base load gas plant" means a generating facility that is fueled by natural gas, except for
9 periods during which an alternative fuel may be used and when such alternative fuel use shall not
10 exceed 10 percent of expected fuel use in Btu, higher heating value, on an average annual basis, and
11 where the applicant requests and the council adopts no condition in the site certificate for the
12 generating facility that would limit hours of operation other than restrictions on the use of alter-
13 native fuel. The council shall assume a 100 percent capacity factor for such plants and a 30-year
14 life for the plants for purposes of determining gross carbon dioxide emissions.

15 (C) "Fossil-fueled power plant" means a generating facility that produces electric power from
16 natural gas, petroleum, coal or any form of solid, liquid or gaseous fuel derived from such material.

17 (D) "Generating facility" means those energy facilities that are defined in ORS 469.300
18 [(11)(a)(A)] **(9)(a)(A)**, (B) and (D).

19 (E) "Gross carbon dioxide emissions" means the predicted carbon dioxide emissions of the pro-
20 posed energy facility measured on a new and clean basis.

21 (F) "Net carbon dioxide emissions" means gross carbon dioxide emissions of the proposed energy
22 facility, less carbon dioxide emissions avoided, displaced or sequestered by any combination of
23 cogeneration or offsets.

24 (G) "New and clean basis" means the average carbon dioxide emissions rate per hour and net
25 electric power output of the energy facility, without degradation, as determined by a 100-hour test
26 at full power completed during the first 12 months of commercial operation of the energy facility,
27 with the results adjusted for the average annual site condition for temperature, barometric pressure
28 and relative humidity and use of alternative fuels, and using a rate of 117 pounds of carbon dioxide
29 per million Btu of natural gas fuel and a rate of 161 pounds of carbon dioxide per million Btu of
30 distillate fuel, if such fuel use is proposed by the applicant. The council may by rule adjust the rate
31 of pounds of carbon dioxide per million Btu for natural gas or distillate fuel. The council may by
32 rule set carbon dioxide emissions rates for other fuels.

33 (H) "Nongenerating facility" means those energy facilities that are defined in ORS 469.300
34 [(11)(a)(C)] **(9)(a)(C)** and (E) to (I).

35 (I) "Offset" means an action that will be implemented by the applicant, a third party or through
36 the qualified organization to avoid, sequester or displace emissions of carbon dioxide.

37 (J) "Offset funds" means the amount of funds determined by the council to satisfy the applicable
38 carbon dioxide emissions standard pursuant to paragraph (c)(C) of this subsection.

39 (K) "Qualified organization" means an entity that:

40 (i) Is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code as
41 amended and in effect on December 31, 1996;

42 (ii) Either is incorporated in the State of Oregon or is a foreign corporation authorized to do
43 business in the State of Oregon;

44 (iii) Has in effect articles of incorporation that require that offset funds received pursuant to
45 this section are used for offsets that will result in the direct reduction, elimination, sequestration

1 or avoidance of carbon dioxide emissions, that require that decisions on the use of such funds are
 2 made by a body composed of seven voting members of which three are appointed by the council,
 3 three are Oregon residents appointed by the Bullitt Foundation or an alternative environmental
 4 nonprofit organization named by the body, and one is appointed by the applicants for site certificates
 5 that are subject to paragraph (d) of this subsection and the holders of such site certificates, and that
 6 require nonvoting membership on the decision-making body for holders of site certificates that have
 7 provided funds not yet disbursed under paragraph (d)(A) of this subsection;

8 (iv) Has made available on an annual basis, beginning after the first year of operation, a signed
 9 opinion of an independent certified public accountant stating that the qualified organization's use
 10 of funds pursuant to this statute conforms with generally accepted accounting procedures except
 11 that the qualified organization shall have one year to conform with generally accepted accounting
 12 principles in the event of a nonconforming audit;

13 (v) Has to the extent applicable, except for good cause, entered into contracts obligating at least
 14 60 percent of the offset funds to implement offsets within two years after the commencement of
 15 construction of the facility; and

16 (vi) Has to the extent applicable, except for good cause, complied with paragraph (d)(A)(i) of this
 17 subsection.

18 (3) Except as provided in ORS 469.504 for land use compliance and except for those statutes and
 19 rules for which the decision on compliance has been delegated by the federal government to a state
 20 agency other than the council, the facility complies with all other Oregon statutes and administra-
 21 tive rules identified in the project order, as amended, as applicable to the issuance of a site certif-
 22 icate for the proposed facility. If compliance with applicable Oregon statutes and administrative
 23 rules, other than those involving federally delegated programs, would result in conflicting conditions
 24 in the site certificate, the council may resolve the conflict consistent with the public interest. A
 25 resolution may not result in the waiver of any applicable state statute.

26 (4) The facility complies with the statewide planning goals adopted by the Land Conservation
 27 and Development Commission.

28 **SECTION 75.** ORS 469.504 is amended to read:

29 469.504. (1) A proposed facility shall be found in compliance with the statewide planning goals
 30 under ORS 469.503 (4) if:

31 (a) The facility has received local land use approval under the acknowledged comprehensive
 32 plan and land use regulations of the affected local government; or

33 (b) The Energy Facility Siting Council determines that:

34 (A) The facility complies with applicable substantive criteria from the affected local
 35 government's acknowledged comprehensive plan and land use regulations that are required by the
 36 statewide planning goals and in effect on the date the application is submitted, and with any Land
 37 Conservation and Development Commission administrative rules and goals and any land use statutes
 38 that apply directly to the facility under ORS 197.646;

39 (B) For an energy facility or a related or supporting facility that must be evaluated against the
 40 applicable substantive criteria pursuant to subsection (5) of this section, that the proposed facility
 41 does not comply with one or more of the applicable substantive criteria but does otherwise comply
 42 with the applicable statewide planning goals, or that an exception to any applicable statewide
 43 planning goal is justified under subsection (2) of this section; or

44 (C) For a facility that the council elects to evaluate against the statewide planning goals pur-
 45 suant to subsection (5) of this section, that the proposed facility complies with the applicable state-

1 wide planning goals or that an exception to any applicable statewide planning goal is justified under
2 subsection (2) of this section.

3 (2) The council may find goal compliance for a facility that does not otherwise comply with one
4 or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding
5 the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process
6 or any rules of the Land Conservation and Development Commission pertaining to an exception
7 process goal, the council may take an exception to a goal if the council finds:

8 (a) The land subject to the exception is physically developed to the extent that the land is no
9 longer available for uses allowed by the applicable goal;

10 (b) The land subject to the exception is irrevocably committed as described by the rules of the
11 Land Conservation and Development Commission to uses not allowed by the applicable goal because
12 existing adjacent uses and other relevant factors make uses allowed by the applicable goal imprac-
13 ticable; or

14 (c) The following standards are met:

15 (A) Reasons justify why the state policy embodied in the applicable goal should not apply;

16 (B) The significant environmental, economic, social and energy consequences anticipated as a
17 result of the proposed facility have been identified and adverse impacts will be mitigated in ac-
18 cordance with rules of the council applicable to the siting of the proposed facility; and

19 (C) The proposed facility is compatible with other adjacent uses or will be made compatible
20 through measures designed to reduce adverse impacts.

21 (3) If compliance with applicable substantive local criteria and applicable statutes and state
22 administrative rules would result in conflicting conditions in the site certificate or amended site
23 certificate, the council shall resolve the conflict consistent with the public interest. A resolution
24 may not result in a waiver of any applicable state statute.

25 (4) An applicant for a site certificate shall elect whether to demonstrate compliance with the
26 statewide planning goals under subsection (1)(a) or (b) of this section. The applicant shall make the
27 election on or before the date specified by the council by rule.

28 (5) Upon request by the [*State Department of Energy*] **Oregon Office of Energy Planning and**
29 **Siting**, the special advisory group established under ORS 469.480 shall recommend to the council,
30 within the time stated in the request, the applicable substantive criteria under subsection (1)(b)(A)
31 of this section. If the special advisory group does not recommend applicable substantive criteria
32 within the time established in the [*department's*] **office's** request, the council may either determine
33 and apply the applicable substantive criteria under subsection (1)(b) of this section or determine
34 compliance with the statewide planning goals under subsection (1)(b)(B) or (C) of this section. If the
35 special advisory group recommends applicable substantive criteria for an energy facility described
36 in ORS 469.300 or a related or supporting facility that does not pass through more than one local
37 government jurisdiction or more than three zones in any one jurisdiction, the council shall apply the
38 criteria recommended by the special advisory group. If the special advisory group recommends ap-
39 plicable substantive criteria for an energy facility as defined in ORS 469.300 [(11)(a)(C)] **(9)(a)(C)** to
40 (E) or a related or supporting facility that passes through more than one jurisdiction or more than
41 three zones in any one jurisdiction, the council shall review the recommended criteria and determine
42 whether to evaluate the proposed facility against the applicable substantive criteria recommended
43 by the special advisory group, against the statewide planning goals or against a combination of the
44 applicable substantive criteria and statewide planning goals. In making its determination, the
45 council shall consult with the special advisory group and shall consider:

1 (a) The number of jurisdictions and zones in question;

2 (b) The degree to which the applicable substantive criteria reflect local government consider-
3 ation of energy facilities in the planning process; and

4 (c) The level of consistency of the applicable substantive criteria from the various zones and
5 jurisdictions.

6 (6) The council is not subject to ORS 197.180 and a state agency may not require an applicant
7 for a site certificate to comply with any rules or programs adopted under ORS 197.180.

8 (7) On or before its next periodic review, each affected local government shall amend its com-
9 prehensive plan and land use regulations as necessary to reflect the decision of the council per-
10 taining to a site certificate or amended site certificate.

11 (8) Notwithstanding ORS 34.020 or 197.825 or any other provision of law, the affected local
12 government's land use approval of a proposed facility under subsection (1)(a) of this section and the
13 special advisory group's recommendation of applicable substantive criteria under subsection (5) of
14 this section shall be subject to judicial review only as provided in ORS 469.403. If the applicant
15 elects to comply with subsection (1)(a) of this section, the provisions of this subsection shall apply
16 only to proposed projects for which the land use approval of the local government occurs after the
17 date a notice of intent or an application for expedited processing is submitted to the [*State Depart-*
18 *ment of Energy*] **office**.

19 (9) The [*State Department of Energy*] **office**, in cooperation with other state agencies, shall pro-
20 vide, to the extent possible, technical assistance and information about the siting process to local
21 governments that request such assistance or that anticipate having a facility proposed in their ju-
22 risdiction.

23 **SECTION 76.** ORS 469.507 is amended to read:

24 469.507. (1) The site certificate holder shall establish programs for monitoring the environmental
25 and ecological effects of the construction and operation of facilities subject to site certificates to
26 assure continued compliance with the terms and conditions of the certificate. The programs shall
27 be subject to review and approval by the Energy Facility Siting Council.

28 (2) The site certificate holder shall perform the testing and sampling necessary for the moni-
29 toring program or require the operator of the plant to perform the necessary testing or sampling
30 pursuant to guidelines established by the Energy Facility Siting Council or its designee. The council
31 and the Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting**
32 shall have access to operating logs, records and reprints of the certificate holder, including those
33 required by federal agencies.

34 (3) The monitoring program may be conducted in cooperation with any federally operated pro-
35 gram if the information available from the federal program is acceptable to the council, but no fed-
36 eral program shall be substituted totally for monitoring supervised by the council or its designee.

37 (4) The monitoring program shall include monitoring of the transportation process for all ra-
38 dioactive material removed from any nuclear fueled thermal power plant or nuclear installation.

39 **SECTION 77.** ORS 469.520 is amended to read:

40 469.520. (1) Each state agency and political subdivision in this state that is concerned with en-
41 ergy facilities shall inform the [*State Department of Energy,*] **Oregon Office of Energy Planning**
42 **and Siting** promptly of its activities and programs relating to energy and radiation.

43 (2) Each state agency proposing to adopt, amend or rescind a rule relating to energy facility
44 development first shall file a copy of its proposal with the **Energy Facility Siting** Council, which
45 may order such changes as it considers necessary to conform to state policy as stated in ORS

1 469.010 and 469.310.

2 (3) The effective date of a rule relating to energy facility development, or an amendment or
 3 rescission thereof, shall not be sooner than 10 days subsequent to the filing of a copy of such pro-
 4 posal with the council.

5 **SECTION 78.** ORS 469.530 is amended to read:

6 469.530. The Energy Facility Siting Council and the Director of the [*State Department of*
 7 *Energy*] **Oregon Office of Energy Planning and Siting** shall review and approve all security pro-
 8 grams attendant to a nuclear-fueled thermal power plant, a nuclear installation and the transporta-
 9 tion of radioactive material derived from or destined for a nuclear-fueled thermal power plant or a
 10 nuclear installation. The council shall provide reasonable public notice of a meeting of the council
 11 held for purposes of such review and approval.

12 **SECTION 79.** ORS 469.533 is amended to read:

13 469.533. Notwithstanding ORS chapter 401, the [*State Department of Energy*] **Oregon Office of**
 14 **Energy Planning and Siting** in cooperation with the Oregon Health Authority and the Office of
 15 Emergency Management shall establish rules for the protection of health and procedures for the
 16 evacuation of people and communities who would be affected by radiation in the event of an acci-
 17 dent or a catastrophe in the operation of a nuclear power plant or nuclear installation.

18 **SECTION 80.** ORS 469.534 is amended to read:

19 469.534. Each county in this state that has a nuclear-fueled thermal power plant located within
 20 county boundaries and each county within this state that has any portion of its area located within
 21 50 miles of a site within this state of a nuclear-fueled thermal power plant shall develop written
 22 procedures that are compatible with the rules adopted by the [*State Department of Energy*] **Oregon**
 23 **Office of Energy Planning and Siting** under ORS 469.533. The [*department*] **office** shall review the
 24 county procedures to determine whether they are compatible with the rules of the [*department*] **of-**
 25 **fice.**

26 **SECTION 81.** ORS 469.535 is amended to read:

27 469.535. Notwithstanding ORS chapter 401, when an emergency exists because of an accident
 28 or catastrophe in the operation of a nuclear power plant or nuclear installation or in the transpor-
 29 tation of radioactive material, the Governor, for the duration of the emergency, may:

30 (1) Assume complete control of all emergency operations in the area affected by the accident
 31 or catastrophe, direct all rescue and salvage work and do all things deemed advisable and necessary
 32 to alleviate the immediate conditions.

33 (2) Assume control of all police and law enforcement activities in such area, including the ac-
 34 tivities of all local police and peace officers.

35 (3) Close all roads and highways in such area to traffic or by order of the Director of the [*State*
 36 *Department of Energy*] **Oregon Office of Energy Planning and Siting** limit the travel on such
 37 roads to such extent as the director deems necessary and expedient.

38 (4) Designate persons to coordinate the work of public and private relief agencies operating in
 39 such area and exclude from such area any person or agency refusing to cooperate with other
 40 agencies engaged in emergency work.

41 (5) Require the aid and assistance of any state or other public or quasi-public agencies in the
 42 performance of duties and work attendant upon the emergency conditions in such area.

43 **SECTION 82.** ORS 469.536 is amended to read:

44 469.536. A public utility which operates a nuclear power plant or nuclear installation shall dis-
 45 seminate to the governing bodies of cities and counties that may be affected information approved

1 by the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** which explains
2 rules or procedures adopted under ORS 469.533.

3 **SECTION 83.** ORS 469.540 is amended to read:

4 469.540. (1) In instances where the Director of the [*State Department of Energy*] **Oregon Office**
5 **of Energy Planning and Siting** determines either from the monitoring or surveillance of the di-
6 rector that there is danger of violation of a safety standard adopted under ORS 469.501 from the
7 continued operation of a plant or installation, the director may order temporary reductions or
8 curtailment of operations until such time as proper safety precautions can be taken.

9 (2) An order of reduction or curtailment shall be entered only after notice to the thermal power
10 plant or installation and only after a reasonable time, considering the extent of the danger, has been
11 allowed for repairs or other alterations that would bring the plant or installation into conformity
12 with applicable safety standards.

13 (3) The director may order compliance or impose other safety conditions on the transport or
14 disposal of radioactive materials or wastes if the director believes that ORS 469.300 to 469.619 and
15 469.930 or rules adopted pursuant thereto are being violated or are in danger of being violated.

16 **SECTION 84.** ORS 469.550 is amended to read:

17 469.550. (1) Whenever in the judgment of the Director of the [*State Department of Energy*]
18 **Oregon Office of Energy Planning and Siting** from the results of monitoring or surveillance of
19 operation of any nuclear-fueled thermal power plant or nuclear installation or based upon informa-
20 tion from the Energy Facility Siting Council there is cause to believe that there is clear and im-
21 mediate danger to the public health and safety from continued operation of the plant or installation,
22 the director shall, in cooperation with appropriate state and federal agencies, without hearing or
23 prior notice, order the operation of the plant halted by service of the order on the plant super-
24 intendent or other person charged with the operation thereof. Within 24 hours after such order, the
25 director must appear in the appropriate circuit court to petition for the relief afforded under ORS
26 469.563 and may commence proceedings for revocation of the site certificate if grounds therefor ex-
27 ist.

28 (2) Whenever, in the judgment of the director based upon monitoring or surveillance by the di-
29 rector, or based upon information from the council, there is cause to believe that there is clear and
30 immediate danger to the public health and safety from the accumulation or storage of radioactive
31 material located at a nuclear-fueled thermal power plant or a nuclear installation, the director shall
32 in cooperation with appropriate state and federal agencies, without hearing or prior notice, order
33 such accumulation, storage, disposal or transportation halted or immediately impose safety pre-
34 cautions by service of the order on the officer responsible for the accumulation, storage, disposal
35 or transportation. Within 24 hours after such an order, the director must appear in the appropriate
36 circuit court to petition for the relief afforded under ORS 469.563.

37 (3)(a) If the director believes there is a clear and immediate danger to public health or safety,
38 the director shall halt the transportation or disposal of radioactive material or waste.

39 (b) The director shall serve an order to halt the transportation or disposal of radioactive mate-
40 rial on the person responsible for the transport or disposal. The order may be served without prior
41 hearing or notice.

42 (c) Within 24 hours after the director serves an order under paragraph (b) of this subsection, the
43 director shall petition the appropriate circuit court for relief under ORS 469.563.

44 (4) The Governor, in the absence of the director, may issue orders and petition for judicial relief
45 as provided in this section.

1 **SECTION 85.** ORS 469.559 is amended to read:

2 469.559. (1) Notwithstanding the authority of the Oregon Health Authority pursuant to ORS
 3 453.605 to 453.800 to regulate radiation sources or the requirements of ORS 469.525, the Energy
 4 Facility Siting Council may enter into and carry out cooperative agreements with the Secretary of
 5 Energy pursuant to Title I and the Nuclear Regulatory Commission pursuant to Title II of the
 6 Uranium Mill Tailings Radiation Control Act of 1978, Public Law 95-604, and perform or cause to
 7 be performed any and all acts necessary to be performed by the state, including the acquisition by
 8 condemnation or otherwise, retention and disposition of land or interests therein, in order to im-
 9 plement that Act and rules, standards and guidelines adopted pursuant thereto. The Energy Facility
 10 Siting Council may adopt, amend or repeal rules in accordance with ORS chapter 183 and may re-
 11 ceive and disburse funds in connection with the implementation and administration of this section.

12 (2) The Energy Facility Siting Council and the [*State Department of Energy*] **Oregon Office of**
 13 **Energy Planning and Siting** may enter into and carry out cooperative agreements and arrange-
 14 ments with any agency of the federal government implementing the Comprehensive Environmental
 15 Response, Compensation, and Liability Act, as amended, 42 U.S.C. section 9601 et seq., to clean up
 16 wastes and contaminated material, including overburden, created by uranium mining before June 29,
 17 1989. Any such project need not obtain a site certificate from the council, but shall nevertheless
 18 comply with all applicable, relevant or appropriate state standards including but not limited to those
 19 set forth in ORS 469.375 and rules adopted by the council and other state agencies to implement
 20 such standards.

21 (3) The Governor may do any and all things necessary to implement the requirements of the
 22 federal Acts referred to in subsections (1) and (2) of this section.

23 (4) Notwithstanding ORS 469.553, after June 25, 1979, no site certificate is required for the
 24 cleanup and disposal of an inactive or abandoned uranium mill tailings site as authorized under
 25 subsection (1) of this section and Title I of the Uranium Mill Tailings Radiation Control Act of 1978,
 26 Public Law 95-604.

27 **SECTION 86.** ORS 469.560 is amended to read:

28 469.560. (1) Except as provided in subsection (2) of this section and ORS 192.501 to 192.505, any
 29 information filed or submitted pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and
 30 469.992 shall be made available for public inspection and copying during regular office hours of the
 31 [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** at the expense of any
 32 person requesting copies.

33 (2) Any information, other than that relating to the public safety, relating to secret process,
 34 device, or method of manufacturing or production obtained in the course of inspection, investigation
 35 or activities under ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 shall be kept
 36 confidential and shall not be made a part of public record of any hearing.

37 **SECTION 87.** ORS 469.561 is amended to read:

38 469.561. (1) A person owning and operating a nuclear power plant in this state under a license
 39 issued by the United States Nuclear Regulatory Commission or under a site certificate issued under
 40 ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 shall obtain and maintain property
 41 insurance in the maximum insurable amount available for each nuclear incident occurring within
 42 this state, as required by this section. The insurance shall cover property damage occurring within
 43 a nuclear plant and its related or supporting facilities as a result of the nuclear incident.

44 (2) Insurance required under this section does not apply to:

45 (a) Any claim of an employee of a person obtaining insurance under this section, if the claim is

1 made under a state or federal workers' compensation Act and if the employee is employed at the site
 2 of and in connection with the nuclear power plant at which the nuclear incident occurred; or

3 (b) Any claim arising out of an act of war.

4 (3) A person obtaining insurance under this section shall maintain insurance for the term of the
 5 license issued to the nuclear power plant by the United States Nuclear Regulatory Commission and
 6 for any extension of the term, and until all radioactive material has been removed from the nuclear
 7 power plant and transportation of the radioactive material from the nuclear power plant has ended.

8 (4) A person obtaining insurance under this section shall file a copy of the insurance policy, any
 9 amendment to the policy and any superseding insurance policy with the Director of the [*State De-*
 10 *partment of Energy*] **Oregon Office of Energy Planning and Siting**.

11 (5) Property insurance required under this section is in addition to and not in lieu of insurance
 12 coverage provided under the Price-Anderson Act (42 U.S.C. 2210).

13 (6) Property insurance required by subsections (1) to (5) of this section may include private in-
 14 surance, self-insurance, utility industry association self-assurance pooling programs, or a combina-
 15 tion of all three.

16 (7) A person may fulfill the requirements for an insurance policy under subsections (1) to (5) of
 17 this section by obtaining policies of one or more insurance carriers if the policies together meet the
 18 requirements of subsections (1) to (5) of this section.

19 **SECTION 88.** ORS 469.571 is amended to read:

20 469.571. There is created an Oregon Hanford Cleanup Board that shall consist of the following
 21 members:

22 (1) The Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and**
 23 **Siting** or designee;

24 (2) The Water Resources Director or designee;

25 (3) A representative of the Governor;

26 (4) One member representing the Confederated Tribes of the Umatilla Indian Reservation;

27 (5) Ten members of the public, appointed by the Governor, one of whom shall be a representative
 28 of a local emergency response organization in eastern Oregon and one of whom shall serve as
 29 chairperson; and

30 (6) Three members of the Senate, appointed by the President of the Senate, and three members
 31 of the House of Representatives, appointed by the Speaker of the House of Representatives who shall
 32 serve as advisory members without vote.

33 **SECTION 89.** ORS 469.594 is amended to read:

34 469.594. (1) Notwithstanding the definition of a "waste disposal facility" under ORS 469.300, no
 35 high-level radioactive waste should be stored at the site of a nuclear-fueled thermal power plant
 36 after the expiration of the operating license issued to the nuclear power plant by the United States
 37 Nuclear Regulatory Commission.

38 (2) Notwithstanding subsection (1) of this section, a person operating a nuclear power plant
 39 under a license issued by the United States Nuclear Regulatory Commission shall remain responsible
 40 for proper temporary storage of high-level radioactive materials at the site of the nuclear power
 41 plant after termination of a license and until such materials are removed from the site for permanent
 42 storage.

43 (3) The [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** and the
 44 operators of nuclear-fueled thermal plants shall pursue agreements with the United States Depart-
 45 ment of Energy and the United States Nuclear Regulatory Commission to fulfill the provisions of

1 this section.

2 **SECTION 90.** ORS 469.605 is amended to read:

3 469.605. (1) No person shall ship or transport radioactive material identified by the Energy Fa-
 4 cility Siting Council by rule as posing a significant hazard to public health and safety or the envi-
 5 ronment if improperly transported into or within the State of Oregon without first obtaining a
 6 permit from the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting**.

7 (2) Such permit shall be issued for a period not to exceed one year and shall be valid for all
 8 shipments within that period of time unless specifically limited by permit conditions.

9 (3) Application for a permit under this section shall be made in a form and manner prescribed
 10 by the Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting**
 11 and may include:

12 (a) A description of the kind, quantity and radioactivity of the material to be transported;

13 (b) A description of the route or routes proposed to be taken and the transport schedule;

14 (c) A description of any mode of transportation; and

15 (d) Other information required by the director to evaluate the application.

16 (4) The director shall collect a fee from all applicants for permits under this section in an
 17 amount reasonably calculated to provide for the costs to the [*department*] **office** of performing the
 18 duties of the [*department*] **office** under ORS 469.550 (3), 469.563, 469.603 to 469.619 and 469.992. Fees
 19 collected under this subsection shall be deposited in the [*State Department of Energy*] **Energy**
 20 **Planning and Siting** Account established under ORS 469.120.

21 (5) The director shall issue a permit only if the application demonstrates that the proposed
 22 transportation will comply with all applicable rules adopted under ORS 469.603 to 469.619 and if the
 23 proposed route complies with federal law as provided in ORS 469.606.

24 (6) The director may delegate the authority to issue permits for the transportation of radioactive
 25 material to the Department of Transportation. In exercising such authority, the department [*of*
 26 *Transportation*] shall comply with the applicable provisions of ORS 469.603 to 469.619 and rules
 27 adopted by the director or the Energy Facility Siting Council under ORS 469.603 to 469.619. Permits
 28 issued by the department [*of Transportation*] under this subsection shall be enforced according to the
 29 provisions of ORS 825.258. The director also may delegate other authority granted under ORS
 30 469.605 to 469.619 to other state agencies if the delegation will maintain or enhance the quality of
 31 the transportation safety program.

32 **SECTION 91.** ORS 469.606 is amended to read:

33 469.606. (1) Upon receipt of an application required under ORS 469.605 for which radioactive
 34 material is proposed to be transported by highway, the [*State Department of Energy*] **Oregon Office**
 35 **of Energy Planning and Siting** shall confer with the following persons to determine whether the
 36 proposed route is safe, and complies with applicable routing requirements of the United States De-
 37 partment of Transportation and the United States Nuclear Regulatory Commission:

38 (a) The Oregon Department of Transportation, or a designee of the Oregon Department of
 39 Transportation;

40 (b) The Energy Facility Siting Council, or a designee of the Energy Facility Siting Council; and

41 (c) The Oregon Transportation Commission, or a designee of the Oregon Transportation Com-
 42 mission.

43 (2) If, after consultation with the persons set forth in subsection (1) of this section, a determi-
 44 nation is made that the proposed route is not the best and safest route for transporting the material,
 45 the Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting**

1 shall deny the application except as provided in subsection (3) of this section.

2 (3) If the applicant is prohibited by a statute, rule or other action of an adjacent state or a
3 political subdivision in an adjacent state from using the route that complies with federal law, the
4 director:

5 (a) Shall petition the United States Department of Transportation for an administrative deter-
6 mination of preemption of the ban, pursuant to section 13 of the Hazardous Materials Transportation
7 Uniform Safety Act of 1990, P.L. 101-615.

8 (b) May issue a permit as provided under ORS 469.605 (5) with conditions necessary to ensure
9 safe transport over a route available to the applicant, until the United States Department of
10 Transportation determines whether the prohibition by the other state or political subdivision is
11 preempted.

12 **SECTION 92.** ORS 469.609 is amended to read:

13 469.609. Annually, the Director of the [*State Department of Energy*] **Oregon Office of Energy**
14 **Planning and Siting** shall report to interested state agencies and all local government agencies
15 trained under ORS 469.611 on shipment of radioactive material made during the preceding year. The
16 director's report shall include:

- 17 (1) The type and quantity of material transported;
- 18 (2) Any mode of transportation used;
- 19 (3) The route or routes taken; and
- 20 (4) Any other information at the discretion of the director.

21 **SECTION 93.** ORS 469.611 is amended to read:

22 469.611. Notwithstanding ORS chapter 401:

23 (1) The Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and**
24 **Siting** shall coordinate emergency preparedness and response with appropriate agencies of govern-
25 ment at the local, state and national levels to ensure that the response to a radioactive material
26 transportation accident is swift and appropriate to minimize damage to any person, property or
27 wildlife. This program shall include the preparation of localized plans setting forth agency respon-
28 sibilities for on-scene response.

29 (2) The director shall:

30 (a) Apply for federal funds as available to train, equip and maintain an appropriate response
31 capability at the state and local level; and

32 (b) Request all available training and planning materials.

33 (3) The Oregon Health Authority shall maintain a trained and equipped radiation emergency
34 response team available at all times for dispatch to any radiological emergency. Before arrival of
35 the team at the scene of a radiological accident, the director may designate other technical advisors
36 to work with the local response agencies.

37 (4) The authority shall assist the director to ensure that all emergency services organizations
38 along major transport routes for radioactive materials are offered training and retraining in the
39 proper procedures for identifying and dealing with a radiological accident pending the arrival of
40 persons with technical expertise. The authority shall report annually to the director on training of
41 emergency response personnel.

42 **SECTION 94.** ORS 469.613 is amended to read:

43 469.613. (1) Any person obtaining a permit under ORS 469.605 shall establish and maintain any
44 records, make any reports and provide any information as the Energy Facility Siting Council may
45 by rule or order require to assure compliance with the conditions of the permit or other rules af-

fecting the transportation of radioactive materials and submit the reports and make the records and information available at the request of the Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting**. Any requirement imposed by the council under this subsection shall be consistent with regulations of the United States Department of Transportation and the United States Nuclear Regulatory Commission.

(2) The director may authorize any employee or agent of the director to enter upon, inspect and examine, at reasonable times and in a reasonable manner for the purpose of administration or enforcement of the provisions of ORS 469.550, 469.563, 469.603 to 469.619 and 469.992 or rules adopted thereunder, the records and property of persons within this state who have applied for permits under ORS 469.605.

(3) The director shall provide for:

(a) The inspection of each highway route controlled shipment prior to or upon entry of the shipment into this state or at the point of origin for the transportation of highway route controlled shipments within the state; and

(b) Inspection of a representative sample of shipments containing material required to bear a radioactive placard as specified by federal regulations.

SECTION 95. ORS 469.615 is amended to read:

469.615. (1) A person transporting radioactive materials in this state shall indemnify the State of Oregon and its political subdivisions and agents for any claims arising from the release of radioactive material during that transportation and pay for the cost of response to an accident involving the radioactive material.

(2) With respect to radioactive materials, the Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** shall ascertain and certify that insurance coverage required under 42 U.S.C. 2210 is in force and effect at the time the permit is issued under ORS 469.605.

(3) A person who owns, designs or maintains facilities, structures, vehicles or equipment used for handling, transportation, shipment, storage or disposal of nuclear material shall reimburse the state for all expenses reasonably incurred by the state or a political subdivision of the state, in protecting the public health and safety and the environment from a nuclear incident or the imminent danger of a nuclear incident caused by the person's acts or omissions. These expenses include but need not be limited to, costs incurred for precautionary evacuations, emergency response measures and decontamination or other cleanup measures. As used in this subsection "nuclear incident" has the meaning given that term in 42 U.S.C. 2014(q).

(4) Nothing in subsection (3) of this section shall affect any provision of subsection (1) or (2) of this section.

SECTION 96. ORS 469.617 is amended to read:

469.617. The Director of the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** shall prepare and submit to the Governor for transmittal to the Legislative Assembly, on or before the beginning of each regular legislative session, a comprehensive report on the transportation of radioactive material in Oregon and provide an evaluation of the adequacy of the state's emergency response agencies. The report shall include, but need not be limited to:

(1) A brief description and compilation of any accidents and casualties involving the transportation of radioactive material in Oregon;

(2) An evaluation of the effectiveness of enforcement activities and the degree of compliance with applicable rules;

1 (3) A summary of outstanding problems confronting the [*State Department of Energy*] **Oregon**
 2 **Office of Energy Planning and Siting** in administering ORS 469.550, 469.563, 469.603 to 469.619 and
 3 469.992; and

4 (4) Such recommendations for additional legislation as the Energy Facility Siting Council con-
 5 siders necessary and appropriate.

6 **SECTION 97.** ORS 469.619 is amended to read:

7 469.619. The [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** shall
 8 maintain and make available copies of all federal regulation and federal code provisions referred to
 9 in ORS 469.300, 469.550, 469.563, 469.603 to 469.619 and 469.992.

10 **SECTION 98.** ORS 469.785 is amended to read:

11 469.785. The [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** shall
 12 by rule identify categories of fuel blend and solid biofuel that qualify for the personal income tax
 13 credit allowed under ORS 315.465.

14 **SECTION 99.** ORS 469.992 is amended to read:

15 469.992. (1) The Director of the [*State Department of Energy*] **Oregon Office of Energy Plan-**
 16 **ning and Siting** or the Energy Facility Siting Council may impose civil penalties for violation of
 17 ORS 469.300 to 469.619 and 469.930, for violations of rules adopted under ORS 469.300 to 469.619 and
 18 469.930, for violation of any site certificate or amended site certificate issued under ORS 469.300 to
 19 469.601 or for violation of [*a State Department of Energy*] **an Oregon Office of Energy Planning**
 20 **and Siting** order issued pursuant to ORS 469.405 (3). A civil penalty in an amount of not more than
 21 \$25,000 per day for each day of violation may be assessed.

22 (2) Subject to ORS 153.022, violation of an order entered pursuant to ORS 469.550 is punishable
 23 upon conviction by a fine of \$50,000. Each day of violation constitutes a separate offense.

24 (3) A civil penalty in an amount not less than \$100 per day nor more than \$1,000 per day may
 25 be assessed by the director or the [*Energy Facility Siting*] council for a willful failure to comply with
 26 a subpoena served by the director pursuant to ORS 469.080 (2).

27 (4) A civil penalty in an amount of not more than \$25,000 per day for each day in violation of
 28 any provision of ORS 469.603 to 469.619 may be assessed by the circuit court upon complaint of any
 29 person injured by the violation.

30 **SECTION 100.** ORS 469.992, as amended by section 17, chapter 653, Oregon Laws 1991, section
 31 14, chapter 385, Oregon Laws 1999, section 310, chapter 1051, Oregon Laws 1999, and section 54,
 32 chapter 186, Oregon Laws 2003, is amended to read:

33 469.992. (1) The Director of the [*State Department of Energy*] **Oregon Office of Energy Plan-**
 34 **ning and Siting** or the Energy Facility Siting Council may impose civil penalties for violation of
 35 ORS 469.300 to 469.619 and 469.930, for violations of rules adopted under ORS 469.300 to 469.619 and
 36 469.930, for violation of any site certificate or amended site certificate issued under ORS 469.300 to
 37 469.601 or for violation of [*a State Department of Energy*] **an Oregon Office of Energy Planning**
 38 **and Siting** order issued pursuant to ORS 469.405 (3). A civil penalty in an amount of not more than
 39 \$25,000 per day for each day of violation may be assessed.

40 (2) Subject to ORS 153.022, violation of an order entered pursuant to ORS 469.550 is punishable
 41 upon conviction by a fine of \$50,000. Each day of violation constitutes a separate offense.

42 (3) A civil penalty in an amount not less than \$100 per day nor more than \$1,000 per day may
 43 be assessed by the director or the [*Energy Facility Siting*] council for a willful failure to comply with
 44 a subpoena served by the director pursuant to ORS 469.080 (2).

45 (4) A civil penalty in an amount of not more than \$25,000 per day for each day in violation of

1 any provision of ORS 469.603 to 469.619 or section 14, chapter 653, Oregon Laws 1991, may be as-
 2 sessed by the circuit court upon complaint of any person injured by the violation.

3 **SECTION 101.** ORS 522.125 is amended to read:

4 522.125. (1) Upon receipt of a complete application for a permit to drill or operate a geothermal
 5 well, the State Department of Geology and Mineral Industries shall circulate copies of the applica-
 6 tion to the Water Resources Department, the State Department of Fish and Wildlife, the Department
 7 of Environmental Quality, the State Parks and Recreation Department, the Department of Land
 8 Conservation and Development, the [*State Department of Energy*] **Oregon Office of Energy Plan-
 9 ning and Siting**, the Department of State Lands and the governing body of the county and the
 10 geothermal heating district in which the well will be located. The State Department of Geology and
 11 Mineral Industries may circulate copies to other public agencies that have an interest in the appli-
 12 cation.

13 (2) Any public agency receiving a copy of the application as provided in subsection (1) of this
 14 section may suggest conditions under which a permit should be granted. A public agency shall sub-
 15 mit any suggested conditions to the State Department of Geology and Mineral Industries within 45
 16 days of the public agency's receipt of the copy of the application. The department shall consider any
 17 suggested conditions that a public agency submits to the department within the 45-day period.

18 **SECTION 102.** ORS 526.274 is amended to read:

19 526.274. In furtherance of the policy established in ORS 526.271, the State Board of Forestry, in
 20 consultation with the Governor, may:

21 (1) In conformance with federal law, including Public Law 108-7, direct the State Forester to
 22 facilitate the development of stewardship contracts utilizing private contractors and, when appro-
 23 priate, to seek and enter into a stewardship contract agreement with federal agencies to carry out
 24 forest management activities on federal lands. The State Forester may, under the stewardship con-
 25 tract agreements:

- 26 (a) Perform road and trail maintenance;
- 27 (b) Set prescribed fires to improve forest health, composition, structure and condition;
- 28 (c) Manage vegetation;
- 29 (d) Perform watershed restoration and maintenance;
- 30 (e) Restore wildlife habitat;
- 31 (f) Control exotic weeds and species; and
- 32 (g) Perform other activities related to stewardship.

33 (2) Create a forum for interagency cooperation and collaborative public involvement regarding
 34 federal forest management issues that may include, at the discretion of the board, the appointment
 35 of advisory committees, the use of existing advisory committees and procedures for holding public
 36 hearings.

37 (3) Provide guidelines for the State Forestry Department and State Forester to follow that con-
 38 tain directions regarding the management of federal lands and that specify the goals and objectives
 39 of the board regarding the management of federal lands.

40 (4) Participate, to the extent allowed by federal law, in the development of federal forest policies
 41 and the forest management planning processes of federal agencies.

42 (5) Provide guidelines for the department to follow in implementing this section.

43 (6) Coordinate with Oregon State University, the State Department of Fish and Wildlife, the
 44 Oregon Forest Resources Institute, the Department of Environmental Quality, the Oregon Business
 45 Development Department, the [*State Department of Energy*] **Oregon Office of Energy Planning and**

1 **Siting** and other agencies of the executive department, as defined in ORS 174.112, to assist the State
2 Forestry Department in carrying out the provisions of this section.

3 **SECTION 103.** ORS 526.280 is amended to read:

4 526.280. In furtherance of the policy established in ORS 526.277, the State Forester shall:

5 (1) Establish a policy of active and inclusive communication with the federal government, public
6 bodies as defined in ORS 174.109, residents of Oregon and interested parties regarding the utilization
7 of woody biomass produced through forest health restoration. The State Forester shall actively uti-
8 lize the statutory provisions of the National Forest Management Act of 1976, the Forest and
9 Rangeland Renewable Resources Planning Act of 1974, the National Environmental Policy Act of
10 1969, the Federal Land Policy and Management Act of 1976 and the Healthy Forests Restoration
11 Act of 2003 that allow the state to participate in federal policy development in a manner that ex-
12 presses the policy established in ORS 526.277.

13 (2) Promote public involvement in the identification of the areas of interface between urban
14 lands and forestlands that pose the highest potential to threaten lives and private property.

15 (3) Solicit public comment on the location of biomass-based energy projects and conversion fa-
16 cilities.

17 (4) Promote public understanding, through education and outreach, of forest conditions, forest
18 management options, the potential benefits and potential consequences of woody biomass utilization,
19 the quality and quantity of woody biomass on federal lands and the potential for woody biomass
20 utilization to assist in reducing wildfire risk and in enhancing forest health, diversity and resilience.
21 The State Forestry Department may coordinate with the [*State Department of Energy*] **Oregon Office**
22 **of Energy Planning and Siting**, the Oregon Business Development Department, Oregon State Uni-
23 versity, the State Department of Fish and Wildlife, the Department of Environmental Quality and
24 other entities in any education and outreach performed pursuant to this subsection.

25 (5) Allow the State Forestry Department to conduct inventories of the types of woody biomass
26 available and to serve as an information resource for persons seeking to utilize woody biomass for
27 energy development. Notwithstanding ORS 192.501, reports on any inventories of biomass conducted
28 by the department shall be made available for public inspection.

29 (6) Promote public understanding that woody biomass utilization may be an effective tool for
30 restoration of forest health and for economic development in rural communities.

31 (7) Develop and apply, with advice from the forestry program at Oregon State University, the
32 State Department of Fish and Wildlife, the Department of Environmental Quality and other sources,
33 the best available scientific knowledge and technologies pertaining to forest and wildlife habitat
34 restoration and woody biomass utilization when developing rules under ORS 527.630.

35 (8) Seek opportunities to provide a source of woody biomass from federal, tribal, state and pri-
36 vate forests.

37 (9) Prepare a report every three years utilizing, to the greatest extent practicable, data collected
38 from state and federal sources that specify the effect of woody biomass collection and conversion
39 on the plant and wildlife resources and on the air and water quality of this state. The report shall
40 identify any changes that the State Forester determines are necessary to encourage woody biomass
41 collection and conversion and to avoid negative effects on the environment from woody biomass
42 collection and conversion. The State Forester shall submit the report to the Governor and to an
43 appropriate legislative interim committee with jurisdiction over forestry issues.

44 **SECTION 104.** ORS 526.786 is amended to read:

45 526.786. (1) The State Board of Forestry may develop administrative rules that define principles

1 and standards relating to the creation, measurement, accounting, marketing, verifying, registering,
2 transferring and selling of forestry carbon offsets from nonfederal forestlands.

3 (2) Rules adopted by the board under this section shall set standards to ensure that in order to
4 be marketed, registered, transferred or sold, a forestry carbon offset must be created as a result of
5 forest management activities that:

6 (a) Have the effect of increasing carbon storage on forestlands as measured by a forestry carbon
7 offset accounting system;

8 (b) Would not otherwise occur but for the carbon storage objective; and

9 (c) Provide environmental, social and economic benefits for Oregon and its citizens, including
10 but not limited to, protection or enhancement of long term timber supplies, native fish and wildlife
11 habitat and water quality.

12 (3) Rules adopted by the board under this section shall establish principles to ensure that the
13 forestry carbon offset accounting system shall:

14 (a) Account for relevant sources of carbon dioxide emission debits and credits for carbon storage
15 or sequestration;

16 (b) Account for the duration and permanence of the carbon dioxide storage or emission re-
17 ductions;

18 (c) Include provisions for establishing the appropriate baseline for projects, practices, rotation
19 ages, harvest schedules and ownership from which measured carbon dioxide emission debits, and
20 credits for carbon storage or sequestration are made;

21 (d) Account for other relevant and measurable greenhouse gas consequences, specifically credits
22 and debits expressed as a carbon dioxide emissions equivalent, when establishing baselines or oth-
23 erwise as appropriate;

24 (e) Account for the specific forest management practices used on-site and include provisions for
25 monitoring carbon dioxide emission debits and credits for carbon storage or sequestration, from the
26 implementation of specific practices;

27 (f) Account for continuing carbon dioxide emission debits, and credits for carbon storage or
28 sequestration, based on the end product use of harvested biomass;

29 (g) Account for environmental, social and economic benefits of forestry carbon offsets and en-
30 sure that practices with unsustainable, long term consequences are not used to create forestry car-
31 bon offsets;

32 (h) Allow for public access to information in monitoring reports; and

33 (i) Encourage third-party verification of forestry carbon offsets.

34 (4) Rules adopted by the board under this section may address qualifications for persons and
35 agencies that provide third-party verification and registration of forestry carbon offsets.

36 (5) Rules adopted by the board under this section shall be developed with the assistance of an
37 advisory committee appointed by the board. The advisory committee shall consist of at least nine
38 persons and shall contain:

39 (a) Persons from businesses, governmental agencies and nongovernmental organizations with
40 knowledge and experience in the accounting of greenhouse gas emissions, sequestration and storage;

41 (b) At least one person from a nongovernmental forestry conservation organization;

42 (c) At least one nonindustrial private forest landowner or a representative of an organization
43 that represents nonindustrial private forest landowners;

44 (d) One representative of the [State Department of Energy] **Oregon Office of Energy Planning**
45 **and Siting**;

1 (e) One representative of the State Department of Fish and Wildlife, or a designee of the State
2 Department of Fish and Wildlife;

3 (f) One representative of the Department of Environmental Quality, or a designee of the De-
4 partment of Environmental Quality;

5 (g) At least one representative from a qualified organization, as defined in ORS 469.503; and

6 (h) At least one representative from the State Forestry Department who shall serve as the sec-
7 retary to the advisory committee.

8 **SECTION 105.** Section 1, chapter 551, Oregon Laws 2007, is amended to read:

9 **Sec. 1.** The Legislative Assembly finds that in order to promote the use of energy-efficient out-
10 door lighting fixtures and to mitigate the light pollution caused by certain types of outdoor lighting
11 fixtures, local building officials should assess local ordinances relating to outdoor lighting, and the
12 [State Department of Energy] **Oregon Office of Energy Planning and Siting** should assess state
13 statutes and state building code provisions relating to outdoor lighting, for consistency and rele-
14 vance in accomplishing the strong regulation of outdoor lighting fixtures in this state.

15 **SECTION 106.** Section 2, chapter 551, Oregon Laws 2007, is amended to read:

16 **Sec. 2.** Upon a model lighting ordinance being made available to the public by the International
17 Dark-Sky Association and the Illuminating Engineering Society of North America, or their succes-
18 sors, the [State Department of Energy] **Oregon Office of Energy Planning and Siting** shall review
19 the model ordinance provisions that are relevant to outdoor lighting fixtures. The [department] **of-**
20 **office** shall publish a report containing findings and recommendations of the [department] **office** based
21 upon the review. The findings and recommendations may include, but need not be limited to:

22 (1) The relevance of the model ordinance for regulating outdoor lighting fixtures under the state
23 building code;

24 (2) The suitability of the technical regulations on outdoor lighting fixtures specified in the or-
25 dinance;

26 (3) The expected effectiveness that adoption of the model ordinance would have in reducing light
27 pollution from outdoor lighting fixtures and promoting the energy efficiency of outdoor lighting fix-
28 tures; and

29 (4) The desirability of promoting both state and local adoption of the model ordinance provisions
30 regarding outdoor lighting.

31 **SECTION 107.** Section 4, chapter 551, Oregon Laws 2007, is amended to read:

32 **Sec. 4.** Sections 1[,] and 2, chapter 551, Oregon Laws 2007, [and 3 of this 2007 Act] are re-
33 pealed January 2, 2012.

34 **SECTION 108.** Section 8a, chapter 739, Oregon Laws 2007, is amended to read:

35 **Sec. 8a.** The [State Department of Energy] **Oregon Office of Energy Planning and Siting** shall
36 periodically conduct an impact study of the biofuels program. The study will include but is not lim-
37 ited to the following criteria with respect to the biofuel sector in this state:

38 (1) Jobs created;

39 (2) Average wage rates for those jobs;

40 (3) The provision of health care and other benefits;

41 (4) The extent to which workforce training opportunities are being provided to employees;

42 (5) The number of acres of biofuel feedstock planted;

43 (6) The number of gallons of biofuel blended fuel produced and consumed in the state;

44 (7) The cost of fuel with biofuel blends and how that compares with the cost of petroleum fuel;

45 (8) Environmental impacts such as reductions in greenhouse gas emissions and other toxic air

1 pollution;

2 (9) The impact of biofuel feedstock production on the price of commodity crops and the cost of
3 food staples; and

4 (10) The extent to which Oregon producers import biofuel or biofuel feedstock from outside the
5 state.

6 **SECTION 109.** Section 37, chapter 865, Oregon Laws 2009, is amended to read:

7 **Sec. 37.** (1) As used in this section:

8 (a) "Comprehensive plan" has the meaning given that term in ORS 197.015.

9 (b) "Land use regulation" has the meaning given that term in ORS 197.015.

10 (c) "Metropolitan service district" means a metropolitan service district established under ORS
11 chapter 268.

12 (2)(a) Except as provided in subsection (5) of this section, on or before January 1, 2012, a met-
13 ropolitan service district, in accordance with rules adopted under subsection (6) of this section, shall
14 develop two or more alternative land use and transportation scenarios that accommodate planned
15 population and employment growth while achieving a reduction in greenhouse gas emissions from
16 motor vehicles with a gross vehicle weight rating of 10,000 pounds or less.

17 (b) A metropolitan service district, in accordance with rules adopted under subsection (8) of this
18 section, shall select, after public review and comment on the scenarios and in consultation with lo-
19 cal governments within the jurisdiction of the metropolitan service district, one scenario described
20 in paragraph (a) of this subsection as a part of its planning responsibilities under ORS 268.390.

21 (3) Except as provided in subsection (5) of this section, a local government within the jurisdic-
22 tion of the metropolitan service district shall amend its comprehensive plan and land use regulations
23 implementing the plan to be consistent with the scenario adopted by a metropolitan service district
24 in a manner provided by rules adopted under subsection (8) of this section.

25 (4)(a) The Department of Transportation and the Department of Land Conservation and Devel-
26 opment shall provide technical assistance and guidance for the land use and transportation scenar-
27 ios and local planning described in subsections (2) and (3) of this section.

28 (b) The Department of Transportation and the Department of Land Conservation and Develop-
29 ment shall provide grant support to each government entity required to carry out the provisions of
30 subsections (2) and (3) of this section in amounts sufficient to fully reimburse the entities for any
31 costs incurred in carrying out the provisions of subsections (2) and (3) of this section.

32 (c) The Department of Transportation and the Department of Land Conservation and Develop-
33 ment shall provide funds for rulemaking, technical assistance and grants under this section from
34 available funds.

35 (5) A metropolitan service district and local governments within the jurisdiction of the district
36 are not required to comply with subsections (2) and (3) of this section unless the district and local
37 governments receive sufficient funds for reimbursement of costs in carrying out the provisions of
38 subsections (2) and (3) of this section.

39 (6) On or before June 1, 2011, the Land Conservation and Development Commission, in consul-
40 tation with the Oregon Transportation Commission, shall adopt rules for metropolitan service dis-
41 tricts. The rules must identify each district's needed reduction by 2035 in those greenhouse gas
42 emissions caused by motor vehicles with a gross vehicle weight rating of 10,000 pounds or less,
43 based upon the goals stated in ORS 468A.205 and taking into consideration the reductions in vehicle
44 emissions that are likely to result by 2035 from the use of improved vehicle technologies and fuels.
45 On or before March 1, 2011, the Department of Transportation, the Department of Environmental

1 Quality and the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** shall
2 provide the Land Conservation and Development Commission with the information or projections
3 necessary to determine the proposed greenhouse gas emissions reduction goals for 2035.

4 (7) In order to carry out the responsibilities described in subsection (6) of this section:

5 (a) The Department of Transportation shall provide the Department of Environmental Quality
6 and the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** with an esti-
7 mate of the vehicle miles traveled in the metropolitan service district in 1990 by motor vehicles with
8 a gross vehicle weight rating of 10,000 pounds or less, based on available records;

9 (b) The Department of Transportation shall provide the Department of Environmental Quality
10 and the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** with an esti-
11 mate of the rate at which new vehicles will replace existing vehicles among the vehicles described
12 in paragraph (a) of this subsection;

13 (c) The Department of Environmental Quality and the [*State Department of Energy*] **Oregon**
14 **Office of Energy Planning and Siting** shall estimate the greenhouse gas emissions for 1990 for
15 each metropolitan service district resulting from the travel by motor vehicles described in paragraph
16 (a) of this subsection, using available records of the average emissions per mile emitted by motor
17 vehicles in 1990 and the estimates provided by the Department of Transportation under paragraph
18 (a) of this subsection;

19 (d) The Department of Environmental Quality and the [*State Department of Energy*] **Oregon**
20 **Office of Energy Planning and Siting** shall estimate the predicted average greenhouse gas emis-
21 sions by motor vehicles described in paragraph (a) of this subsection predicted to comprise the mo-
22 tor vehicles on the highways in 2035 based on the predicted rate of replacement of the vehicles as
23 described in paragraph (b) of this subsection and based on available reasonable estimates provided
24 by public or private entities of the improvements in vehicle technologies that will be available for
25 use by 2035;

26 (e) The Department of Environmental Quality and the [*State Department of Energy*] **Oregon**
27 **Office of Energy Planning and Siting** shall recommend to the Land Conservation and Development
28 Commission a percentage by which the emissions from motor vehicles described in paragraph (a) of
29 this subsection should be reduced below their estimated 1990 emission levels by 2035 in order to
30 achieve a reduction in emissions from the vehicles as part of the overall achievement of total carbon
31 reduction set for 2050 by ORS 468A.205 and shall explain their reasons for any recommendations
32 other than the midpoint between the 2020 and the 2050 emission reduction targets established by
33 ORS 468A.205;

34 (f) The Department of Environmental Quality and the [*State Department of Energy*] **Oregon Of-**
35 **ice of Energy Planning and Siting** shall calculate the estimated miles of travel by motor vehicles
36 described by paragraph (a) of this subsection predicted to be traveled and that may be accommo-
37 dated in 2035 in each metropolitan service district based on the estimates performed under para-
38 graphs (a) to (d) of this subsection and the recommendation required by paragraph (e) of this
39 subsection;

40 (g) The Department of Transportation, the Department of Environmental Quality and the [*State*
41 *Department of Energy*] **Oregon Office of Energy Planning and Siting** shall recommend to the Land
42 Conservation and Development Commission modeling tools or other methods by which a metropol-
43 itan service district may adjust the district's recommended target number of miles of travel de-
44 scribed in paragraph (f) of this subsection to account for additional greenhouse gas emissions
45 resulting from increased traffic congestion or reductions in such emissions resulting from measures

1 that reduce traffic congestion; and

2 (h) On or before March 1, 2011, the Department of Transportation, the Department of Environ-
3 mental Quality and the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting**
4 shall submit the information required by paragraphs (a) to (g) of this subsection to the Land Con-
5 servation and Development Commission, including but not limited to citations to sources relied on
6 and calculations made.

7 (8) On or before January 1, 2013, the Land Conservation and Development Commission, in con-
8 sultation with the Oregon Transportation Commission, shall adopt rules that establish a process for
9 cooperatively selecting a land use and transportation scenario for each metropolitan service district
10 to achieve the greenhouse gas emissions reductions identified in the rules adopted pursuant to sub-
11 section (6) of this section and a process for the adoption of regional or local plans to implement the
12 scenario. The rules shall:

13 (a) Identify minimum planning standards for achieving reductions in greenhouse gas emissions
14 through comprehensive plans and transportation system plans;

15 (b) Identify planning assumptions and approaches to meet minimum planning standards identified
16 in paragraph (a) of this subsection that ensure the Department of Land Conservation and Develop-
17 ment can approve the changes to the regional framework plan, comprehensive plans and land use
18 regulations implementing the comprehensive plans;

19 (c) Establish a cycle for initial adoption and updating of the transportation and land use sce-
20 nario required by this section, including planning periods beyond 2035, relating the cycle to periodic
21 review under ORS 197.628 to 197.650 and to urban growth boundary planning under ORS 197.296 or
22 197.298; and

23 (d) Ensure that local standards and criteria for land uses and for land development and trans-
24 portation plans that implement the scenarios selected under subsection (2)(b) of this section:

25 (A) Are contained in the amendments to regional framework plans, functional plans, compre-
26 hensive plans and land use regulations required by subsections (3) of this section; and

27 (B) Do not have the effect of preventing, discouraging or delaying the implementation of the
28 scenarios, except as necessary to protect the public health and safety.

29 (9) The Land Conservation and Development Commission may extend the deadline for adoption
30 of the rules required under subsection (6) of this section for up to 90 days if the commission deter-
31 mines that the extension will not delay a metropolitan service district's completion of land use and
32 transportation scenarios as described in subsection (2) of this section.

33 **SECTION 110.** Section 5, chapter 85, Oregon Laws 2010, is amended to read:

34 **Sec. 5.** (1) Except as provided in subsection (3) of this section, on or before June 1, 2011, the
35 Land Conservation and Development Commission, after consultation with and in cooperation with
36 the Oregon Transportation Commission, local governments and metropolitan planning organizations,
37 shall adopt rules identifying a reduction target for greenhouse gas emissions caused by motor vehi-
38 cles with a gross vehicle weight rating of 10,000 pounds or less to be met by each region served by
39 a metropolitan planning organization. The rules must reflect the greenhouse gas emissions reduction
40 goals set forth in ORS 468A.205 and must take into consideration the reductions in vehicle emissions
41 that are likely to result by 2035 from the use of improved vehicle technologies and fuels. The rules
42 must also take into consideration methods of equitably allocating reductions among the metropolitan
43 areas given differences in population growth rates. On or before March 1, 2011, the Department of
44 Transportation, the Department of Environmental Quality and the [*State Department of Energy*]
45 **Oregon Office of Energy Planning and Siting** shall provide the Land Conservation and Develop-

1 ment Commission with the information or projections necessary to determine the proposed
2 greenhouse gas emissions reduction target for 2035.

3 (2) In order for the Land Conservation and Development Commission to adopt rules pursuant to
4 subsection (1) of this section:

5 (a) The Department of Transportation shall provide the Department of Environmental Quality
6 and the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** with an esti-
7 mate of the vehicle miles traveled within the boundaries of each metropolitan planning organization
8 in 1990 by motor vehicles with a gross vehicle weight rating of 10,000 pounds or less, based on
9 available records.

10 (b) The Department of Transportation shall provide the Department of Environmental Quality
11 and the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** with an esti-
12 mate of the rate at which new vehicles will replace existing vehicles among the vehicles described
13 in paragraph (a) of this subsection.

14 (c) The Department of Environmental Quality and the [*State Department of Energy*] **Oregon**
15 **Office of Energy Planning and Siting** shall estimate the greenhouse gas emissions for 1990 for
16 each region served by a metropolitan planning organization resulting from the travel by motor ve-
17 hicles described in paragraph (a) of this subsection, using available records of the average emissions
18 per mile emitted by the motor vehicles in 1990 and the estimates provided by the Department of
19 Transportation under paragraph (a) of this subsection.

20 (d) The Department of Environmental Quality and the [*State Department of Energy*] **Oregon**
21 **Office of Energy Planning and Siting** shall estimate the average greenhouse gas emissions in 2035
22 emitted by motor vehicles described in paragraph (a) of this subsection. The estimate must take into
23 account the motor vehicles that the Department of Transportation predicts will have replaced ex-
24 isting vehicles as described in paragraph (b) of this subsection. The estimate must be based on
25 available reasonable data provided by public or private entities concerning the improvements in
26 vehicle technologies that will be available for use by 2035.

27 (e) The Department of Environmental Quality and the [*State Department of Energy*] **Oregon**
28 **Office of Energy Planning and Siting** shall recommend to the Land Conservation and Development
29 Commission a percentage by which the emissions from motor vehicles described in paragraph (a) of
30 this subsection need to be reduced below their 1990 emission levels by 2035 in order to achieve the
31 reduction in emissions from vehicles necessary to achieve the total greenhouse gas emissions re-
32 duction goals set for 2050 by ORS 468A.205.

33 (f) The Department of Environmental Quality and the [*State Department of Energy*] **Oregon Of-**
34 **ice of Energy Planning and Siting** shall calculate the estimated miles of travel by motor vehicles
35 described in paragraph (a) of this subsection that may be accommodated in 2035 by each region
36 served by a metropolitan planning organization based on the estimates performed under paragraphs
37 (a) to (d) of this subsection and the recommendation required by paragraph (e) of this subsection.

38 (g) The Department of Transportation, the Department of Environmental Quality and the [*State*
39 *Department of Energy*] **Oregon Office of Energy Planning and Siting** shall recommend to the Land
40 Conservation and Development Commission modeling tools or other methods that each region served
41 by a metropolitan planning organization may use to adjust its recommended number of miles of
42 travel as described in paragraph (f) of this subsection, to account for additional greenhouse gas
43 emissions resulting from increased traffic congestion or reductions in emissions resulting from
44 measures that reduce traffic congestion.

45 (h) On or before March 1, 2011, the Department of Transportation, the Department of Environ-

1 mental Quality and the [State Department of Energy] **Oregon Office of Energy Planning and Siting**
2 shall submit the information required by paragraphs (a) to (g) of this subsection to the Land Con-
3 servation and Development Commission, including but not limited to citations to sources relied on
4 and calculations made.

5 (3) Subsection (1) of this section does not apply to the region served by the metropolitan plan-
6 ning organization that serves Portland.

7
8 **PROVISIONS RELATING TO THE**
9 **OREGON BUSINESS DEVELOPMENT DEPARTMENT**

10
11 **(Subpoena Power for Tax Information)**

12
13 **SECTION 111.** (1) **The Director of the Oregon Business Development Department may**
14 **obtain all necessary information from a person claiming a tax credit under ORS 316.116 or**
15 **317.115 to carry out the director’s duties under ORS 469.160 to 469.180 or 469.185 to 469.225.**

16 (2) **In obtaining information under subsection (1) of this section, the director, with the**
17 **written consent of the Governor, may subpoena witnesses and relevant documents, accounts**
18 **and communications, administer oaths and cause the depositions of persons residing within**
19 **or without Oregon to be taken in the manner prescribed for depositions in civil actions in**
20 **circuit courts.**

21 (3) **In obtaining information under this section, the director:**

22 (a) **Shall avoid eliciting information already furnished by a person or political subdivision**
23 **in this state to a federal, state or local regulatory authority that is available to the director**
24 **for study; and**

25 (b) **Shall cause reporting procedures, including forms, to conform to existing require-**
26 **ments of federal, state and local regulatory authorities.**

27 (4) **Any person who is served with a subpoena to give testimony orally or in writing or**
28 **to produce documents, accounts or communications required under this section may apply**
29 **to any circuit court in Oregon for protection against abuse or hardship in the manner pro-**
30 **vided in ORCP 36 C.**

31
32 **(Conforming Amendments)**

33
34
35 **SECTION 112.** ORS 192.502, as amended by section 15, chapter 76, Oregon Laws 2010, is
36 amended to read:

37 192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

38 (1) Communications within a public body or between public bodies of an advisory nature to the
39 extent that they cover other than purely factual materials and are preliminary to any final agency
40 determination of policy or action. This exemption shall not apply unless the public body shows that
41 in the particular instance the public interest in encouraging frank communication between officials
42 and employees of public bodies clearly outweighs the public interest in disclosure.

43 (2) Information of a personal nature such as but not limited to that kept in a personal, medical
44 or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the
45 public interest by clear and convincing evidence requires disclosure in the particular instance. The

1 party seeking disclosure shall have the burden of showing that public disclosure would not consti-
2 tute an unreasonable invasion of privacy.

3 (3) Public body employee or volunteer addresses, Social Security numbers, dates of birth and
4 telephone numbers contained in personnel records maintained by the public body that is the em-
5 ployer or the recipient of volunteer services. This exemption:

6 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-
7 unteers who are elected officials, except that a judge or district attorney subject to election may
8 seek to exempt the judge's or district attorney's address or telephone number, or both, under the
9 terms of ORS 192.445;

10 (b) Does not apply to employees or volunteers to the extent that the party seeking disclosure
11 shows by clear and convincing evidence that the public interest requires disclosure in a particular
12 instance;

13 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-
14 fessional education association of which the substitute teacher may be a member; and

15 (d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

16 (4) Information submitted to a public body in confidence and not otherwise required by law to
17 be submitted, where such information should reasonably be considered confidential, the public body
18 has obliged itself in good faith not to disclose the information, and when the public interest would
19 suffer by the disclosure.

20 (5) Information or records of the Department of Corrections, including the State Board of Parole
21 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of
22 a person in custody of the department or substantially prejudice or prevent the carrying out of the
23 functions of the department, if the public interest in confidentiality clearly outweighs the public in-
24 terest in disclosure.

25 (6) Records, reports and other information received or compiled by the Director of the Depart-
26 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not
27 otherwise required by law to be made public, to the extent that the interests of lending institutions,
28 their officers, employees and customers in preserving the confidentiality of such information out-
29 weighs the public interest in disclosure.

30 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

31 (8) Any public records or information the disclosure of which is prohibited by federal law or
32 regulations.

33 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-
34 wise made confidential or privileged under Oregon law.

35 (b) Subject to ORS 192.423, paragraph (a) of this subsection does not apply to factual information
36 compiled in a public record when:

37 (A) The basis for the claim of exemption is ORS 40.225;

38 (B) The factual information is not prohibited from disclosure under any applicable state or fed-
39 eral law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.410
40 to 192.505;

41 (C) The factual information was compiled by or at the direction of an attorney as part of an
42 investigation on behalf of the public body in response to information of possible wrongdoing by the
43 public body;

44 (D) The factual information was not compiled in preparation for litigation, arbitration or an
45 administrative proceeding that was reasonably likely to be initiated or that has been initiated by

1 or against the public body; and

2 (E) The holder of the privilege under ORS 40.225 has made or authorized a public statement
3 characterizing or partially disclosing the factual information compiled by or at the attorney's di-
4 rection.

5 (10) Public records or information described in this section, furnished by the public body ori-
6 ginally compiling, preparing or receiving them to any other public officer or public body in con-
7 nection with performance of the duties of the recipient, if the considerations originally giving rise
8 to the confidential or exempt nature of the public records or information remain applicable.

9 (11) Records of the Energy Facility Siting Council concerning the review or approval of security
10 programs pursuant to ORS 469.530.

11 (12) Employee and retiree address, telephone number and other nonfinancial membership records
12 and employee financial records maintained by the Public Employees Retirement System pursuant to
13 ORS chapters 238 and 238A.

14 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the
15 agents of the treasurer or the council relating to active or proposed publicly traded investments
16 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or
17 liquidation of the investments. For the purposes of this subsection:

18 (a) The exemption does not apply to:

19 (A) Information in investment records solely related to the amount paid directly into an invest-
20 ment by, or returned from the investment directly to, the treasurer or council; or

21 (B) The identity of the entity to which the amount was paid directly or from which the amount
22 was received directly.

23 (b) An investment in a publicly traded investment is no longer active when acquisition, exchange
24 or liquidation of the investment has been concluded.

25 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the
26 Oregon Growth Account Board or the agents of the treasurer, council or board relating to actual
27 or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a
28 private asset including but not limited to records regarding the solicitation, acquisition, deployment,
29 exchange or liquidation of the investments including but not limited to:

30 (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership
31 or to their respective investment vehicles.

32 (B) Financial statements of an investment fund, an asset ownership or their respective invest-
33 ment vehicles.

34 (C) Meeting materials of an investment fund, an asset ownership or their respective investment
35 vehicles.

36 (D) Records containing information regarding the portfolio positions in which an investment
37 fund, an asset ownership or their respective investment vehicles invest.

38 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-
39 spective investment vehicles.

40 (F) Investment agreements and related documents.

41 (b) The exemption under this subsection does not apply to:

42 (A) The name, address and vintage year of each privately placed investment fund.

43 (B) The dollar amount of the commitment made to each privately placed investment fund since
44 inception of the fund.

45 (C) The dollar amount of cash contributions made to each privately placed investment fund since

1 inception of the fund.

2 (D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State
 3 Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the
 4 treasurer, council or board from each privately placed investment fund.

5 (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately
 6 placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment
 7 Council, the Oregon Growth Account Board or the agents of the treasurer, council or board.

8 (F) The net internal rate of return of each privately placed investment fund since inception of
 9 the fund.

10 (G) The investment multiple of each privately placed investment fund since inception of the fund.

11 (H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end
 12 basis to each privately placed investment fund.

13 (I) The dollar amount of cash profit received from each privately placed investment fund on a
 14 fiscal year-end basis.

15 (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the
 16 Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as
 17 exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

18 (16) Reports of unclaimed property filed by the holders of such property to the extent permitted
 19 by ORS 98.352.

20 (17)(a) The following records, communications and information submitted to the Oregon Business
 21 Development Commission, the Oregon Business Development Department, the State Department of
 22 Agriculture, the Oregon Growth Account Board, the Port of Portland or other ports, as defined in
 23 ORS 777.005, by applicants for investment funds, loans or services including, but not limited to,
 24 those described in ORS 285A.224:

25 (A) Personal financial statements.

26 (B) Financial statements of applicants.

27 (C) Customer lists.

28 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
 29 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
 30 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
 31 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
 32 ery or deposition statutes to a party to litigation or potential litigation.

33 (E) Production, sales and cost data.

34 (F) Marketing strategy information that relates to applicant's plan to address specific markets
 35 and applicant's strategy regarding specific competitors.

36 (b) The following records, communications and information submitted to the [*State Department*
 37 *of Energy*] **Oregon Business Development Department** by applicants for tax credits:

38 (A) Personal financial statements.

39 (B) Financial statements of applicants.

40 (C) Customer lists.

41 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
 42 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
 43 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
 44 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
 45 ery or deposition statutes to a party to litigation or potential litigation.

1 (E) Production, sales and cost data.

2 (F) Marketing strategy information that relates to applicant's plan to address specific markets
3 and applicant's strategy regarding specific competitors.

4 (18) Records, reports or returns submitted by private concerns or enterprises required by law
5 to be submitted to or inspected by a governmental body to allow it to determine the amount of any
6 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such
7 information is in a form which would permit identification of the individual concern or enterprise.
8 Nothing in this subsection shall limit the use which can be made of such information for regulatory
9 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-
10 payer of the delinquency immediately by certified mail. However, in the event that the payment or
11 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the
12 public body shall disclose, upon the request of any person, the following information:

13 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the
14 payment or delivery of the taxes.

15 (b) The period for which the taxes are delinquent.

16 (c) The actual, or estimated, amount of the delinquency.

17 (19) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-
18 pointed counsel, and all information supplied to the court from whatever source for the purpose of
19 verifying the financial eligibility of a person pursuant to ORS 151.485.

20 (20) Workers' compensation claim records of the Department of Consumer and Business Services,
21 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-
22 ness Services, in any of the following circumstances:

23 (a) When necessary for insurers, self-insured employers and third party claim administrators to
24 process workers' compensation claims.

25 (b) When necessary for the director, other governmental agencies of this state or the United
26 States to carry out their duties, functions or powers.

27 (c) When the disclosure is made in such a manner that the disclosed information cannot be used
28 to identify any worker who is the subject of a claim.

29 (d) When a worker or the worker's representative requests review of the worker's claim record.

30 (21) Sensitive business records or financial or commercial information of the Oregon Health and
31 Science University that is not customarily provided to business competitors.

32 (22) Records of Oregon Health and Science University regarding candidates for the position of
33 president of the university.

34 (23) The records of a library, including:

35 (a) Circulation records, showing use of specific library material by a named person;

36 (b) The name of a library patron together with the address or telephone number of the patron;
37 and

38 (c) The electronic mail address of a patron.

39 (24) The following records, communications and information obtained by the Housing and Com-
40 munity Services Department in connection with the department's monitoring or administration of
41 financial assistance or of housing or other developments:

42 (a) Personal and corporate financial statements and information, including tax returns.

43 (b) Credit reports.

44 (c) Project appraisals.

45 (d) Market studies and analyses.

- 1 (e) Articles of incorporation, partnership agreements and operating agreements.
- 2 (f) Commitment letters.
- 3 (g) Project pro forma statements.
- 4 (h) Project cost certifications and cost data.
- 5 (i) Audits.
- 6 (j) Project tenant correspondence.
- 7 (k) Personal information about a tenant.
- 8 (L) Housing assistance payments.
- 9 (25) Raster geographic information system (GIS) digital databases, provided by private forestland
- 10 owners or their representatives, voluntarily and in confidence to the State Forestry Department,
- 11 that is not otherwise required by law to be submitted.
- 12 (26) Sensitive business, commercial or financial information furnished to or developed by a
- 13 public body engaged in the business of providing electricity or electricity services, if the information
- 14 is directly related to a transaction described in ORS 261.348, or if the information is directly related
- 15 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
- 16 disclosure of the information would cause a competitive disadvantage for the public body or its re-
- 17 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
- 18 velopment or review of generally applicable rate schedules.
- 19 (27) Sensitive business, commercial or financial information furnished to or developed by the
- 20 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath
- 21 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085
- 22 and disclosure of the information would cause a competitive disadvantage for the Klamath
- 23 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-
- 24 ment or review of generally applicable rate schedules.
- 25 (28) Personally identifiable information about customers of a municipal electric utility or a
- 26 people's utility district or the names, dates of birth, driver license numbers, telephone numbers,
- 27 electronic mail addresses or Social Security numbers of customers who receive water, sewer or
- 28 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-
- 29 lease personally identifiable information about a customer, and a public body providing water, sewer
- 30 or storm drain services may release the name, date of birth, driver license number, telephone num-
- 31 ber, electronic mail address or Social Security number of a customer, if the customer consents in
- 32 writing or electronically, if the disclosure is necessary for the utility, district or other public body
- 33 to render services to the customer, if the disclosure is required pursuant to a court order or if the
- 34 disclosure is otherwise required by federal or state law. The utility, district or other public body
- 35 may charge as appropriate for the costs of providing such information. The utility, district or other
- 36 public body may make customer records available to third party credit agencies on a regular basis
- 37 in connection with the establishment and management of customer accounts or in the event such
- 38 accounts are delinquent.
- 39 (29) A record of the street and number of an employee's address submitted to a special district
- 40 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.
- 41 (30) Sensitive business records, capital development plans or financial or commercial information
- 42 of Oregon Corrections Enterprises that is not customarily provided to business competitors.
- 43 (31) Documents, materials or other information submitted to the Director of the Department of
- 44 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory
- 45 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates

1 or subsidiaries under ORS 86A.095 to 86A.198, 86A.990, 86A.992, 697.005 to 697.095, 697.602 to
 2 697.842, 705.137, 717.200 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank
 3 Act or the Insurance Code when:

4 (a) The document, material or other information is received upon notice or with an under-
 5 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of
 6 the document, material or other information; and

7 (b) The director has obligated the Department of Consumer and Business Services not to dis-
 8 close the document, material or other information.

9 (32) A county elections security plan developed and filed under ORS 254.074.

10 (33) Information about review or approval of programs relating to the security of:

11 (a) Generation, storage or conveyance of:

12 (A) Electricity;

13 (B) Gas in liquefied or gaseous form;

14 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

15 (D) Petroleum products;

16 (E) Sewage; or

17 (F) Water.

18 (b) Telecommunication systems, including cellular, wireless or radio systems.

19 (c) Data transmissions by whatever means provided.

20 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court des-
 21 ignates the information as confidential by rule under ORS 1.002.

22 (35)(a) Employer account records of the State Accident Insurance Fund Corporation.

23 (b) As used in this subsection, “employer account records” means all records maintained in any
 24 form that are specifically related to the account of any employer insured, previously insured or un-
 25 der consideration to be insured by the State Accident Insurance Fund Corporation and any infor-
 26 mation obtained or developed by the corporation in connection with providing, offering to provide
 27 or declining to provide insurance to a specific employer. “Employer account records” includes, but
 28 is not limited to, an employer’s payroll records, premium payment history, payroll classifications,
 29 employee names and identification information, experience modification factors, loss experience and
 30 dividend payment history.

31 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
 32 discovery documents in litigation pursuant to applicable rules of civil procedure.

33 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

34 (b) As used in this subsection, “claimant files” includes, but is not limited to, all records held
 35 by the corporation pertaining to a person who has made a claim, as defined in ORS 656.005, and all
 36 records pertaining to such a claim.

37 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
 38 discovery documents in litigation pursuant to applicable rules of civil procedure.

39 (37) Except as authorized by ORS 408.425, records that certify or verify an individual’s discharge
 40 or other separation from military service.

41 **SECTION 113.** ORS 223.396 is amended to read:

42 223.396. (1) As used in this section:

43 (a) “Energy improvements” means energy efficiency and renewable energy improvements to
 44 qualifying real property authorized by:

45 (A) A local government implementing a program established under subsection (2) of this section;

1 or

2 (B) The [*State Department of Energy*] **Oregon Business Development Department** for a loan
3 issued under subsection (9) of this section to a local government that establishes a program in co-
4 operation with a local government described in subparagraph (A) of this paragraph.

5 (b) “Local government” means cities and counties.

6 (c) “Qualifying real property” means single-family or multifamily residential dwellings or com-
7 mercial or industrial buildings that the local government has determined can be benefited by energy
8 improvements.

9 (2) Subject to subsection (3) of this section, a local government may establish a program to make
10 loans to owners of record of qualifying real property for the purpose of paying for cost-effective
11 energy improvements to the qualifying real property financed with the net proceeds and interest
12 earnings of revenue bonds authorized by this section.

13 (3) Before establishing a program under this section, the local government shall provide notice
14 to utilities that distribute electric energy or natural gas within the areas in which the local gov-
15 ernment will operate the program.

16 (4) A local government that establishes a program under this section may:

17 (a) Require performance of an energy audit on the qualifying real property before the local
18 government approves a loan for energy improvements to the property;

19 (b) Impose requirements intended to ensure that the loan is consistent with the purpose of the
20 program; and

21 (c) Impose requirements and conditions on loans that are designed to ensure timely repayment
22 of the loans.

23 (5) If the owner of record of qualifying real property requests a loan under this section, the local
24 government implementing the program may:

25 (a) Enter into a loan agreement with the owner, and any other person benefited by the loan, in
26 a principal amount sufficient to pay:

27 (A) The costs of energy improvements the local government determines will benefit the qualify-
28 ing real property and the borrowers;

29 (B) The costs of the energy audit; and

30 (C) The costs and reserves of the program.

31 (b) Charge the borrower an interest rate on the principal amount that is sufficient to pay the
32 financing costs of the program, including loan delinquencies.

33 (c) Charge periodic fees to pay for program costs.

34 (6) The local government implementing the program that lends money for qualifying real prop-
35 erty may:

36 (a) Secure the loan with a lien on the benefited qualifying real property in the manner and with
37 the same priority as a lien for assessments for local improvements authorized by ORS 223.393.

38 (b) Assess the benefited qualifying real property for the amounts due under a loan agreement.

39 (c) Enforce a lien and collect an assessment authorized by this section as provided in ORS
40 223.505 to 223.650.

41 (d) Secure a loan in any other manner that the local government determines is reasonable.

42 (7) In lieu of enforcing liens and collecting assessments as provided in subsection (6) of this
43 section, a local government may certify the assessment, in the manner provided in ORS 310.060, to
44 the county assessor of each county in which benefited qualifying real property is located. If the as-
45 sessments are certified as provided in this subsection, the county assessor shall:

1 (a) Enter the assessment upon the county assessment roll against the property described in the
 2 certificate, in the manner that other local government assessments are entered;

3 (b) Collect, account for and enforce the assessments in the manner that local government taxes
 4 are collected, accounted for and enforced; and

5 (c) Transfer, as provided by law, the assessments collected to the local government that imposed
 6 the assessment.

7 (8) A local government may issue revenue bonds pursuant to ORS 287A.150 to finance program
 8 costs, including the costs of making loans for energy improvements.

9 (9) The [*State Department of Energy*] **Oregon Business Development Department** may lend
 10 money under the provisions of ORS 470.060 to 470.080 and 470.090 to a local government that es-
 11 tablishes a program under this section in cooperation with a local government implementing a pro-
 12 gram under this section.

13 **SECTION 114.** ORS 285A.070 is amended to read:

14 285A.070. (1) The Oregon Business Development Department is established.

15 (2) The department shall be under the supervision of the Director of the Oregon Business De-
 16 velopment Department, who shall be appointed by and shall hold office at the pleasure of the Gov-
 17 ernor.

18 (3) The appointment of the director shall be subject to confirmation by the Senate in the manner
 19 provided by ORS 171.562 and 171.565.

20 (4) Subject to policy direction by the Oregon Business Development Commission, the director
 21 shall:

22 (a) Be the administrative head of the department;

23 (b) Administer the laws of the state relating to economic development; and

24 (c) Intervene, as authorized by the commission, pursuant to the rules of practice and procedure,
 25 in the proceedings of state and federal agencies that may substantially affect economic development
 26 within Oregon.

27 (5) In addition to duties otherwise required by law, and subject to policy direction by the com-
 28 mission, the director shall prescribe rules for the government of the department, the conduct of its
 29 employees, the assignment and performance of its business and the custody, use and preservation
 30 of its records, papers and property, based on best managerial practices as determined by the director
 31 and in a manner consistent with applicable law.

32 (6) The director shall organize the department in whatever manner the director considers nec-
 33 essary to conduct the work of the department efficiently and effectively, subject to approval by the
 34 commission.

35 (7) The director may appoint all subordinate officers and employees of the department and may
 36 prescribe their duties, assignments and reassignments and fix their compensation, subject to any
 37 applicable provisions of the State Personnel Relations Law. Subject to any other applicable law
 38 regulating travel expenses, the officers and employees of the department shall be allowed such rea-
 39 sonable and necessary travel and other expenses as may be incurred in the performance of their
 40 duties.

41 (8) The director may delegate the exercise or discharge of any power, duty or function that is
 42 vested in or imposed by law upon the director to any department employee for the purpose of con-
 43 ducting an official act in the name of the director. The official act of any person acting in the name
 44 of the director by the authority of the director is an official act of the director.

45 (9) The director may require a fidelity bond of any officer or employee of the department who

1 has charge of, handles or has access to any state money or property, and who is not otherwise re-
 2 quired by law to give a bond. The director shall fix the amount of the bond, except as otherwise
 3 provided by law, and approve the sureties. The department shall pay the premiums on the bond.

4 **(10) An individual who has been appointed director under this section may not, within two**
 5 **years after the individual ceases to be the director, be an employee of:**

6 **(a) An owner or operator of an energy facility as defined in ORS 469.020; or**

7 **(b) A person that engages in the sale or manufacture of any energy resource or of any**
 8 **major component of an energy facility.**

9 ~~[(10)]~~ (11) The commission shall report periodically to the Governor on the director's perform-
 10 ance and make appropriate recommendations.

11 **SECTION 115.** ORS 285A.075 is amended to read:

12 285A.075. (1) The Oregon Business Development Department shall:

13 (a) Implement programs and adopt rules in accordance with applicable provisions of ORS chap-
 14 ter 183 that are consistent and necessary to carry out the policies established by the Oregon Busi-
 15 ness Development Commission and the duties, functions and powers vested by law in the department.

16 (b) Act as the official state liaison agency for persons interested in locating industrial or busi-
 17 ness firms in the state and for state and local groups seeking new industry or business, and maintain
 18 the confidentiality of negotiations conducted pursuant to this paragraph, if requested.

19 (c) Coordinate state and federal economic and community development programs.

20 (d) Actively recruit domestic and international business firms to those communities desiring
 21 business recruitment.

22 (e) Work with existing Oregon companies to assist in their expansion or help them retain jobs
 23 in the state.

24 (f) Consult with local governments to establish regions for the purpose of job development to
 25 facilitate economic activities in the region. Regions established for this purpose need not be of the
 26 same size in geographic area or population.

27 (g) Establish and operate foreign trade offices in foreign countries in which the department
 28 considers a foreign trade office necessary. The department shall use department employees, con-
 29 tracts with public or private persons or a combination of employees and contractors to establish and
 30 operate foreign trade offices. Department employees, including managers, who are assigned to work
 31 in a foreign trade office shall be in the unclassified service, and the director shall set the salaries
 32 of such employees. ORS 276.428, 279A.120, 279A.140, 279A.155, 279A.275, 279B.025, 279B.235,
 33 279B.270, 279B.280, 279C.370, 279C.500 to 279C.530, 279C.540, 279C.545, 279C.800 to 279C.870,
 34 282.020, 282.050, 282.210, 282.220, 282.230, 283.140, 459A.475, 459A.490, 653.268 and 653.269 do not
 35 apply to the department's operation of foreign trade offices outside the state.

36 (h) Consult with other state agencies and with local agencies and officials prior to defining or
 37 designating distressed areas for purposes of ORS 285A.020.

38 (i) Budget moneys for travel and various other expenses of industrial or commercial site location
 39 agents, film or video production location agents, business journal writers, elected state officials or
 40 other state personnel to accomplish the purposes of ORS 284.101 to 284.146 and ORS chapters 285A,
 41 285B and 285C. The department may expend moneys duly budgeted to pay the travel and other ex-
 42 penses of such persons if the director determines the expense may promote the purposes of this
 43 subsection.

44 (j) Promulgate rules to govern contracts.

45 (k) Develop strategies to address issues that are necessary and appropriate to Oregon's future

1 and adopt goals that include measurable indicators of success (Oregon benchmarks) that show the
2 extent to which each goal is being achieved.

3 (L) Use practices and procedures that the department determines are the best practices for
4 carrying out the duties of the department.

5 **(m) Apply for, accept and disburse or utilize private or federal moneys or services avail-**
6 **able for the administration of ORS 469.160 to 469.180 and 469.185 to 469.225.**

7 *[(2) The department shall have no regulatory power over the activities of private persons. Its*
8 *functions shall be solely advisory, coordinative and promotional.]*

9 [(3)] (2) Notwithstanding ORS 279A.140, the department may award grants or enter into con-
10 tracts as necessary or appropriate to carry out the duties, functions and powers vested in the de-
11 partment by law.

12 **SECTION 115a.** ORS 759.405 is amended to read:

13 759.405. (1) A telecommunications carrier may elect to be subject to this section and ORS
14 759.410. The telecommunications carrier shall notify, in writing, the Public Utility Commission of its
15 election. Such election shall be effective 30 days after the written notification is received by the
16 Public Utility Commission. A telecommunications carrier that elects to be subject to this section
17 and ORS 759.410 shall be subject to the infrastructure investment and price regulation requirements
18 of this section and ORS 759.410 and shall not be subject to any other regulation based on earnings,
19 rates or rate of return.

20 (2) A telecommunications carrier that elects to be subject to this section and ORS 759.410 shall
21 establish in its accounts a Telecommunications Infrastructure Account. The telecommunications
22 carrier shall commit to its Telecommunications Infrastructure Account over a four-year period
23 amounts totaling 20 percent of the telecommunications carrier's gross regulated intrastate revenue
24 for the calendar year immediately prior to the year the telecommunications carrier elects to be
25 subject to this section and ORS 759.410. Of the total committed amount, 30 percent shall be credited
26 to and made available for the purposes of the electing carrier's account on the date the telecom-
27 munications carrier's election becomes effective. An electing telecommunications carrier shall credit
28 an equal amount on the same date in the next following year. The electing carrier shall credit to
29 its Telecommunications Infrastructure Account an amount equal to 20 percent of the total commit-
30 ted amount on the same date in each of the next following two years.

31 (3)(a) A telecommunications carrier that elects to be subject to this section and ORS 759.410
32 shall expend the moneys in the telecommunications carrier's Telecommunications Infrastructure
33 Account on a plan or plans approved by the Oregon Business Development Commission under ORS
34 759.430. Subject to paragraphs (c) and (d) of this subsection, the total amount of capital and other
35 expenses associated with completing the projects shall equal the total amount of moneys available
36 in the account.

37 (b) Moneys in the account shall be used primarily to ensure that rural and urban Oregonians
38 have improved access to telecommunications technology and services. Expenditures from the ac-
39 count shall be used for investment in telecommunications infrastructure and deployment of new and
40 advanced telecommunications services.

41 (c)(A) Within 120 days following the effective date of a telecommunications carrier's election to
42 be regulated under this section and ORS 759.410, but not later than January 1 of the year following
43 the effective date of a telecommunications carrier's election, and on the same date in each of the
44 next following three years, a telecommunications carrier serving less than one million access lines
45 in Oregon shall transfer 40 percent of the moneys most recently credited to its Telecommunications

1 Infrastructure Account to the Connecting Oregon Communities Fund established under ORS 759.445.

2 (B) Within 120 days following the effective date of a telecommunications carrier's election to
3 be regulated under this section and ORS 759.410, but not later than January 1 of the year following
4 the effective date of a telecommunications carrier's election, and on the same date in the next fol-
5 lowing year, a telecommunications carrier serving one million or more access lines in Oregon shall
6 transfer 70 percent of the moneys most recently credited to its Telecommunications Infrastructure
7 Account to the Connecting Oregon Communities Fund established under ORS 759.445.

8 (d) [*Notwithstanding ORS 285A.075 (2)*,] If the Oregon Business Development Commission deter-
9 mines, following notice and a public hearing, that the telecommunications carrier is not complying
10 with plans or plan modifications approved under ORS 759.430, following notice to the telecommuni-
11 cations carrier and reasonable opportunity to cure any noncompliance, the Oregon Business Devel-
12 opment Commission may require the telecommunications carrier to transfer any or all moneys
13 remaining in the carrier's Telecommunications Infrastructure Account, and any future amounts
14 credited to the account, to the Connecting Oregon Communities Fund established under ORS
15 759.445.

16 (4) Nothing in this section affects the authority of a city or municipality to manage the public
17 rights of way or to require fair and reasonable compensation from a telecommunications carrier, on
18 a competitively neutral and nondiscriminatory basis, under ORS 221.420, 221.450, 221.510 and
19 221.515.

20 **SECTION 115b.** ORS 759.430 is amended to read:

21 759.430. (1)(a) [*Notwithstanding ORS 285A.075 (2)*,] The Oregon Business Development Commis-
22 sion shall approve plans and plan modifications for projects funded by a telecommunications
23 carrier's Telecommunications Infrastructure Account established under ORS 759.405. Projects funded
24 from a telecommunications carrier's Telecommunications Infrastructure Account shall be completed
25 by the carrier and shall be substantially for the benefit of the carrier's customers. Plans approved
26 by the commission must be consistent with the purpose of the fund as described in ORS 759.405. The
27 commission shall give priority to projects that provide increased bandwidth between communities,
28 route diversity and access to advanced telecommunications services in an expedited manner. The
29 commission shall seek to ensure that an approved project is the most technically appropriate means
30 of addressing the circumstances presented in a project plan. The commission shall review recom-
31 mendations and analysis from the Connecting Oregon Communities Advisory Board established in
32 subsection (2) of this section prior to approving a plan. Project plans may be submitted by local
33 communities including but not limited to local governments, community institutions, citizen groups,
34 public and private educational institutions and business groups.

35 (b) Under the policies and guidance of the commission, the Oregon Business Development De-
36 partment shall adopt rules for the submission of project plans by telecommunications carriers and
37 other persons, including criteria for approval of such plans. The rules shall include criteria to de-
38 termine if the telecommunications carrier reasonably should be expected to make the investment
39 based on an economic analysis of the project. Projects that are determined to meet the criteria but
40 are not economically self-supporting or would not be undertaken in the time frame proposed shall
41 be given priority over similar projects that would be economically self-supporting or likely would
42 be completed in the time frame proposed. The rules shall provide for review of the economic benefits
43 of the proposed plan to the affected community and the potential for the proposed plan to leverage
44 other funding sources including but not limited to federal, state and private sources.

45 (c) The commission also shall approve expenditures from the Public Access Account of the

1 Connecting Oregon Communities Fund established in ORS 759.445 (4).

2 (2) There is established within the Oregon Business Development Department the Connecting
3 Oregon Communities Advisory Board consisting of five members appointed by the commission. The
4 commission shall seek advice from the Governor prior to making an appointment to the advisory
5 board.

6 (3) There shall be one member of the advisory board from each of the following areas:

7 (a) Eastern Oregon, including Hood River County;

8 (b) Central Oregon;

9 (c) Southern Oregon;

10 (d) Coastal Oregon; and

11 (e) The Willamette Valley.

12 (4) Employees of the Public Utility Commission, employees of state or local government who are
13 responsible for purchasing telecommunications services or equipment and employees of a telecom-
14 munications carrier may not be appointed to the advisory board.

15 (5) The advisory board shall select one of its members as chairperson and another of its mem-
16 bers as vice chairperson, for such terms and with duties and powers necessary for the performance
17 of the functions of those offices as the board determines.

18 (6) The purpose of the advisory board is to review and make recommendations to the Oregon
19 Business Development Commission for approval of and modifications to projects funded by a tele-
20 communications carrier's Telecommunications Infrastructure Account under this section and ORS
21 759.405. The advisory board shall seek advice and comment on plans submitted by a telecommuni-
22 cations carrier from affected local communities including but not limited to local governments, citi-
23 zens and businesses. The advisory board also shall seek advice and comment from state and federal
24 agencies when appropriate to ensure that investments will maximize statewide public benefits and
25 are consistent with the needs and desires of the local communities. The advisory board shall con-
26 sider the needs of and impact on education, health care, economic development and the delivery of
27 state and local governmental services when evaluating a plan.

28 (7) The advisory board also shall review proposals submitted to the commission under ORS
29 759.445 (5) and make recommendations to the commission regarding approval, modification or denial
30 of the proposals.

31 (8) The advisory board shall make an annual report to the Joint Legislative Committee on In-
32 formation Management and Technology on the plans and activities funded under ORS 759.405 and
33 759.445 (5).

34 (9)(a) Reasonable expenses incurred by the members of the advisory board in the performance
35 of their duties, costs of the Oregon Business Development Department directly related to providing
36 staff to the advisory board and costs to the department for providing technical assistance to local
37 communities shall be paid out of the Telecommunications Infrastructure Accounts created under
38 ORS 759.405.

39 (b) Following the transfer of funds required under ORS 759.405 (2) and (3), a telecommunications
40 carrier that elects to be subject to regulation under ORS 759.405 and 759.410 shall transfer from the
41 remaining funds in its Telecommunications Infrastructure Account the following amounts to the
42 Oregon Business Development Department to be used for the payment of expenses described in
43 paragraph (a) of this subsection:

44 (A) \$575,000 in 2000;

45 (B) \$325,000 in 2001;

1 (C) \$325,000 in 2002; and

2 (D) \$325,000 in 2003.

3 (c) If more than one telecommunications carrier elects to be subject to regulation under ORS
4 759.405 and 759.410, the funding requirements described in paragraph (b) of this subsection shall be
5 distributed pro rata among the electing carriers.

6 **SECTION 116.** ORS 286A.630 is amended to read:

7 286A.630. (1) The Legislative Assembly finds that the American Recovery and Reinvestment Act
8 of 2009 (P.L. 111-5) provides that the State of Oregon may receive, allocate and reallocate the au-
9 thority to issue certain kinds of state and local government bonds that qualify for tax credits, fed-
10 eral subsidies or exclusion of bond interest from gross income under the United States Internal
11 Revenue Code of 1986, as amended.

12 (2) As described in subsections (3) to [(6)] (5) of this section, state agencies and the Private
13 Activity Bond Committee may allocate and reallocate or take any additional actions that are desir-
14 able to maximize the benefits of bonding programs created or expanded by the American Recovery
15 and Reinvestment Act of 2009 (P.L. 111-5).

16 (3) The Department of Education, with the approval of the Governor, may allocate, reallocate
17 and otherwise manage this state's qualified school construction bonding authority.

18 (4) The Oregon Business Development Department may allocate, reallocate and otherwise man-
19 age [*this state's recovery zone economic development bonding authority and this state's recovery zone*
20 *facility bonding authority*] **this state's recovery zone economic development bonding authority,**
21 **this state's recovery zone facility bonding authority and this state's qualified energy con-**
22 **servation bonding authority.**

23 [(5) *The State Department of Energy may allocate, reallocate and otherwise manage this state's*
24 *qualified energy conservation bonding authority.*]

25 [(6)] (5) The Private Activity Bond Committee may allocate, reallocate and otherwise manage
26 any bonding authority that is created or expanded by the American Recovery and Reinvestment Act
27 of 2009 (P.L. 111-5) if that responsibility is not assigned to a state agency by this section, or if an
28 agency that is assigned that responsibility requests the Private Activity Bond Committee to allocate
29 that authority on behalf of that agency.

30 [(7)] (6) The Department of Education, the Oregon Business Development Department[, *the State*
31 *Department of Energy*] and the Private Activity Bond Committee may adopt rules to implement the
32 provisions of this section including, but not limited to, rules prescribing:

33 (a) Application processes and requirements to receive a subsequent allocation or reallocation;

34 (b) Standards upon which an allocation or reallocation may be based; and

35 (c) Any conditions that must be met to receive an allocation or reallocation of the bonding au-
36 thority or to receive the benefits of such bonding authority.

37 **SECTION 117.** ORS 291.445 is amended to read:

38 291.445. (1) Before July 1 of each fiscal year, the Oregon Department of Administrative Services
39 shall request from the appropriate state agency a certificate as prescribed in this section. The re-
40 quest shall be made by letter to the agency.

41 (2) Each state agency authorized to issue general obligation bonds that are ordinarily to be re-
42 paid from other than General Fund appropriations shall, on or before August 15 of each fiscal year:

43 (a) Certify to the Director of the Oregon Department of Administrative Services that the
44 amounts available or that will become available during the current year to the bond program debt
45 service fund to pay bond principal and interest that has accrued or will accrue during the current

1 year are sufficient and will be sufficient to pay bond program principal and interest scheduled for
 2 payment during the current year; or

3 (b) Certify to the Director of the Oregon Department of Administrative Services that the
 4 amounts available or that will become available during the current year to the bond program debt
 5 service fund will not be sufficient to pay bond program principal and interest scheduled for payment
 6 during the current year. A certificate issued under this paragraph shall specify the amount of the
 7 anticipated current year deficit. The Director of the Oregon Department of Administrative Services
 8 shall review and confirm the correctness of each certification made under this paragraph.

9 (3) On or before August 15 of each fiscal year, the administrative division of the Oregon De-
 10 partment of Administrative Services that has primary responsibility for accounting for each general
 11 obligation bond program in which the bond principal and interest is ordinarily to be repaid from
 12 General Fund appropriations shall:

13 (a) Certify to the Director of the Oregon Department of Administrative Services that the
 14 amounts available or that will become available during the current year from General Fund appro-
 15 priations to defray program bond principal and interest that has accrued or will accrue during the
 16 current year are sufficient and will be sufficient to pay program bond principal and interest sched-
 17 uled for payment during the current year; or

18 (b) Certify to the Director of the Oregon Department of Administrative Services that the
 19 amounts available or that will become available during the current year from General Fund appro-
 20 priations will not be sufficient to pay program bond principal and interest scheduled for payment
 21 during the current year. A certificate issued under this paragraph shall specify the amount of the
 22 anticipated current year deficit.

23 (4)(a) If a deficit in funds available to pay principal and interest in any general obligation bond
 24 program is certified and confirmed under subsection (2) or certified under subsection (3) of this
 25 section, the amount of the deficit, together with any deficit that is certified for any other general
 26 obligation bond program shall upon certification constitute a state tax levy on property that shall
 27 be apportioned among and charged to the several counties in that proportion which the total as-
 28 sessed value of all the taxable property in each county bears to the total assessed value of all the
 29 taxable property of the state as equalized.

30 (b) If any agency fails to make the certification under subsection (2) or (3) of this section with
 31 respect to any general obligation bond fund program, the Oregon Department of Administrative
 32 Services shall determine the amount of revenue and other funds that are available and the amount
 33 of taxes, if any, that should be levied in addition to the revenues and funds, to pay bond principal
 34 and interest under the program for the fiscal year in question. The additional amount so determined
 35 shall thereupon constitute a state tax levy on property that shall be apportioned, certified, collected
 36 and distributed as if determined and certified as a deficit by the agency. The Oregon Department
 37 of Administrative Services shall charge the agency for cost recovery for time spent on that agency's
 38 behalf.

39 (5) Immediately after the department has determined the amount of a state tax levy on property
 40 in accordance with subsection (4) of this section, a certificate of levy, signed by the director of the
 41 department, shall be filed in the office of the department. If no state levy is required for the fiscal
 42 or tax year, a certificate so stating and signed by the director shall be filed in the office of the de-
 43 partment.

44 (6) If, for any reason, after the close of any regular biennial session of the Legislative Assembly,
 45 it becomes necessary to reduce General Fund appropriations, General Fund appropriations for a debt

1 service fund of a general obligation bond program described under subsection (3) of this section may
2 not be reduced.

3 (7) For purposes of this section:

4 (a) State agencies that are authorized to issue general obligation bonds ordinarily to be repaid
5 from other than General Fund appropriations include but are not limited to:

6 (A) The Director of Veterans' Affairs, as authorized by Article XI-A of the Oregon Constitution
7 and ORS chapter 407 (veterans loans).

8 (B) The State Board of Higher Education, as authorized by Article XI-F(1) of the Oregon Con-
9 stitution and ORS 351.350 (building projects).

10 (C) The Department of Environmental Quality, as authorized by Article XI-H of the Oregon
11 Constitution and ORS 468.195 to 468.260 (pollution control).

12 (D) The Water Resources Commission and the Water Resources Director, as authorized by Ar-
13 ticle XI-I(1) of the Oregon Constitution and ORS 541.700 to 541.855 (water development).

14 (E) The Housing and Community Services Department, as authorized by Article XI-I(2) of the
15 Oregon Constitution and ORS 456.515 to 456.725 and 458.505 to 458.515 (housing).

16 (F) The Director of the [*State Department of Energy*] **Oregon Business Development Depart-**
17 **ment**, as authorized by Article XI-J of the Oregon Constitution and ORS 470.220 to 470.290 (small
18 scale energy projects).

19 (G) Other agencies as required by the Oregon Department of Administrative Services by rule
20 adopted using the criterion of this subsection.

21 (b) Each agency authorized to issue general obligation bonds that are ordinarily to be repaid
22 from other than General Fund appropriations shall determine the amount of revenues or other funds
23 that are available and the amount of taxes, if any, that should be levied for the ensuing year in the
24 manner required under rules adopted by the Oregon Department of Administrative Services and
25 make the certification required under subsection (2) of this section.

26 (8)(a) State agencies that are authorized to issue general obligation bonds that are ordinarily to
27 be repaid from General Fund appropriations include but are not limited to:

28 (A) The State Board of Forestry and the State Forester, as authorized by Article XI-E of the
29 Oregon Constitution and ORS 530.210 to 530.280 (state reforestation).

30 (B) The State Board of Higher Education, as authorized by Article XI-G of the Oregon Consti-
31 tution and ORS 351.345 (higher education and community colleges).

32 (C) Other agencies as required by the Oregon Department of Administrative Services by rule
33 adopted using the criterion of this subsection.

34 (b) Each agency authorized to issue general obligation bonds ordinarily to be repaid from Gen-
35 eral Fund appropriations shall furnish any data required by the Oregon Department of Administra-
36 tive Services to determine the amount of revenues or other funds that are available and the amount
37 of taxes, if any, that should be levied for the ensuing year and the administrative division of the
38 Oregon Department of Administrative Services that has primary responsibility for accounting shall
39 make the determination for purposes of the making of the certification required under subsection (3)
40 of this section.

41 **SECTION 118.** ORS 315.354, as amended by section 3, chapter 76, Oregon Laws 2010, is
42 amended to read:

43 315.354. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if
44 the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of the
45 facility during the period for which that facility is certified under ORS 469.185 to 469.225. The credit

1 is allowed as follows:

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

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

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

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

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

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

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

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

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

26 (b) The facility must have received final certification from the Director of the [*State Department*
27 *of Energy*] **Oregon Business Development Department** under ORS 469.185 to 469.225;

28 (c) The taxpayer must be an eligible applicant under ORS 469.205 (1)(c); and

29 (d) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for electric
30 plug-in charging, it must be purchased before January 1, 2010.

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

33 (a) 50 percent of the certified cost of a renewable energy resources facility, a renewable energy
34 resource equipment manufacturing facility or a high-efficiency combined heat and power facility;

35 (b) \$9,000 per single-family dwelling for homebuilder-installed renewable energy systems;

36 (c) \$12,000 per single-family dwelling for homebuilder-installed renewable energy systems, if the
37 dwelling also constitutes a high-performance home; or

38 (d) 35 percent of the certified cost of any other facility.

39 (5)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the
40 facility, notice thereof shall be given to the Director of the [*State Department of Energy*] **Oregon**
41 **Business Development Department**, who shall revoke the certificate covering the facility as of
42 the date of such disposition.

43 (b) The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new cer-
44 tificate under ORS 469.215. The new lessor or owner must meet the requirements of ORS 469.185 to
45 469.225 and may claim a tax credit under this section only if all moneys owed to the State of Oregon

1 have been paid, the facility continues to operate, unless continued operation is waived by the [State
2 *Department of Energy*] **Oregon Business Development Department**, and all conditions in the final
3 certification are met. The tax credit available to the new owner shall be limited to the amount of
4 credit not claimed by the former owner or, for a new lessor, the amount of credit not claimed by the
5 lessor under all previous leases.

6 (c) The [State *Department of Energy*] **department** may not revoke the certificate covering a fa-
7 cility under paragraph (a) of this subsection if the tax credit associated with the facility has been
8 transferred to a taxpayer who is an eligible applicant under ORS 469.205 (1)(c)(A).

9 (d) A transferee holding a credit that has been transferred under ORS 469.206 or 469.208 may
10 not claim the tax credit under this section for any tax year prior to the tax year in which the
11 transferee obtained the credit.

12 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
13 particular year may be carried forward and offset against the taxpayer's tax liability for the next
14 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried
15 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
16 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,
17 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
18 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be
19 carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that
20 fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and
21 likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in
22 the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax
23 year may be carried forward and used in the eighth succeeding tax year, but may not be carried
24 forward for any tax year thereafter. Credits may be carried forward to and used in a tax year be-
25 yond the years specified in subsection (1) of this section only as provided in this subsection.

26 (7) The credit provided by this section is not in lieu of any depreciation or amortization de-
27 duction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter
28 316, 317 or 318 for such year.

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

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

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

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

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

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

40 **SECTION 119.** ORS 315.356 is amended to read:

41 315.356. (1) If a taxpayer obtains a grant from the federal government in connection with a fa-
42 cility that has been certified by the Director of the [State *Department of Energy*] **Oregon Business**
43 **Development Department**, the certified cost of the facility shall be reduced on a dollar for dollar
44 basis. Any income or excise tax credits that the taxpayer would be entitled to under ORS 315.354
45 and 469.185 to 469.225 after any reduction described in this subsection may not be reduced by the

1 federal grant. A taxpayer applying for a federal grant shall notify the Department of Revenue by
 2 certified mail within 30 days after each application, and after the receipt of any grant.

3 (2) A taxpayer is eligible to participate in both this tax credit program and low interest,
 4 government-sponsored loans.

5 (3) A taxpayer who receives a tax credit or property tax relief on a pollution control facility
 6 or an alternative energy device under ORS 307.405, 315.304 or 316.116 is not eligible for a tax credit
 7 on the same facility or device under ORS 315.354 and 469.185 to 469.225.

8 (4) A credit may not be allowed under ORS 315.354 if the taxpayer has received a tax credit on
 9 the same facility or device under ORS 315.324.

10 **SECTION 120.** ORS 469.160 is amended to read:

11 469.160. As used in ORS 316.116, 317.115 and 469.160 to 469.180:

12 (1) "Alternative energy device" means a category one alternative energy device or a category
 13 two alternative energy device.

14 (2) "Alternative fuel device" means any of the following:

- 15 (a) An alternative fuel vehicle;
- 16 (b) Related equipment; or
- 17 (c) A fueling station necessary to operate an alternative fuel vehicle.

18 (3) "Alternative fuel vehicle" means a motor vehicle as defined in ORS 801.360 that is:

- 19 (a) Registered in this state; and
- 20 (b) Manufactured or modified to use an alternative fuel, including but not limited to electricity,
 21 natural gas, ethanol, methanol, propane and any other fuel approved in rules adopted by the Direc-
 22 tor of the [*State Department of Energy*] **Oregon Business Development Department** that produces
 23 less exhaust emissions than vehicles fueled by gasoline or diesel. Determination that a vehicle is an
 24 alternative fuel vehicle shall be made without regard to energy consumption savings.

25 (4) "Category one alternative energy device" means:

- 26 (a) Any system, mechanism or series of mechanisms that uses solar radiation for space heating
 27 or cooling for one or more dwellings;
- 28 (b) Any system that uses solar radiation for:
 - 29 (A) Domestic water heating; or
 - 30 (B) Swimming pool, spa or hot tub heating and that meets the requirements set forth in ORS
 31 316.116;
- 32 (c) A ground water heat pump and ground loop system;
- 33 (d) Any wind powered device used to offset or supplement the use of electricity by performing
 34 a specific task such as pumping water;
- 35 (e) Equipment used in the production of alternative fuels;
- 36 (f) A generator powered by alternative fuels and used to produce electricity;
- 37 (g) An energy efficient appliance;
- 38 (h) An alternative fuel device; or
- 39 (i) A premium efficiency biomass combustion device that includes a dedicated outside com-
 40 bustion air source and that meets minimum performance standards that are established by the [*State*
 41 *Department of Energy*] **Oregon Business Development Department**.

42 (5) "Category two alternative energy device" means a fuel cell system, solar electric system or
 43 wind electric system.

44 (6) "Coefficient of performance" means the ratio calculated by dividing the usable output energy
 45 by the electrical input energy. Both energy values must be expressed in equivalent units.

1 (7) "Contractor" means a person whose trade or business consists of offering for sale an alter-
2 native energy device, construction service, installation service or design service.

3 (8)(a) "Cost" means the actual cost of the acquisition, construction and installation of the al-
4 ternative energy device paid by the taxpayer for the alternative energy device.

5 (b) For an alternative fuel vehicle, "cost" means the difference between the cost of the alter-
6 native fuel vehicle and the same vehicle or functionally similar vehicle manufactured to use con-
7 ventional gasoline or diesel fuel or, in the case of modification of an existing vehicle, the cost of the
8 modification. "Cost" does not include any amounts paid for remodification of the same vehicle.

9 (c) For a fueling station necessary to operate an alternative fuel vehicle, "cost" means the cost
10 to the contractor of constructing or installing the fueling station in a dwelling and of making the
11 fuel station operational in accordance with the specifications issued under ORS 469.160 to 469.180
12 and any rules adopted by the Director of the [*State Department of Energy*] **Oregon Business De-**
13 **velopment Department**.

14 (d) For related equipment, "cost" means the cost of the related equipment and any modifications
15 or additions to the related equipment necessary to prepare the related equipment for use in con-
16 verting a vehicle to alternative fuel use.

17 (9) "Domestic water heating" means the heating of water used in a dwelling for bathing, clothes
18 washing, dishwashing and other related functions.

19 (10) "Dwelling" means real or personal property ordinarily inhabited as a principal or secondary
20 residence and located within this state. "Dwelling" includes, but is not limited to, an individual unit
21 within multiple unit residential housing.

22 (11) "Energy efficient appliance" means a clothes washer, clothes dryer, water heater,
23 refrigerator, freezer, dishwasher, appliance designed to heat or cool a dwelling or other major
24 household appliance that has been certified by the [*State Department of Energy*] **Oregon Business**
25 **Development Department** to have premium energy efficiency characteristics.

26 (12) "First year energy yield" of an alternative energy device is the usable energy produced
27 under average environmental conditions in one year.

28 (13) "Fuel cell system" means any system, mechanism or series of mechanisms that uses fuel
29 cells or fuel cell technology to generate electrical energy for a dwelling.

30 (14) "Fueling station" includes but is not limited to a compressed natural gas compressor fueling
31 system or an electric charging system for vehicle power battery charging.

32 (15) "Placed in service" means:

33 (a) The date an alternative energy device is ready and available to produce usable energy or
34 save energy.

35 (b) For an alternative fuel vehicle:

36 (A) In the case of purchase, the date that the alternative fuel vehicle is first purchased as an
37 alternative fuel vehicle ready and available for use.

38 (B) In the case of modification, the date that the modification is completed and the vehicle is
39 ready and available for use as an alternative fuel vehicle.

40 (c) For a fueling station necessary to operate an alternative fuel vehicle, the date that the fu-
41 eling station is first operational.

42 (d) For related equipment, the date that the equipment is first operational.

43 (16) "Related equipment" means equipment necessary to convert a vehicle to use an alternative
44 fuel.

45 (17) "Solar electric system" means any system, mechanism or series of mechanisms, including

1 photovoltaic systems, that uses solar radiation to generate electrical energy for a dwelling.

2 (18) "Wind electric system" means any system, mechanism or series of mechanisms that uses
3 wind to generate electrical energy for a dwelling.

4 **SECTION 121.** ORS 469.165 is amended to read:

5 469.165. (1) For the purposes of carrying out ORS 469.160 to 469.180, the [*State Department of*
6 *Energy*] **Oregon Business Development Department** may adopt rules prescribing minimum per-
7 formance criteria for alternative energy devices for dwellings.

8 (2) The department, in adopting rules under this section for solar heating and cooling systems,
9 shall take into consideration applicable standards of federal performance criteria prescribed pursu-
10 ant to the provisions of section 5506, title 42, United States Code (Solar Heating and Cooling Act
11 of 1974).

12 (3) The Director of the [*State Department of Energy*] **Oregon Business Development Depart-**
13 **ment** shall adopt rules governing the determination of eligibility, verification and certification of
14 an alternative fuel device for purposes of the tax credits granted under ORS 316.116 and 317.115,
15 including but not limited to rules that further define an alternative fuel vehicle, related equipment
16 or fueling station necessary to operate an alternative fuel vehicle, that govern the computation of
17 costs eligible for credit and that require equitable allocation of the tax credit benefits between the
18 lessor and the lessee of an alternative fuel vehicle as a condition of tax credit eligibility.

19 **SECTION 122.** ORS 469.170 is amended to read:

20 469.170. (1) Any person may claim a tax credit under ORS 316.116 (or ORS 317.115, if the person
21 is a corporation) if the person:

22 (a) Meets the requirements of ORS 316.116 (or ORS 317.115, if applicable);

23 (b) Meets the requirements of ORS 469.160 to 469.180; and

24 (c) Pays, subject to subsection (9) of this section, all or a portion of the costs of an alternative
25 energy device.

26 (2) A credit under ORS 317.115 may be claimed only if the alternative energy device is a fueling
27 station necessary to operate an alternative fuel vehicle.

28 (3)(a) In order to be eligible for a tax credit under ORS 316.116 or 317.115, a person claiming a
29 tax credit for construction or installation of an alternative energy device (including a fueling sta-
30 tion) shall have the device certified by the [*State Department of Energy*] **Oregon Business Devel-**
31 **opment Department** or constructed or installed by a contractor certified by the department under
32 subsection (5) of this section. This paragraph does not apply to an alternative fuel vehicle or to re-
33 lated equipment.

34 (b) Certification of an alternative fuel vehicle or related equipment shall be accomplished under
35 rules that shall be adopted by the Director of the [*State Department of Energy*] **Oregon Business**
36 **Development Department**.

37 (4) Verification of the purchase, construction or installation of an alternative energy device
38 shall be made in writing on a form provided by the Department of Revenue and, if applicable, shall
39 contain:

40 (a) The location of the alternative energy device;

41 (b) A description of the type of device;

42 (c) If the device was constructed or installed by a contractor, evidence that the contractor has
43 any license, bond, insurance and permit required to sell and construct or install the alternative en-
44 ergy device;

45 (d) If the device was constructed or installed by a contractor, a statement signed by the con-

1 tractor that the applicant has received:

2 (A) A statement of the reasonably expected energy savings of the device;

3 (B) A copy of consumer information published by the [*State Department of Energy*] **Oregon**
4 **Business Development Department**;

5 (C) An operating manual for the alternative energy device; and

6 (D) A copy of the contractor's certification certificate or alternative energy device system cer-
7 tificate for the alternative energy device, as appropriate;

8 (e) If the device was not constructed or installed by a contractor, evidence that:

9 (A) The [*State Department of Energy*] **Oregon Business Development Department** has issued
10 an alternative energy device system certificate for the alternative energy device; and

11 (B) The taxpayer has obtained all building permits required for construction or installation of
12 the device;

13 (f) A statement, signed by both the taxpayer claiming the credit and the contractor if the device
14 was constructed or installed by a contractor, that the construction or installation meets all the re-
15 quirements of ORS 469.160 to 469.180 or, if the device is a fueling station and the taxpayer is the
16 contractor, a statement signed by the contractor that the construction or installation meets all of
17 the requirements of ORS 469.160 to 469.180;

18 (g) The date the alternative energy device was purchased;

19 (h) The date the alternative energy device was placed in service; and

20 (i) Any other information that the Director of the [*State Department of Energy*] **Oregon Busi-**
21 **ness Development Department** or the Department of Revenue determines is necessary.

22 (5)(a) When the [*State Department of Energy*] **Oregon Business Development Department** finds
23 that an alternative energy device can meet the standards adopted under ORS 469.165, the Director
24 of the [*State Department of Energy*] **Oregon Business Development Department** may issue a con-
25 tractor system certification to the person selling and constructing or installing the alternative en-
26 ergy device.

27 (b) Any person who sells or installs more than 12 alternative energy devices in one year shall
28 apply for a contractor system certification. An application for a contractor system certification shall
29 be made in writing on a form provided by the [*State Department of Energy*] **department** and shall
30 contain:

31 (A) A statement that the contractor has any license, bonding, insurance and permit that is re-
32 quired for the sale and construction or installation of the alternative energy device;

33 (B) A specific description of the alternative energy device, including, but not limited to, the
34 material, equipment and mechanism used in the device, operating procedure, sizing and siting
35 method and construction or installation procedure;

36 (C) The addresses of three installations of the device that are available for inspection by the
37 [*State Department of Energy*] **department**;

38 (D) The range of installed costs to purchasers of the device;

39 (E) Any important construction, installation or operating instructions; and

40 (F) Any other information that the [*State Department of Energy*] **department** determines is
41 necessary.

42 (c) A new application for contractor system approval shall be filed when there is a change in
43 the information supplied under paragraph (b) of this subsection.

44 (d) The [*State Department of Energy*] **department** may issue contractor system certificates to
45 each contractor who on October 3, 1989, has a valid dealer system certification, which shall au-

1 authorize the sale and installation of the same domestic water heating alternative energy devices au-
2 thorized by the dealer certification.

3 (e) If the [*State Department of Energy*] **department** finds that an alternative energy device can
4 meet the standards adopted under ORS 469.165, the director [*of the State Department of Energy*] may
5 issue an alternative energy device system certificate to the taxpayer constructing or installing or
6 having an alternative energy device constructed or installed.

7 (f) An application for an alternative energy device system certificate shall be made in writing
8 on a form provided by the [*State Department of Energy*] **department** and shall contain:

9 (A) A specific description of the alternative energy device, including, but not limited to, the
10 material, equipment and mechanism used in the device, operating procedure, sizing, siting method
11 and construction or installation procedure;

12 (B) The constructed or installed cost of the device; and

13 (C) A statement that the taxpayer has all permits required for construction or installation of the
14 device.

15 (6) To claim the tax credit, the verification form described in subsection (4) of this section shall
16 be submitted with the taxpayer's tax return for the year the alternative energy device is placed in
17 service or the immediately succeeding tax year. A copy of the contractor's certification certificate,
18 alternative energy device system certificate or alternative fuel vehicle or related equipment certif-
19 icate also shall be submitted.

20 (7) The verification form and contractor's certificate, alternative energy device system certif-
21 icate or alternative fuel vehicle or related equipment certificate described under this section shall
22 be effective for purposes of tax relief allowed under ORS 316.116 or 317.115.

23 (8) The verification form and contractor's certificate described under this section may be
24 transferred to the first purchaser of a dwelling or, in the case of construction or installation of a
25 fueling station in an existing dwelling, the current owner, who intends to use or is using the
26 dwelling as a principal or secondary residence.

27 (9) Any person that pays the present value of the tax credit for an alternative energy device
28 provided under ORS 316.116 or 317.115 and 469.160 to 469.180 to the person who constructs or in-
29 stalls the alternative energy device shall be entitled to claim the credit in the manner and subject
30 to rules adopted by the Department of Revenue to carry out the purposes of this subsection. The
31 [*State Department of Energy*] **Oregon Business Development Department** may establish by rule
32 uniform discount rates to be used in calculating the present value of a tax credit under this sub-
33 section.

34 **SECTION 122a.** Section 8a, chapter 832, Oregon Laws 2005, as amended by section 13, chapter
35 913, Oregon Laws 2009, is amended to read:

36 **Sec. 8a.** The [*State Department of Energy*] **Oregon Business Development Department** may
37 not issue a contractor's certification certificate, alternative energy device system certificate or al-
38 ternative fuel vehicle or related equipment certificate under ORS 469.170 after January 1, 2012.

39 **SECTION 123.** ORS 469.171 is amended to read:

40 469.171. (1) The owner of an alternative fuel vehicle as defined in ORS 469.160 may transfer a
41 tax credit otherwise allowed under ORS 316.116 for cost of the vehicle in exchange for a cash pay-
42 ment equal to the present value of the tax credit.

43 (2) The [*State Department of Energy*] **Oregon Business Development Department** may estab-
44 lish by rule uniform discount rates to be used in calculating the present value of a tax credit under
45 this section.

1 **SECTION 124.** ORS 469.172 is amended to read:

2 469.172. The following devices are not eligible for the tax credit under ORS 316.116:

3 (1) Standard efficiency furnaces;

4 (2) Standard back-up heating systems;

5 (3) Woodstoves or wood furnaces, or any part of a heating system that burns wood, unless the
6 woodstove, furnace or system constitutes a premium efficiency biomass combustion device described
7 in ORS 469.160 (4)(i);

8 (4) Heat pump water heaters that are part of a geothermal heat pump space heating system;

9 (5) Structures that cover or enclose a swimming pool;

10 (6) Swimming pools, hot tubs or spas used to store heat;

11 (7) Above ground, uninsulated swimming pools, hot tubs or spas;

12 (8) Photovoltaic systems installed on recreational vehicles;

13 (9) Conversion of an existing alternative energy device to another type of alternative energy
14 device;

15 (10) Repair or replacement of an existing alternative energy device;

16 (11) A category two alternative energy device, if the equipment or other property that comprises
17 the category two alternative energy device is the basis for an allowed credit for a category one al-
18 ternative energy device under ORS 316.116;

19 (12) A category one alternative energy device, if the equipment or other property that comprises
20 the category one alternative energy device is also the basis for an allowed credit for a category two
21 alternative energy device under ORS 316.116; or

22 (13) Any other device identified by the [*State Department of Energy*] **Oregon Business Devel-**
23 **opment Department.** The department may adopt rules defining standards for eligible and ineligible
24 devices under this section.

25 **SECTION 125.** ORS 469.176 is amended to read:

26 469.176. (1) Except for alternative fuel vehicles or related equipment, in order to carry out ORS
27 469.160 to 469.180, the [*State Department of Energy*] **Oregon Business Development Department**
28 shall develop performance assumptions and prescriptive measures to determine the eligibility and
29 tax credit amount for alternative energy devices constructed or installed in a dwelling.

30 (2) The **Oregon Business Development** Department shall use the performance assumptions and
31 prescriptive measures to develop information for the Department of Revenue to use to allow tax-
32 payers to determine their eligibility and tax credit amount. The [*State Department of Energy*]
33 **Oregon Business Development Department** may review this information on an annual basis to
34 take into consideration new technology and performance assumption accuracy.

35 (3) For the purpose of determining the first year energy yield of an alternative energy device,
36 the **Oregon Business Development** Department shall use the following assumptions and test stan-
37 dards:

38 (a) Solar Rating and Certification Corporation standard SRCC 100, 200, American Society of
39 Heating, Refrigerating and Air-Conditioning Engineers 93-77, or the American Refrigeration Institute
40 standard 325-85 test at 50 degrees entering water temperature, as appropriate. The testing require-
41 ments under this paragraph shall not apply to an owner-built alternative energy device.

42 (b) For an alternative energy device used as a source for domestic water heating energy, a hot
43 water use of 75 gallons per day at 120 degrees Fahrenheit. The load of 75 gallons per day at 120
44 degrees Fahrenheit shall be achieved by including conservation measures in the construction or in-
45 stallation of the alternative energy device.

1 (c) For an alternative energy device used as a source for space heating or cooling, the heating
2 or cooling energy load as determined by a heat loss or gain calculation performed in accordance
3 with the methods established by the American Society of Heating, Refrigerating and Air-
4 Conditioning Engineers. Except for an owner-built or site-built system, an alternative energy device
5 used as a source for domestic hot water heating must meet the SRCC OG 300 systems test or comply
6 with comparable requirements as determined by the department.

7 (d) For an alternative energy device used as a source for electrical energy, the first year energy
8 yield shall be based upon the electrical energy load of the dwelling as determined according to the
9 procedure established by the department.

10 (e) For an alternative energy device used as a source for swimming pool, spa or hot tub heating,
11 the first year energy yield shall be based on the heating load of the swimming pool, spa or hot tub
12 as determined according to the procedure established by the department.

13 **SECTION 126.** ORS 469.180 is amended to read:

14 469.180. (1) Upon the Department of Revenue's own motion, or upon request of the [*State De-*
15 *partment of Energy*] **Oregon Business Development Department**, the Department of Revenue may
16 initiate proceedings for the forfeiture of a tax credit allowed under ORS 316.116 or 317.115 if:

17 (a) The verification was fraudulent because of a misrepresentation by the taxpayer or investor
18 owned utility;

19 (b) The verification was fraudulent because of a misrepresentation by the contractor;

20 (c) In the case of an alternative energy device other than an alternative fuel vehicle or related
21 equipment, the alternative energy device has not been constructed, installed or operated in sub-
22 stantial compliance with the requirements of ORS 469.160 to 469.180; or

23 (d) The taxpayer or investor owned utility failed to consent to an inspection of the constructed
24 or installed alternative energy device by the [*State Department of Energy*] **Oregon Business De-**
25 **velopment Department** after a reasonable, written request for such an inspection by the [*State*
26 *Department of Energy*] **department**. This paragraph does not apply to an alternative fuel vehicle
27 or to related equipment.

28 (2) Pursuant to the procedures for a contested case under ORS chapter 183, the Director of the
29 [*State Department of Energy*] **Oregon Business Development Department** may order the revoca-
30 tion of a contractor certificate issued under ORS 469.170 if the director finds that:

31 (a) The contractor certificate was obtained by fraud or misrepresentation by the contractor
32 certificate holder;

33 (b) The contractor's performance for the alternative energy device for which the contractor is
34 issued a certificate under ORS 469.170 does not meet industry standards; or

35 (c) The contractor has misrepresented to the customer either the tax credit program or the na-
36 ture or quality of the alternative energy device.

37 (3) If the tax credit allowed under ORS 316.116 or 317.115 for the purchase, construction or in-
38 stallation of an alternative energy device is ordered forfeited due to an action of the taxpayer or
39 investor owned utility under subsection (1)(a), (c) or (d) of this section, all prior tax relief provided
40 to the taxpayer or investor owned utility shall be forfeited and the Department of Revenue shall
41 proceed to collect those taxes not paid by the taxpayer or utility as a result of the tax credit relief
42 under ORS 316.116 or 317.115.

43 (4) If the tax credit for the construction or installation of an alternative energy device is or-
44 dered forfeited due to an action of the contractor under subsection (1)(b) of this section, the De-
45 partment of Revenue shall proceed to collect, from the contractor, an amount equivalent to those

1 taxes not paid by the taxpayer or investor owned utility as a result of the tax credit relief under
2 ORS 316.116 or 317.115. As long as the forfeiture is due to an action of the contractor and not to
3 an action of the taxpayer or utility, the assessment of such taxes shall be levied on the contractor
4 and not on the taxpayer or utility. Notwithstanding ORS 314.835, the department [*of Revenue*] may
5 disclose information from income tax returns or reports to the extent such disclosure is necessary
6 to collect amounts from contractors under this subsection.

7 (5) In order to obtain information necessary to verify eligibility and amount of the tax credit,
8 the [*State Department of Energy*] **Oregon Business Development Department** or its representative
9 may inspect an alternative energy device that has been purchased, constructed or installed. The
10 inspection shall be made only with the consent of the owner of the dwelling. Failure to consent to
11 the inspection is grounds for the forfeiture of any tax credit relief under ORS 316.116 or 317.115.
12 The Department of Revenue shall proceed to collect any taxes due according to subsection (4) of this
13 section. For electrical generating alternative energy devices, the [*State Department of Energy*]
14 **Oregon Business Development Department** may obtain energy consumption records for the
15 dwelling the device serves, for a 12-month period, in order to verify eligibility and amount of the tax
16 credit.

17 **SECTION 127.** ORS 469.185, as amended by section 4, chapter 76, Oregon Laws 2010, is
18 amended to read:

19 469.185. As used in ORS 469.185 to 469.225 and 469.878:

20 (1) "Alternative fuel vehicle" means a vehicle as defined by the Director of the [*State Depart-*
21 *ment of Energy*] **Oregon Business Development Department** by rule that is used primarily in
22 connection with the conduct of a trade or business and that is manufactured or modified to use an
23 alternative fuel, including but not limited to electricity, ethanol, methanol, gasohol and propane or
24 natural gas, regardless of energy consumption savings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (9) "Homebuilder-installed renewable energy system" means a renewable energy resource system
 28 that:

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

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

33 (10) "Qualified transit pass contract" means a purchase agreement entered into between a
 34 transportation provider and a person, the terms of which obligate the person to purchase transit
 35 passes on behalf or for the benefit of employees, students, patients or other individuals over a
 36 specified period of time.

37 (11) "Recycling facility" means equipment used by a trade or business solely for recycling:

38 (a) Including:

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

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

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

45 (D) Any equipment used solely for processing recyclable materials such as balers, flatteners,

1 crushers, separators and scales.

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

4 (12)(a) "Renewable energy resource" includes, but is not limited to:

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

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

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

11 (ii) Qualifies as a research, development or demonstration facility; or

12 (C) A renewable energy storage device as defined by the director by rule.

13 (b) "Renewable energy resource" does not include a hydroelectric generating facility that is not
14 described in paragraph (a) of this subsection.

15 (13) "Renewable energy resource equipment manufacturing facility" means any structure, build-
16 ing, installation, excavation, machinery, equipment or device, or an addition, reconstruction or im-
17 provement to land or an existing structure, building, installation, excavation, machinery, equipment
18 or device, that is necessarily acquired, constructed or installed by a person in connection with the
19 conduct of a trade or business, that is used primarily to manufacture:

20 (a) Equipment, machinery or other products designed to use a renewable energy resource and
21 that meets the criteria established under ORS 469.197.

22 (b) Electric vehicles, including three-wheeled vehicles, that are designed for use as Class I or
23 Class II all-terrain vehicles, as those terms are defined in ORS 801.190 and 801.193, and that are
24 used for agricultural, commercial, industrial or governmental purposes, or designed for use as modes
25 of transportation on public roads and highways, or component parts of electric vehicles, but not
26 including component parts that may be used in both electric and conventional vehicles. The director
27 may further define "agricultural, commercial, industrial or governmental purposes" of electric vehi-
28 cles by rule. For purposes of this paragraph, "component parts" does not include batteries.

29 (c) Renewable energy storage devices.

30 (14) "Sustainable building practices facility" means a commercial building in which building
31 practices that reduce the amount of energy, water or other resources needed for construction and
32 operation of the building are used. "Sustainable building practices facility" may be further defined
33 by the [State Department of Energy] **Oregon Business Development Department** by rule, including
34 rules that establish traditional building practice baselines in energy, water or other resource usage
35 for comparative purposes for use in determining whether a facility is a sustainable building practices
36 facility.

37 (15) "Transportation facility" means a transportation project that reduces energy use during
38 commuting to and from work or school, during work-related travel, or during travel to obtain med-
39 ical or other services, and may be further defined by the department by rule. "Transportation facil-
40 ity" includes, but is not limited to:

41 (a) A qualified transit pass contract or a transportation services contract; or

42 (b) The purchase of efficient truck technology and related truck trailers, as defined in ORS
43 801.580, for commercial motor vehicles, as defined in ORS 801.208, that are registered under ORS
44 803.420, or for commercial motor vehicles that are proportionally registered under ORS 826.009 or
45 826.011.

1 (16) "Transportation provider" means a public, private or nonprofit entity that provides trans-
 2 portation services to members of the public.

3 (17) "Transportation services contract" means a contract that is related to a transportation fa-
 4 cility, and may be further defined by the department by rule.

5 **SECTION 128.** ORS 469.195, as amended by section 6, chapter 76, Oregon Laws 2010, is
 6 amended to read:

7 469.195. (1) In determining the eligibility of any facility for tax credits, preference shall be given
 8 to those projects that:

9 (a) Provide energy savings for real or personal property within the state inhabited as the prin-
 10 cipal residence of a tenant, including:

11 (A) Nonowner occupied single family dwellings; and

12 (B) Multiple unit residential housing; or

13 (b) Provide long-term energy savings from the use of renewable resources or conservation of
 14 energy resources.

15 (2) The Director of the [*State Department of Energy*] **Oregon Business Development Depart-**
 16 **ment** shall establish by rule a tiered priority system to be used in evaluating applicants for certif-
 17 ication of facilities using or producing renewable energy resources. The tier system shall be based
 18 upon the projected costs of facilities. In determining the eligibility for tax credits and in allocating
 19 the available certified cost pursuant to section 2 (1), chapter 76, Oregon Laws 2010, among facilities,
 20 the director shall subject facilities with higher projected costs to closer scrutiny, shall compare
 21 projects of similar costs against each other and may certify less than the total cost of any facility
 22 based on this evaluation. The director may employ criteria including the following factors as defined
 23 by rule:

24 (a) Technology-specific energy production standards;

25 (b) Market sector;

26 (c) Delivery of energy into existing distribution and transmission network;

27 (d) Investment payback period;

28 (e) Expected lifespan of the facility;

29 (f) Potential for long-term viability;

30 (g) Environmental standards established by the director;

31 (h) Potential to create and sustain new jobs;

32 (i) Projected siting in a location that is geographically or socioeconomically advantageous;

33 (j) Demonstrated readiness to begin implementation;

34 (k) Amount and quality of energy generated;

35 (L) Strength of business plan;

36 (m) Provision of operations and maintenance data, with appropriate protections for trade secrets
 37 consistent with ORS chapter 192;

38 (n) Connection to existing infrastructure;

39 (o) Third-party review of the applicant's business plan; or

40 (p) Data related to projected return on investment.

41 **SECTION 129.** ORS 469.197, as amended by section 7, chapter 76, Oregon Laws 2010, is
 42 amended to read:

43 469.197. The [*State Department of Energy*] **Oregon Business Development Department** shall
 44 by rule establish all of the following criteria:

45 (1) For a high-performance home, the minimum design and construction standards that must be

1 met or exceeded for a dwelling to be considered a high-performance home, including but not limited
2 to standards for the building envelope, HVAC systems, lighting, appliances, water conservation
3 measures, use of sustainable building materials and on-site renewable energy systems. The criteria
4 must also establish the minimum reduction in estimated net purchased energy that a dwelling must
5 achieve to be considered a high-performance home.

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

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

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

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

17 (b) Standards, consistent with the definitions in ORS 469.185, relating to what constitutes a
18 single renewable energy resource equipment manufacturing facility that include:

19 (A) Standards establishing what constitutes property that is not included within a renewable
20 energy resource equipment manufacturing facility; and

21 (B) The consideration of such factors as phases of development, expansion of or additions to
22 existing facilities or product lines, increased production and number of jobs created or maintained
23 by an applicant;

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

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

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

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

33 (5) For a facility using or producing renewable energy resources, standards relating to criteria
34 required under ORS 469.195 (2).

35 (6) Standards, consistent with the definitions in ORS 469.185, relating to what constitutes a
36 single facility.

37 **SECTION 130.** ORS 469.200, as amended by section 8, chapter 76, Oregon Laws 2010, is
38 amended to read:

39 469.200. (1) For a facility, the total cost that receives a preliminary certification from the Di-
40 rector of the [*State Department of Energy*] **Oregon Business Development Department** for tax
41 credits in any calendar year may not exceed:

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

44 (b) \$40 million, in the case of a renewable energy resource equipment manufacturing facility
45 other than a facility used to manufacture electric vehicles;

1 (c) Five percent of the total cost of the facility but no more than \$7 million, in the case of a
 2 facility that uses or produces renewable energy resources and is a wind facility with an installed
 3 capacity of more than 10 megawatts;

4 (d) \$2.5 million in the case of a renewable energy resource equipment manufacturing facility
 5 used to manufacture electric vehicles; or

6 (e) \$10 million, in the case of any other facility.

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

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

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

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

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

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

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

26 (g) During a time period listed in section 2 (4), chapter 76, Oregon Laws 2010, the director re-
 27 ceives applications for preliminary certification with a total amount of potential tax credits in ex-
 28 cess of the limitation for the time period.

29 (3) The director shall determine the dollar amount certified for any facility and the priority be-
 30 tween applications for certification based upon the criteria contained in ORS 469.185 to 469.225 and
 31 applicable rules and standards adopted under ORS 469.185 to 469.225. The director may consider the
 32 status of a facility as a research, development or demonstration facility of new renewable resource
 33 generating and conservation technologies or a qualified transit pass contract in the determination.

34 **SECTION 131.** ORS 469.200, as amended by sections 8 and 9, chapter 76, Oregon Laws 2010, is
 35 amended to read:

36 469.200. (1) For a facility, the total cost that receives a preliminary certification from the Di-
 37 rector of the [*State Department of Energy*] **Oregon Business Development Department** for tax
 38 credits in any calendar year may not exceed:

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

41 (b) \$40 million, in the case of a renewable energy resource equipment manufacturing facility
 42 other than a facility used to manufacture electric vehicles;

43 (c) Five percent of the total cost of the facility but no more than \$5 million, in the case of a
 44 facility that uses or produces renewable energy resources and is a wind facility with an installed
 45 capacity of more than 10 megawatts;

1 (d) \$2.5 million in the case of a renewable energy resource equipment manufacturing facility
2 used to manufacture electric vehicles; or

3 (e) \$10 million, in the case of any other facility.

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

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

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

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

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

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

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

23 (g) During a time period listed in section 2 (4), chapter 76, Oregon Laws 2010, the director re-
24 ceives applications for preliminary certification with a total amount of potential tax credits in ex-
25 cess of the limitation for the time period.

26 (3) The director shall determine the dollar amount certified for any facility and the priority be-
27 tween applications for certification based upon the criteria contained in ORS 469.185 to 469.225 and
28 applicable rules and standards adopted under ORS 469.185 to 469.225. The director may consider the
29 status of a facility as a research, development or demonstration facility of new renewable resource
30 generating and conservation technologies or a qualified transit pass contract in the determination.

31 **SECTION 132.** ORS 469.200, as amended by sections 8, 9 and 9a, chapter 76, Oregon Laws 2010,
32 is amended to read:

33 469.200. (1) For a facility, the total cost that receives a preliminary certification from the Di-
34 rector of the [*State Department of Energy*] **Oregon Business Development Department** for tax
35 credits in any calendar year may not exceed:

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

38 (b) \$40 million, in the case of a renewable energy resource equipment manufacturing facility
39 other than a facility used to manufacture electric vehicles;

40 (c) Five percent of the total cost of the facility but no more than \$3 million, in the case of a
41 facility that uses or produces renewable energy resources and is a wind facility with an installed
42 capacity of more than 10 megawatts;

43 (d) \$2.5 million in the case of a renewable energy resource equipment manufacturing facility
44 used to manufacture electric vehicles; or

45 (e) \$10 million, in the case of any other facility.

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

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

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

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

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

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

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

20 (g) During a time period listed in section 2 (4), chapter 76, Oregon Laws 2010, the director re-
 21 ceives applications for preliminary certification with a total amount of potential tax credits in ex-
 22 cess of the limitation for the time period.

23 (3) The director shall determine the dollar amount certified for any facility and the priority be-
 24 tween applications for certification based upon the criteria contained in ORS 469.185 to 469.225 and
 25 applicable rules and standards adopted under ORS 469.185 to 469.225. The director may consider the
 26 status of a facility as a research, development or demonstration facility of new renewable resource
 27 generating and conservation technologies or a qualified transit pass contract in the determination.

28 **SECTION 133.** ORS 469.205, as amended by section 10, chapter 76, Oregon Laws 2010, is
 29 amended to read:

30 469.205. (1) Prior to erection, construction, installation or acquisition of a proposed facility, any
 31 person may apply to the [*State Department of Energy*] **Oregon Business Development Department**
 32 for preliminary certification under ORS 469.210 if:

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

35 (b) The facility complies with the standards or rules adopted by the Director of the [*State De-*
 36 *partment of Energy*] **Oregon Business Development Department**; and

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

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

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

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

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

45 (2) An application for preliminary certification shall be made in writing on a form prepared by

1 the department and shall contain:

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

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

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

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

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

10 (E) Plans to acquire, construct or install equipment for recycling as defined in ORS 469.185 (11);

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

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

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

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

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

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

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

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

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

21 (O) Plans to acquire, construct or install a renewable energy resource equipment manufacturing
22 facility.

23 (b) A detailed description of the proposed facility and its operation and information showing that
24 the facility will operate as represented in the application and remain in operation for at least five
25 years, unless the director by rule specifies a shorter period of operation.

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

30 (d) The projected cost of the facility.

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

33 (f) Information on the amount and type of jobs that will be created, the number of jobs sustained
34 throughout the construction, installation and operation of the facility and the benefits of the facility
35 with regard to overall economic activity in this state.

36 (g) Information demonstrating that the proposed facility will comply with applicable state and
37 local laws and regulations and obtain required licenses and permits.

38 (h) Information relating to the criteria required under ORS 469.195.

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

42 (3) An application for preliminary certification shall be accompanied by a fee established under
43 ORS 469.217. The director may refund all or a portion of the fee if the application for certification
44 is rejected.

45 (4) The director may allow an applicant to file the preliminary application or a reapplication

1 under subsection (6) of this section after the start of erection, construction, installation or acqui-
2 sition of the facility if the director finds:

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

5 (b) The facility would otherwise qualify for tax credit certification pursuant to ORS 469.185 to
6 469.225.

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

9 (6) A preliminary certification of a renewable energy resource equipment manufacturing facility
10 shall remain valid for a period of five calendar years after the date the preliminary certification is
11 issued by the director. For all other facilities, a preliminary certification shall remain valid for a
12 period of three calendar years after the date the preliminary certification is issued by the director.
13 The director may extend the three-year period for two additional calendar years upon reapplication
14 and submission of the fee required by this section.

15 **SECTION 134.** ORS 469.206 is amended to read:

16 469.206. (1) The owner of a facility may transfer a tax credit for the facility in exchange for a
17 cash payment equal to the present value of the tax credit.

18 (2) The [*State Department of Energy*] **Oregon Business Development Department** shall estab-
19 lish by rule a formula to be employed in the determination of prices of credits transferred under this
20 section. In establishing the formula the department shall incorporate inflation projections and mar-
21 ket real rate of return.

22 (3) The department shall recalculate credit transfer prices quarterly, employing the formula es-
23 tablished under subsection (2) of this section.

24 (4) Notwithstanding any other provision of law, a tax credit transferred pursuant to this section
25 does not decrease the amount of taxes required to be reported by a public utility.

26 **SECTION 135.** ORS 469.208 is amended to read:

27 469.208. (1) The owner of a rental housing unit may transfer a tax credit for energy conservation
28 measures installed in rental housing units under ORS 469.207 in exchange for a cash payment equal
29 to the present value of the tax credit. To be eligible for a transfer, the energy conservation meas-
30 ures must have been recommended in an energy audit as provided in ORS 469.633, 469.651 or
31 469.675.

32 (2) The [*State Department of Energy*] **Oregon Business Development Department** may estab-
33 lish by rule uniform discount rates to be used in calculating the present value of a tax credit under
34 this section.

35 **SECTION 136.** ORS 469.210, as amended by section 11, chapter 76, Oregon Laws 2010, is
36 amended to read:

37 469.210. (1) The Director of the [*State Department of Energy*] **Oregon Business Development**
38 **Department** may require the submission of plans, specifications and contract terms, and after ex-
39 amination thereof, may request corrections and revisions of the plans, specifications and terms.

40 (2) If the director determines that the proposed acquisition, erection, construction or installation
41 is technically feasible and should operate in accordance with the representations made by the ap-
42 plicant, and is in accordance with the provisions of ORS 469.185 to 469.225 and any applicable rules
43 or standards adopted by the director, the director shall issue a preliminary certificate approving the
44 acquisition, erection, construction or installation of the facility. The certificate shall indicate the
45 potential amount of tax credit allowable and shall list any conditions for claiming the credit.

1 (3) The director may issue an order altering, conditioning, suspending or denying preliminary
 2 certification if the director determines that:

3 (a) The acquisition, erection, construction or installation does not comply with the provisions
 4 of ORS 469.185 to 469.225 and applicable rules and standards;

5 (b) The applicant has previously received preliminary or final certification for the same costs;

6 (c) The applicant is unable to demonstrate that the facility would be economically viable without
 7 the allowance of additional credits under ORS 315.354;

8 (d) The applicant was directly involved in an act for which the director has levied civil penalties
 9 or revoked, canceled or suspended any certification under ORS 469.185 to 469.225; or

10 (e) The applicant or the principal, director, officer, owner, majority shareholder or member of
 11 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in
 12 arrears for payments owed to any government agency while in any capacity with direct or indirect
 13 control over a business.

14 **SECTION 137.** ORS 469.215, as amended by section 12, chapter 76, Oregon Laws 2010, is
 15 amended to read:

16 469.215. (1) A final certification may not be issued by the Director of the [*State Department of*
 17 *Energy*] **Oregon Business Development Department** under this section unless:

18 (a) The facility was acquired, erected, constructed or installed under a preliminary certificate
 19 of approval issued under ORS 469.210;

20 (b) The applicant demonstrates the ability to provide the information required by ORS 469.205
 21 (2) and does not violate any condition that may be imposed as described in ORS 469.210 (3); and

22 (c) The facility was acquired, erected, constructed or installed in accordance with the applicable
 23 provisions of ORS 469.185 to 469.225 and any applicable rules or standards adopted by the director.

24 (2) Any person may apply to the [*State Department of Energy*] **Oregon Business Development**
 25 **Department** for final certification of a facility:

26 (a) If the department issued preliminary certification for the facility under ORS 469.210; and

27 (b)(A) After completion of erection, construction, installation or acquisition of the proposed fa-
 28 cility or, if the facility is a qualified transit pass contract, after entering into the contract with a
 29 transportation provider; or

30 (B) After transfer of the facility, as provided in ORS 315.354 (5).

31 (3) An application for final certification shall be made in writing on a form prepared by the
 32 department and shall contain:

33 (a) A statement that the conditions of the preliminary certification have been complied with;

34 (b) The actual cost of the facility certified to by a certified public accountant who is not an
 35 employee of the applicant or, if the actual cost of the facility is less than \$50,000, copies of receipts
 36 for purchase and installation of the facility;

37 (c) The amount of the credit under ORS 315.354 that is to be claimed;

38 (d) The number and type of jobs created by the operation and maintenance of the facility over
 39 the five-year period beginning with the year of preliminary certification under ORS 469.210 and in-
 40 formation on the benefits of the facility with regard to overall economic activity in this state;

41 (e) Information sufficient to demonstrate that the facility will remain in operation for at least
 42 five years, unless the director by rule specifies a shorter period of operation;

43 (f) Information sufficient to demonstrate, in the case of a research, development or demon-
 44 stration facility that is not in operation, that the applicant has made reasonable efforts to make the
 45 facility operable and meet the requirements of the preliminary certificate;

1 (g) Documentation of compliance with applicable state and local laws and regulations and li-
2 censing and permitting requirements as defined by the director; and

3 (h) Any other information determined by the director to be necessary prior to issuance of a final
4 certificate, including inspection of the facility by the department.

5 (4) The director shall act on an application for certification before the 60th day after the filing
6 of the application under this section. The director may issue the certificate, or certificates for effi-
7 cient truck technology within a transportation facility, together with such conditions as the director
8 determines are appropriate to promote the purposes of ORS 315.354, 469.185 to 469.225 and 469.878.
9 If the applicant is an entity subject to regulation by the Public Utility Commission, the director may
10 consult with the commission prior to issuance of the certificate. The action of the director shall
11 include certification of the actual cost of the facility. However, the director may not certify an
12 amount for tax credit purposes that is more than the amount approved in the preliminary certificate
13 issued for the facility.

14 (5) If the director rejects an application for final certification, or certifies a lesser actual cost
15 of the facility than was claimed in the application, the director shall send to the applicant written
16 notice of the action, together with a statement of the findings and reasons therefor, by certified mail,
17 before the 60th day after the filing of the application. Failure of the director to act constitutes re-
18 jection of the application.

19 (6) Upon approval of an application for final certification of a facility, the director shall certify
20 the facility. Each certificate shall bear a separate serial number for each device. Where one or
21 more devices constitute an operational unit, the director may certify the operational unit under one
22 certificate.

23 (7) The director may establish by rule timelines and intermediate deadlines for submission of
24 application materials.

25 **SECTION 138.** ORS 469.217 is amended to read:

26 469.217. By rule and after hearing, the Director of the [State Department of Energy] **Oregon**
27 **Business Development Department** may adopt a schedule of reasonable fees which the [State
28 Department of Energy] **Oregon Business Development Department** may require of applicants for
29 preliminary or final certification under ORS 469.185 to 469.225. Before the adoption or revision of
30 the fees, the department shall estimate the total cost of the program to the department. The fees
31 shall be used to recover the anticipated cost of filing, investigating, granting and rejecting applica-
32 tions for certification and shall be designed not to exceed the total cost estimated by the depart-
33 ment. Any excess fees shall be held by the department and shall be used by the department to
34 reduce any future fee increases. The fee may vary according to the size and complexity of the fa-
35 cility. The fee shall not be considered as part of the cost of the facility to be certified.

36 **SECTION 139.** ORS 469.220, as amended by section 13, chapter 76, Oregon Laws 2010, is
37 amended to read:

38 469.220. (1) A certificate issued under ORS 469.215 is required for purposes of obtaining tax
39 credits in accordance with ORS 315.354. Such certification shall be granted for a period not to ex-
40 ceed five years. The five-year period shall begin with the tax year of the applicant during which the
41 completed application for final certification of the facility under ORS 469.215 is received by the
42 [State Department of Energy] **Oregon Business Development Department**.

43 (2) Notwithstanding subsection (1) of this section, for a facility using or producing renewable
44 energy resources with a certified cost that exceeds \$10 million and that receives final certification
45 under ORS 469.215 after January 1, 2010, the five-year period shall begin with the tax year imme-

1 diately following the tax year during which the completed application for final certification of the
2 facility under ORS 469.215 is received by the department.

3 **SECTION 140.** ORS 469.225, as amended by section 14, chapter 76, Oregon Laws 2010, is
4 amended to read:

5 469.225. (1) Under the procedures for a contested case under ORS chapter 183, the Director of
6 the [*State Department of Energy*] **Oregon Business Development Department** may order the sus-
7 pension or revocation of the certificate issued under ORS 469.215 if the director finds that:

8 (a) The certification was obtained by fraud or misrepresentation;

9 (b) The holder of the certificate or the operator of the facility has failed to construct or operate
10 the facility in compliance with the plans, specifications and procedures in the certificate; or

11 (c) The facility is no longer in operation.

12 (2) As soon as the order of revocation under this section becomes final, the director shall notify
13 the Department of Revenue, the facility owner and any transferee under ORS 469.206 of the order
14 of revocation.

15 (3) If the certificate is issued for a facility that is not a renewable energy resource equipment
16 manufacturing facility and is ordered revoked pursuant to subsection (1)(a) of this section, all prior
17 tax credits provided to the holder of the certificate by virtue of the certificate shall be forfeited and
18 upon notification under subsection (2) of this section the department [*of Revenue*] immediately shall
19 proceed to collect those taxes not paid by the certificate holder as a result of the tax credits pro-
20 vided to the holder under ORS 315.354.

21 (4) If the certificate is issued for a renewable energy resource equipment manufacturing facility
22 and is ordered suspended or revoked, upon notification under subsection (2) of this section the de-
23 partment [*of Revenue*] immediately shall proceed to collect:

24 (a) In the case where no portion of a certificate has been transferred under ORS 469.206, those
25 taxes not paid by the certificate holder as a result of the tax credits provided to the certificate
26 holder under ORS 315.354, from the certificate holder or a successor in interest to the business in-
27 terests of the certificate holder. All prior tax credits provided to the holder of the certificate by
28 virtue of the certificate shall be forfeited.

29 (b) In the case where all or a portion of a certificate has been transferred under ORS 469.206,
30 the maximum theoretical amount of the tax credits allowable under ORS 315.354, from the
31 transferor.

32 (5)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to
33 the collection of income and excise taxes and may proceed to collect the amounts described in
34 subsection (3) or (4) of this section from the person that obtained certification from the [*State De-*
35 *partment of Energy*] **Oregon Business Development Department** or any successor in interest to
36 the business interests of that person. No assessment of tax shall be necessary and no statute of
37 limitation shall preclude the collection of taxes described in this subsection.

38 (b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires
39 an interest through bankruptcy or through foreclosure of a security interest is not considered to be
40 a successor in interest to the business interests of the person that obtained certification from the
41 [*State Department of Energy*] **Oregon Business Development Department**.

42 (6) If the certificate is issued for a facility that is not a renewable energy resource equipment
43 manufacturing facility and is ordered revoked pursuant to subsection (1)(b) of this section, the cer-
44 tificate holder shall be denied any further relief under ORS 315.354 in connection with the facility
45 from and after the date that the order of revocation becomes final.

1 (7) Notwithstanding subsections (1) to (6) of this section, a certificate or portion of a certificate
 2 held by a transferee under ORS 469.206 may not be considered revoked for purposes of the
 3 transferee, the tax credit allowable to the transferee under ORS 315.354 may not be reduced and a
 4 transferee is not liable under subsections (3) to (5) of this section.

5 **SECTION 141.** ORS 469.994 is amended to read:

6 469.994. (1) The Director of the [*State Department of Energy*] **Oregon Business Development**
 7 **Department** may impose a civil penalty against a contractor if a contractor certificate is revoked
 8 under ORS 469.180. The amount of the penalty shall be equal to the total amount of tax relief esti-
 9 mated to have been provided under ORS 316.116 or 317.115 to the contractor or to purchasers of the
 10 system for which a contractor's certificate has been revoked.

11 (2) The [*State Department of Energy*] **Oregon Business Development Department** may not
 12 collect any of the amount of a civil penalty imposed under subsection (1) of this section from a
 13 purchaser of the system for which the final certificate has been revoked. However, the Department
 14 of Revenue shall proceed under ORS 469.180 (3) to collect taxes not paid by a taxpayer if the tax
 15 credit is ordered forfeited because of that taxpayer's fraud or misrepresentation under ORS 469.180
 16 (1)(a).

17 (3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

18 (4) A penalty recovered under this section shall be paid into the State Treasury and credited to
 19 the General Fund and is available for general governmental expenses.

20 **SECTION 142.** ORS 470.050 is amended to read:

21 470.050. As used in this chapter, unless the context requires otherwise:

22 (1) "Alternative fuel project" means:

23 (a) Equipment, including vehicles that are not used primarily for personal, family or household
 24 purposes, that is modified or acquired directly from a factory and that:

25 (A) Uses an alternative fuel including electricity, biofuel, gasohol with at least 20 percent de-
 26 natured alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other
 27 fuel approved by the Director of the [*State Department of Energy*] **Oregon Business Development**
 28 **Department**; and

29 (B) Produces lower exhaust emissions or is more energy efficient than equivalent equipment fu-
 30 eled by gasoline or diesel; and

31 (b) A facility, including a fueling station, or equipment necessary to produce alternative fuel or
 32 operate equipment that uses an alternative fuel.

33 (2) "Applicant" means an applicant for a loan to construct a small scale local energy project.

34 (3) "Base efficiency package" means the package of energy efficiency upgrades or renewable
 35 energy projects for a property that, when energy savings, project repayment costs, tax or other in-
 36 centives, loan offset grants and other relevant economic factors are considered, is estimated to not
 37 increase the utility bill of the customer over the loan repayment term.

38 (4) "Committee" means the Small Scale Local Energy Project Advisory Committee created under
 39 ORS 470.070.

40 (5) "Cooperative" means a cooperative corporation organized under ORS chapter 62.

41 [(6) "*Director*" means the Director of the State Department of Energy appointed under ORS
 42 469.040.]

43 [(7)] (6) "Eligible federal agency" means a federal agency or public corporation created by the
 44 federal government that proposes to use a loan for a small scale local energy project. "Eligible
 45 federal agency" does not include a federal agency or public corporation created by the federal

1 government that proposes to use a loan for a small scale local energy project to generate electricity
2 for sale.

3 [(8)] (7) “Eligible state agency” means a state officer, board, commission, department, institution,
4 branch or agency of the state whose costs are paid wholly or in part from funds held in the State
5 Treasury.

6 [(9)] (8) “Energy efficiency and sustainable technology loan” means a loan for a small scale local
7 energy project that is repayable by means of:

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

9 (b) An alternative repayment method identified by the department and the borrower and speci-
10 fied in the loan agreement.

11 [(10)] (9) “Energy Project Bond Loan Fund” means the fund established under ORS 470.580.

12 [(11)] (10) “Energy Project Supplemental Fund” means the fund established under ORS 470.570.

13 [(12)] (11) “Energy Revenue Bond Repayment Fund” means the fund established under ORS
14 470.585.

15 [(13)] (12) “Energy savings projection” means an examination of the energy performance and site
16 characteristics of a property that, at a minimum, identifies:

17 (a) A base efficiency package; and

18 (b) Any additional optional measures that a customer is able to repay and that the sustainable
19 energy project manager believes to be feasible for the site.

20 [(14)] (13) “Loan” includes the purchase or other acquisition of evidence of indebtedness and
21 money used for the purchase or other acquisition of evidence of indebtedness.

22 [(15)] (14) “Loan contract” means the evidence of indebtedness and all instruments used in the
23 purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or
24 municipal corporations that are tax exempt entities, a loan contract may include a lease purchase
25 agreement with respect to personal property.

26 [(16)] (15) “Loan offset grant” means moneys from the Loan Offset Grant Fund that are used to
27 help offset the initial project costs or loan payments for energy efficiency, renewable energy and
28 energy conservation projects.

29 [(17)] (16) “Loan Offset Grant Fund” means the fund established under ORS 470.575.

30 [(18)] (17) “Loan repayment charge” means an amount charged to a utility customer account
31 through on-bill financing as a mechanism for the repayment of an energy efficiency and sustainable
32 technology loan.

33 [(19)] (18) “Municipal corporation” has the meaning given in ORS 297.405 and also includes any
34 Indian tribe or authorized Indian tribal organization or any combination of two or more of these
35 tribes or organizations acting jointly in connection with a small scale local energy project.

36 [(20)] (19) “On-bill financing” means a mechanism for collecting the repayment of an energy ef-
37 ficiency and sustainable technology loan through a utility customer account billing system.

38 [(21)] (20) “Optional package” means measures for promoting energy efficiency or the use of
39 renewable energy:

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

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

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

43 [(22)] (21) “Oregon business” means a sole proprietorship, partnership, company, cooperative,
44 corporation or other form of business entity that is organized or authorized to do business under
45 Oregon law for profit.

1 [(23)] (22) “Public Purpose Fund Administrator” means the entity designated by the Public
2 Utility Commission to administer moneys collected by a company through the public purpose charge
3 described under ORS 757.612.

4 [(24)] (23) “Recycling project” means a facility or equipment that converts waste into a new and
5 usable product.

6 [(25)] (24) “Small business” means:

7 (a) An Oregon business that is:

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

9 (B) An industrial or manufacturing business employing 200 or fewer persons at the time the loan
10 is made; or

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

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

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

17 [(26)] (25) “Small scale local energy program loan” means a loan for a small scale local energy
18 project other than an energy efficiency and sustainable technology loan.

19 [(27)] (26) “Small scale local energy project” means:

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

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

28 (c) A recycling project;

29 (d) An alternative fuel project;

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

33 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility
34 that directly or indirectly reduces the amount of energy needed for the construction and operation
35 of the facility and that meets the sustainable building practices standard established by the [*State*
36 *Department of Energy*] **Oregon Business Development Department** by rule; or

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

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

42 [(28)] (27) “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the
43 fund created under ORS 470.300.

44 [(29)] (28) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Arti-
45 cle XI-J of the Oregon Constitution and appropriated to the [*State Department of Energy*] **Oregon**

1 **Business Development Department** under ORS 470.130.

2 [(30)] (29) “Sustainable energy project manager” means the organization responsible for pro-
 3 moting the energy efficiency and sustainable technology loan program and related incentives for
 4 energy efficiency and renewable energy at the neighborhood and community level.

5 [(31)] (30) “Sustainable energy territory” means the geographic service area that a sustainable
 6 energy project manager is responsible for serving.

7 **SECTION 142a.** ORS 468A.040 is amended to read:

8 468A.040. (1) By rule the Environmental Quality Commission may require permits for air con-
 9 tamination sources classified by type of air contaminants, by type of air contamination source or
 10 by area of the state. The permits shall be issued as provided in ORS 468.065. A permit subject to
 11 the federal operating permit program shall be issued in accordance with the rules adopted under
 12 ORS 468A.310.

13 (2) If a request for review of the final Department of Environmental Quality action, or any part
 14 thereof, is made on an application for a permit issued under the federal operating permit program
 15 established under ORS 468A.310 in accordance with the rules adopted by the commission, the effect
 16 of the contested conditions and any conditions that are not severable from those contested shall be
 17 stayed upon a showing that compliance with the contested conditions during the pendency of the
 18 appeal would require substantial expenditures or losses that would not be incurred if the permittee
 19 prevails on the merits of the review and there exists a reasonable likelihood of success on the
 20 merits. The department may require that the contested conditions not be stayed if the department
 21 finds that substantial endangerment of public health or welfare would result from the staying of the
 22 conditions.

23 (3) Any source under an existing permit shall:

24 (a) Comply with the conditions of the existing permit during any modification or reissuance
 25 proceeding; and

26 (b) To the extent conditions of any new or modified permit are stayed under subsection (2) of
 27 this section, comply with the conditions of the existing permit that correspond to the stayed condi-
 28 tions, unless compliance would be technologically incompatible with compliance with other condi-
 29 tions of the new or modified permit that have not been stayed.

30 (4) For purposes of this section, a small scale local energy project, as defined in ORS 470.050
 31 [(27)(a)] (26)(a), located in a maintenance area or nonattainment area, and any infrastructure related
 32 to that project located in the same area, is considered to provide a net air quality benefit to the
 33 extent required by this chapter if the project provides reductions in each air contaminant in the
 34 maintenance area or nonattainment area equal to the ratio specified in rules adopted by the com-
 35 mission, unless the department determines that the project will pose a material threat to compliance
 36 with air quality standards in the maintenance area or nonattainment area.

37 (5) As used in this section:

38 (a) “Maintenance area” has the meaning given that term in rules adopted by the commission.

39 (b) “Nonattainment area” has the meaning given that term in rules adopted by the commission.

40 **SECTION 143.** ORS 470.060 is amended to read:

41 470.060. (1) The following may file with the [*State Department of Energy*] **Oregon Business**
 42 **Development Department** an application to obtain moneys for a small scale local energy project
 43 as provided in this chapter:

44 (a) An individual who is an Oregon resident;

45 (b) An Oregon business;

- 1 (c) A nonprofit or public cooperative;
- 2 (d) A nonprofit corporation;
- 3 (e) An eligible federal agency;
- 4 (f) An eligible state agency;
- 5 (g) A public corporation created by this state;
- 6 (h) An intergovernmental entity created pursuant to an intergovernmental agreement under ORS
- 7 190.003 to 190.130;
- 8 (i) A special district;
- 9 (j) A local improvement district; or
- 10 (k) A municipal corporation.

11 (2) Applications to obtain financing for a small scale local energy project shall be made in
 12 writing on a form prescribed by the [*State Department of Energy*] **department**. Applications sub-
 13 mitted to the [*State Department of Energy*] **department** shall:

- 14 (a) Describe the nature and purpose of the proposed small scale local energy project.
- 15 (b) State whether any purposes other than energy production, but consistent with energy pro-
 16 duction, will be served by the proposed small scale local energy project, and the nature of the other
 17 purposes, if any.
- 18 (c) Include an evaluation of the potential of the small scale local energy project to meet local
 19 community energy needs.
- 20 (d) Include an evaluation of the potential environmental impacts of the small scale local energy
 21 project.
- 22 (e) State whether any moneys other than those in the loan fund are proposed to be used for the
 23 development of the proposed small scale local energy project, and whether any other moneys are
 24 available or have been sought for the project.
- 25 (f) Describe the source of moneys for repayment of the loan applied for.

26 (3) If the application is for a loan other than an energy efficiency and sustainable technology
 27 loan to an individual, a fee of one-tenth of one percent of the amount of the loan applied for or
 28 \$2,500, whichever is less, shall be submitted with each application. In addition, the applicant may
 29 be required to pay for costs incurred in connection with the application that exceed the application
 30 fee and which the Director of the [*State Department of Energy*] **Oregon Business Development**
 31 **Department** determines are incurred solely in connection with processing the application. The ap-
 32 plicant shall be advised of any additional costs the applicant must pay before the costs are incurred.

33 **SECTION 144.** ORS 470.070 is amended to read:

34 470.070. (1) The Director of the [*State Department of Energy*] **Oregon Business Development**
 35 **Department** shall appoint a Small Scale Local Energy Project Advisory Committee to review ap-
 36 plications made under ORS 470.060 and rules adopted under ORS 470.080, other than applications for
 37 energy efficiency and sustainable technology loans, and make recommendations regarding those ap-
 38 plications to the director.

39 (2) Nine members shall be appointed to the Small Scale Local Energy Project Advisory Com-
 40 mittee. Each member shall be appointed to serve a four-year term, commencing on the date of ap-
 41 pointment, and until a successor is appointed and qualified. The members shall represent the interest
 42 of the citizens of this state and shall be knowledgeable in the areas of small scale energy technol-
 43 ogy, natural resource development, environmental protection, finance, agriculture, local government
 44 operations and utility operations. At least three members shall reside outside the Willamette Valley.

45 (3) The committee shall elect its own presiding officer, adopt rules for its procedure and meet

1 on call of the presiding officer or a majority of the members. A majority of the members shall con-
2 stitute a quorum to do business. The director shall provide administrative facilities and services for
3 the committee.

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

6 **SECTION 145.** ORS 470.080 is amended to read:

7 470.080. (1) After consultation with the Small Scale Local Energy Project Advisory Committee,
8 the Director of the [*State Department of Energy*] **Oregon Business Development Department** shall
9 establish by rule standards and criteria for small scale local energy projects to be funded under this
10 chapter other than projects funded through energy efficiency and sustainable technology loans. The
11 standards and criteria shall operate to encourage diversity in projects funded, give preference to the
12 maximum extent practical to projects proposed by individuals and small businesses, ensure accept-
13 ability of environmental impacts and shall require consideration of the potential contribution of a
14 project if developed at other suitable locations to meeting the energy needs of this state. The stan-
15 dards and criteria shall give the least preference to projects proposed by an eligible federal agency.

16 (2) All applications submitted under ORS 470.060 shall be reviewed by the [*State Department of*
17 *Energy*] **Oregon Business Development Department**. The department may request that the appli-
18 cant submit additional information or revise the application. The department shall:

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

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

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

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

34 **SECTION 146.** ORS 470.090 is amended to read:

35 470.090. (1) After consideration of the recommendation of the Small Scale Local Energy Project
36 Advisory Committee or the [*State Department of Energy*] **Oregon Business Development Depart-**
37 **ment** as provided by ORS 470.080, the Director of the [*State Department of Energy*] **Oregon Busi-**
38 **ness Development Department** may approve or reject the financing of a small scale local energy
39 project described in an application filed as provided in ORS 470.060, using moneys in the Small Scale
40 Local Energy Project Loan Fund. Approval of a loan by the director shall include a certification
41 of the amount of the loan.

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

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

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

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

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

6 (e) The applicant is qualified, creditworthy and responsible and is willing and able to enter into
7 a contract with the director for development and repayment as provided in ORS 470.150 or 470.645;

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

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

12 (h) A dwelling constructed before January 1, 1979, that will be served by a proposed space
13 heating project is weatherized according to the standards established **by the Public Utility Com-**
14 **mission** under ORS 469.155;

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

19 (j) The loan will not preclude individuals and small businesses from access to loan moneys.

20 (3) The director shall notify the applicant and the presiding officer of the committee of the
21 director's action and of the reasons for that action. The director shall inform the applicant of the
22 review procedure established in ORS 470.100.

23 **SECTION 147.** ORS 470.100 is amended to read:

24 470.100. (1) If the Director of the [*State Department of Energy*] **Oregon Business Development**
25 **Department** rejects a loan application or approves a loan amount different than that requested by
26 the applicant, the applicant may request that the Small Scale Local Energy Project Advisory Com-
27 mittee review the director's action.

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

31 (3) An appeal of the director's action may be initiated by the presiding officer of the committee
32 no later than 45 days after the date the applicant receives notice of the director's action under ORS
33 470.090.

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

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

38 **SECTION 148.** ORS 470.110 is amended to read:

39 470.110. The Director of the [*State Department of Energy*] **Oregon Business Development De-**
40 **partment** may accept gifts of money or other property from any source, given for the purposes of
41 ORS 470.050 to 470.120, 470.140 (1) and 470.150 to 470.210. Money so received shall be paid into the
42 Small Scale Local Energy Project Loan Fund. Money or other property so received shall be used for
43 the purposes for which received.

44 **SECTION 149.** ORS 470.130 is amended to read:

45 470.130. All moneys in the Small Scale Local Energy Project Loan Fund created by Article XI-J

1 of the Oregon Constitution are appropriated continuously to the [*State Department of Energy*]
2 **Oregon Business Development Department** and shall be used for the purposes authorized under
3 this chapter.

4 **SECTION 150.** ORS 470.135 is amended to read:

5 470.135. The duties of the Director of the Oregon Department of Administrative Services to es-
6 tablish, maintain and keep accounts of, and make disbursements or transfers out of, the funds and
7 accounts established or identified in the two bond indentures, as supplemented, dated June 1, 1981,
8 and September 1, 1985, that relate to the Small Scale Local Energy Project Loan Program estab-
9 lished by Article XI-J of the Oregon Constitution and this chapter are transferred to the [*State De-*
10 *partment of Energy*] **Oregon Business Development Department**. Notwithstanding the transfer of
11 these fiscal functions to the [*State Department of Energy*] **Oregon Business Development Depart-**
12 **ment**, in accordance with ORS 291.015 (2), the [*State Department of Energy's*] **Oregon Business**
13 **Development Department's** performance of these fiscal functions shall remain subject to the con-
14 trol of the Oregon Department of Administrative Services.

15 **SECTION 151.** ORS 470.140 is amended to read:

16 470.140. (1) In accordance with the applicable provisions of ORS chapter 183, the Director of the
17 [*State Department of Energy*] **Oregon Business Development Department** may adopt rules con-
18 sidered necessary to carry out the purposes of this chapter.

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

23 **SECTION 152.** ORS 470.145 is amended to read:

24 470.145. The [*State Department of Energy*] **Oregon Business Development Department** shall
25 develop, implement and periodically update a marketing plan to inform potential applicants of the
26 availability of small scale local energy project loans. The first priority of the marketing plan shall
27 be to inform individuals and small businesses that small scale local energy project loans are avail-
28 able.

29 **SECTION 153.** ORS 470.150 is amended to read:

30 470.150. Except as provided in ORS 470.155 and 470.170, if the Director of the [*State Department*
31 *of Energy*] **Oregon Business Development Department** approves the financing of a small scale
32 local energy project, the director, on behalf of the state, and the applicant may enter into a loan
33 contract, secured by a first lien or by other good and sufficient collateral in the manner provided
34 in ORS 470.155 to 470.210. For purposes of this section, the interest of the [*State Department of En-*
35 *ergy*] **Oregon Business Development Department** under a lease purchase contract entered into
36 with an eligible federal or state agency or a municipal corporation may constitute good and suffi-
37 cient collateral. The contract:

38 (1) May provide that the director, on behalf of the state, must approve the arrangements made
39 by the applicant for the development, operation and maintenance of the small scale local energy
40 project, using moneys in the Small Scale Local Energy Project Loan Fund for the project develop-
41 ment.

42 (2) Shall provide a plan for repayment by the applicant of moneys borrowed from the loan fund
43 used for the development of the small scale local energy project and interest on those moneys used
44 at a rate of interest the director determines is necessary to provide adequate funds to recover the
45 administrative expenses incurred in connection with the loan. The director shall set the interest rate

1 at an incremental rate above the interest rate on the underlying bonds in an amount sufficient to
2 recover all program-related costs including, but not limited to, implementation, financing, adminis-
3 tration and promotional costs for the program. The incremental rate for projects proposed by an
4 eligible federal agency shall be greater than the incremental rate charged to any other govern-
5 mental borrower. The repayment plan, among other matters:

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

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

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

18 (d) Shall set forth the period of loan, which may not exceed the usable life of the completed
19 project, or 30 years from the date of the loan contract, whichever is less.

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

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

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

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

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

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

36 (a) For an energy efficiency and sustainable technology loan that relies on an on-bill financing
37 system for the collection of a loan repayment charge, an agreement by the applicant to notify a
38 person acquiring ownership of, or an interest in, the property from the applicant that the loan re-
39 payment charge will be transferred to the utility customer account of the person acquiring the
40 ownership or interest unless the loan is discharged before or at the time the ownership or interest
41 transfers;

42 (b) A plainly worded acknowledgment by the applicant that failure to make payments as re-
43 quired under the loan agreement may result in the foreclosure of a property lien or other debt col-
44 lection actions;

45 (c) A waiver stating that the applicant waives any jurisdictional or other irregularities or de-

fects in:

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

(B) A small scale local energy project;

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

(D) This chapter; or

(E) Department rules that relate in any way to the loan repayment charge, real property lien provisions or any form or combination of loan security or to the requirement to satisfy the loan obligation;

(d) If the applicant is not the owner of the property to be burdened by the loan repayment charge, fixture filing or real property lien, provision for participation by the property owner as a party to the contract or a notarized authorization by the owner for the fixture filing and lien; and

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

SECTION 154. ORS 470.160 is amended to read:

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

SECTION 155. ORS 470.170 is amended to read:

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

(b) To the extent consistent with any declaration, pledge or agreement for bonds issued under ORS 470.220 to 470.290, an energy efficiency and sustainable technology loan shall be secured as provided in ORS 470.680 or 470.685.

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

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

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

(5) The director may cause to be instituted appropriate proceedings to foreclose liens for delinquent loan payments, and shall pay the proceeds of any such foreclosure, less the director's expenses incurred in foreclosing, into the Small Scale Local Energy Project Administration and Bond Sinking Fund if the loan was issued from the Small Scale Local Energy Project Loan Fund, or into the Energy Project Bond Loan Fund if the loan was from the Energy Project Bond Loan Fund. In a foreclosure proceeding the director may bid on property offered for sale in the proceedings and may

1 acquire title to the property on behalf of the state.

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

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

9 **SECTION 156.** ORS 470.180 is amended to read:

10 470.180. In addition to any other remedy available to the [*State Department of Energy*] **Oregon**
11 **Business Development Department**, if a municipal corporation entitled by law to share in the
12 apportionment of any state revenues or funds defaults on any payments due to the State of Oregon
13 under a loan contract entered into under ORS 470.150, the [*State Department of Energy*] **Oregon**
14 **Business Development Department** may certify that fact to the Oregon Department of Adminis-
15 trative Services and the Oregon Department of Administrative Services shall withhold payment of
16 any revenues or funds in the State Treasury to which the municipal corporation is entitled, in an
17 amount not to exceed the balance owing on the loan, until the [*State Department of Energy*] **Oregon**
18 **Business Development Department** certifies that the default has been remedied.

19 **SECTION 157.** ORS 470.190 is amended to read:

20 470.190. If an applicant fails to comply with a contract entered into with the Director of the
21 [*State Department of Energy*] **Oregon Business Development Department** for development and
22 repayment as provided in ORS 470.150 or 470.645, the director, in addition to remedies provided in
23 ORS 470.170 and 470.180, may seek other appropriate legal remedies to secure the loan and may
24 contract as provided in ORS 470.150 with any other person for continuance of development and for
25 repayment of moneys from the Small Scale Local Energy Project Loan Fund or from the Energy
26 Project Bond Loan Fund used therefor and interest thereon.

27 **SECTION 158.** ORS 470.200 is amended to read:

28 470.200. If any small scale local energy project is refinanced or an additional grant or loan in-
29 tended to finance the project development is obtained from other sources after the execution of the
30 loan from the state, all such funds shall be used to repay the state unless the Director of the [*State*
31 *Department of Energy*] **Oregon Business Development Department** finds that repayment of the
32 state from the additional grant or loan would be contrary to public interest.

33 **SECTION 159.** ORS 470.210 is amended to read:

34 470.210. (1) Notwithstanding any other provision of law, a municipal corporation may enter into
35 a loan contract with the [*State Department of Energy*] **Oregon Business Development Department**
36 to finance a small scale local energy project.

37 (2) In order to finance a small scale local energy project, the Director of the [*State Department*
38 *of Energy*] **Oregon Business Development Department**, on behalf of the state and in lieu of en-
39 tering into a loan contract under subsection (1) of this section, may purchase or otherwise acquire
40 a municipal corporation's general obligations or revenue obligations, including but not limited to
41 bonds, notes, certificates of participation, warrants or lease purchase agreements.

42 **SECTION 160.** ORS 470.230 is amended to read:

43 470.230. Except as provided in ORS 470.270, all moneys obtained from the sale of general obli-
44 gation bonds under ORS 470.220 to 470.290 and Article XI-J of the Oregon Constitution shall be
45 credited by the State Treasurer to the Small Scale Local Energy Project Loan Fund. Those moneys

1 shall be used only for the purposes stated in Article XI-J of the Oregon Constitution, including
 2 payment of the costs of issuing the bonds and of obtaining credit enhancement for the bonds, and
 3 making payments of interest on bonds issued pursuant to the provisions of ORS 470.220 to 470.290
 4 if there are insufficient funds in the Small Scale Local Energy Project Administration and Bond
 5 Sinking Fund to make the payments referred to in ORS 470.300 (1). Moneys loaned to municipal
 6 corporations but withheld by the [*State Department of Energy*] **Oregon Business Development**
 7 **Department** for security or to pay for future project costs may remain in the loan fund. Pending
 8 the use of the moneys in the loan fund for the proper purposes, the moneys may be invested in the
 9 manner provided by law.

10 **SECTION 161.** ORS 470.270 is amended to read:

11 470.270. (1) After consultation with the State Treasurer, the Director of the [*State Department*
 12 *of Energy*] **Oregon Business Development Department** may issue general obligation refunding
 13 bonds for the purpose of refunding outstanding bonds issued under ORS 470.220 to 470.290 and Ar-
 14 ticle XI-J of the Oregon Constitution. The refunding bonds may be sold in the same manner as other
 15 bonds are sold under ORS 470.220 to 470.290. All moneys obtained from the sale of refunding bonds
 16 shall be credited by the State Treasurer to the Small Scale Local Energy Project Administration and
 17 Bond Sinking Fund. The refunding bonds may be issued to refund bonds previously issued for re-
 18 funding purposes. Pending the use of moneys obtained from the sale of refunding bonds for proper
 19 purposes, such moneys may be invested in the manner provided by law.

20 (2) Notwithstanding any provision of ORS 470.150, if the [*State Department of Energy*] **Oregon**
 21 **Business Development Department** issues taxable refunding bonds at a lower interest rate to re-
 22 fund outstanding general obligation bonds, and is unable to allow loan recipients to receive a por-
 23 tion of the interest savings, the director shall allow the loan recipient to prepay the outstanding
 24 loan balance upon the request of the recipient. The director shall respond to such a request within
 25 30 days after receiving the request by specifying the outstanding principal balance after applying
 26 reserves held by the state for the borrower and the prepayment premium as listed in the bond doc-
 27 ument, loan document or bond purchase agreement.

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

40 **SECTION 162.** ORS 470.300 is amended to read:

41 470.300. (1) There hereby is created the Small Scale Local Energy Project Administration and
 42 Bond Sinking Fund, separate and distinct from the General Fund, to provide for payment of:

43 (a) Administrative expenses of the [*State Department of Energy and the Director of the State De-*
 44 *partment of Energy*] **Oregon Business Development Department and the Director of the Oregon**
 45 **Business Development Department** in processing applications, investigating potential small scale

1 local energy projects and proposed loans and servicing and collecting outstanding loans made from
2 the Small Scale Local Energy Project Loan Fund, if the expense is not paid directly by the applicant.

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

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

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

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

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

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

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

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

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

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

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

21 (g) Moneys transferred from the loan fund.

22 (h) Gifts, grants, donations or other moneys for promoting small scale local energy program loan
23 purposes and goals.

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

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

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

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

34 **SECTION 163.** ORS 470.310 is amended to read:

35 470.310. (1) If there are insufficient funds in the Small Scale Local Energy Project Adminis-
36 tration and Bond Sinking Fund to make the payments referred to in ORS 470.300 (1), the Director
37 of the [*State Department of Energy*] **Oregon Business Development Department** may request the
38 funds necessary for such payments from the Legislative Assembly or the Emergency Board.

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

1 **SECTION 164.** ORS 470.500 is amended to read:

2 470.500. (1) The Director of the [*State Department of Energy*] **Oregon Business Development**
3 **Department** shall administer the energy efficiency and sustainable technology loan program for the
4 purpose of providing financing, promotion and technical support to encourage significant invest-
5 ments in energy efficiency, renewable energy and energy conservation.

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

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

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

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

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

14 (e) Foster energy savings;

15 (f) Stimulate job growth; and

16 (g) Help substantially reduce carbon emissions.

17 **SECTION 165.** ORS 470.505 is amended to read:

18 470.505. Notwithstanding any other provision of this chapter, if the Director of the [*State De-*
19 *partment of Energy*] **Oregon Business Development Department** determines that the [*State De-*
20 *partment of Energy*] **Oregon Business Development Department** is unable to issue a sufficient
21 number of energy efficiency and sustainable technology loans to offset the reasonable cost to the
22 department of operating the loan program, the director may delay or suspend the energy efficiency
23 and sustainable technology loan program in one or more sustainable energy territories or may delay
24 or suspend any feature of the energy efficiency and sustainable technology loan program.

25 **SECTION 166.** ORS 470.510 is amended to read:

26 470.510. (1) Except as provided in subsection (3) of this section, the [*State Department of*
27 *Energy*] **Oregon Business Development Department** may enter into contracts for the issuance of
28 energy efficiency and sustainable technology loans. Except as provided in ORS 470.700, the depart-
29 ment shall finance the loans using moneys from the Small Scale Local Energy Project Loan Fund,
30 the Energy Project Supplemental Fund or the Energy Project Bond Loan Fund, or from a combina-
31 tion of those funds.

32 (2) The sustainable energy project manager may enter into agreements with trade associations
33 and other public and private entities for the promotion or marketing of the energy efficiency and
34 sustainable technology loan program.

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

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

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

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

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

43 **SECTION 167.** ORS 470.520 is amended to read:

44 470.520. The [*State Department of Energy*] **Oregon Business Development Department** may
45 contract for persons to perform the duties of the department under ORS 470.500 to 470.710 including,

1 but not limited to, the development of standardized base efficiency packages and standardized op-
 2 tional packages, energy efficiency and sustainable technology loan evaluation, processing and col-
 3 lection. A loan processed by a person contracting with the department, other than a loan processed
 4 by a sustainable energy project manager, must include the department as a party to the loan.

5 **SECTION 168.** ORS 470.525 is amended to read:

6 470.525. (1) The [*State Department of Energy*] **Oregon Business Development Department**
 7 shall send a quarterly report to the Small Scale Local Energy Project Advisory Committee. The re-
 8 port shall include, but need not be limited to, a summary of:

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

12 (2) The committee shall review the report to determine whether the goals of the loan program
 13 are being implemented and whether applicable rules and statutory standards are met. The committee
 14 may send comments regarding the report to the Director of the [*State Department of Energy*] **Oregon**
 15 **Business Development Department**.

16 **SECTION 169.** ORS 470.530, as amended by section 8, chapter 92, Oregon Laws 2010, is
 17 amended to read:

18 470.530. (1) Except as provided in subsection (5) of this section, the Director of the [*State De-*
 19 *partment of Energy*] **Oregon Business Development Department** may establish qualifications for
 20 sustainable energy project managers and may exercise oversight to ensure project manager compli-
 21 ance with those qualifications. A project manager shall provide the promotion, technical and finan-
 22 cial support and verifications necessary to administer the energy efficiency and sustainable
 23 technology loan program in the territory served by the project manager.

24 (2) The project manager shall serve a sustainable energy territory established by the director.
 25 The project manager shall provide loan program information and technical and financial information
 26 to promote energy efficiency and use of renewable energy at the neighborhood and community lev-
 27 els. The project manager shall be responsible for small scale local energy project verification and
 28 for monitoring program effectiveness for energy efficiency and sustainable technology loans and
 29 small scale local energy program loans. The project manager may administer the energy efficiency
 30 and sustainable technology loan program within the territory.

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

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

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

37 (B) The service territory of the local electric utility and the service territory of the local gas
 38 utility overlap.

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

44 (4) A city, county, metropolitan service district or other local government entity, or a nonprofit,
 45 for-profit, tribal or state entity, may be a project manager if the entity meets the qualifications es-

1 tablished by the director under this section and is approved by the director to provide promotion,
 2 outreach and customer support related to the energy efficiency and sustainable technology loan
 3 program within a sustainable energy territory. The Public Purpose Fund Administrator is an ex
 4 officio sustainable energy project manager. The Public Purpose Fund Administrator shall act as the
 5 project manager in any sustainable energy territory that is not served by another project manager.

6 (5) The director shall establish a sustainable energy project manager certification program.
 7 However, the Public Purpose Fund Administrator or a consumer-owned utility is not required to
 8 obtain a sustainable energy project manager certificate and the Public Purpose Fund Administrator
 9 is not subject to any qualifications established by the director for a project manager.

10 **SECTION 170.** ORS 470.535 is amended to read:

11 470.535. (1) The Director of the [*State Department of Energy*] **Oregon Business Development**
 12 **Department** shall initiate the certification process for a sustainable energy project manager by
 13 publishing a request for proposals.

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

16 (a) Background information about the applicant including, but not limited to, the qualifications,
 17 relevant experience, financial status and staff of the applicant;

18 (b) A proposed plan for implementing and administering the goals and requirements of the en-
 19 ergy efficiency and sustainable technology loan program in the sustainable energy territory; and

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

21 (3) After reviewing all applications received, the director may select a project manager. In se-
 22 lecting the project manager, the director shall consider the following factors:

23 (a) The organizational experience of the applicant and the capacity of the applicant to success-
 24 fully implement the energy efficiency and sustainable technology loan program goals and require-
 25 ments.

26 (b) The strength of the applicant's proposed plan for implementing the goals and requirements
 27 of the energy efficiency and sustainable technology loan program.

28 (c) The cost at which the applicant can conduct outreach, promotion, loan applicant support and
 29 project verification services necessary to implement the energy efficiency and sustainable technol-
 30 ogy loan program.

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

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

35 **SECTION 171.** ORS 470.540 is amended to read:

36 470.540. (1) Upon selecting a proposed sustainable energy project manager, the Director of the
 37 [*State Department of Energy*] **Oregon Business Development Department** shall notify all unsuc-
 38 cessful applicants for the position that another candidate is proposed for appointment. The director
 39 shall negotiate with the proposed project manager regarding any modifications to the service cost
 40 estimates or other features of the applicant's proposed plan that are necessary to ensure that the
 41 applicant will meet the goals and requirements of the energy efficiency and sustainable technology
 42 loan program and [*State Department of Energy*] rules **adopted by the Oregon Business Develop-**
 43 **ment Department.**

44 (2) To the extent practicable, the director shall certify a project manager not later than four
 45 months after publication of the request for proposals and not later than two months after the se-

lection of the proposed project manager. However, the director may at any time select a different applicant as the proposed project manager or may reinstate the certification process.

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

(a) A request to appeal under ORS 470.545 is not filed within 15 days after the date the notice is sent; and

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

SECTION 172. ORS 470.545 is amended to read:

470.545. (1) A person that believes a decision of the Director of the [*State Department of Energy*] **Oregon Business Development Department** to certify a sustainable energy project manager is inconsistent with applicable rules or statutes may file a request to appeal with the Small Scale Local Energy Project Advisory Committee. Unless the request for appeal is filed by a nonprofit entity, the request must be accompanied by a \$2,000 appeal fee. The fee shall be waived for a nonprofit entity. The committee may initiate a review on its own motion.

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

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

SECTION 173. ORS 470.550 is amended to read:

470.550. (1) Unless the sustainable energy project manager is the Public Purpose Fund Administrator or a consumer-owned utility, the certification of a project manager shall be for a five-year term. The Director of the [*State Department of Energy*] **Oregon Business Development Department** shall issue the project manager a certification approval letter that states any conditions applicable to the certification.

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

(a) Failure to adequately implement an applicable plan for implementing the energy efficiency and sustainable technology loan program;

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

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

(d) Failure to perform other certification conditions.

SECTION 174. ORS 470.555 is amended to read:

470.555. (1) Except as provided in subsection (2) of this section, if a sustainable energy territory is all or part of the service territory for an investor-owned electric utility, the Public Purpose Fund Administrator shall be the sustainable energy project manager for the sustainable energy territory. The Public Purpose Fund Administrator shall inform the Public Utility Commission and the [*State Department of Energy*] **Oregon Business Development Department** of the activities of the administrator by filing a yearly action plan and an end-of-year report with the commission and the department.

(2) For a sustainable energy territory described in ORS 470.530 (3)(b), if the local gas utility is an investor-owned utility, the utility may act as the project manager for the territory or may con-

1 tract with the Public Purpose Fund Administrator to act as project manager on behalf of the utility.

2 (3) If a territory is served by a consumer-owned utility and is outside the service territory of
3 an investor-owned electric utility, the consumer-owned utility shall be the project manager if the
4 utility agrees to promote energy efficiency and sustainable technology loans as part of any energy
5 efficiency or renewable energy program offered by the utility. A consumer-owned utility may con-
6 duct energy efficiency and renewable energy programs within the territory of the utility regardless
7 of whether the territory is served by an energy efficiency and sustainable technology loan program.
8 A consumer-owned utility may decline to participate in the energy efficiency and sustainable tech-
9 nology loan program.

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

14 (5) The existence of an energy efficiency and sustainable technology loan program, or the ap-
15 pointment of a sustainable energy project manager, in a sustainable energy territory does not pre-
16 vent a consumer-owned utility from conducting any energy efficiency or renewable energy program
17 offered by the utility. If the consumer-owned utility declines to become the project manager for the
18 territory, the utility may:

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

20 (b) Work with the Director of the [*State Department of Energy*] **Oregon Business Development**
21 **Department** to solicit and select a qualified entity to serve as the project manager as described in
22 ORS 470.535 and 470.540.

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

31 (7) The Public Purpose Fund Administrator and sustainable energy project managers shall co-
32 operate with, and coordinate their outreach and promotional efforts with, local utilities and other
33 stakeholders to promote energy efficiency and renewable energy and to use the customer contacts,
34 resources and capacity of utilities to engage and inform utility customers about the energy effi-
35 ciency and sustainable technology loan program. The Public Purpose Fund Administrator and
36 project managers shall coordinate with gas utilities regarding any changes to a gas pipeline and
37 with electric utilities regarding electric charging or any changes to electrical connections that are
38 external to a structure. The Public Purpose Fund Administrator and project managers shall coordi-
39 nate with a gas utility regarding the installation of appliances used for space heating, water heating
40 and compressed natural gas refueling.

41 **SECTION 175.** ORS 470.560 is amended to read:

42 470.560. (1) The [*State Department of Energy*] **Oregon Business Development Department**
43 shall adopt rules establishing certification standards for contractors participating in the con-
44 struction of small scale local energy projects financed through the energy efficiency and sustainable
45 technology loan program. The department shall design the standards to ensure that the project work

1 performed by a contractor holding the certification is of high quality and will result in a high degree
2 of customer satisfaction.

3 (2) The certification standards established by the department must, at a minimum, require that
4 the contractor:

5 (a) Prove that the contractor has sufficient skill to ensure that the contractor can successfully
6 install energy efficiency, renewable energy or weatherization projects.

7 (b) Not be a contractor listed by the Commissioner of the Bureau of Labor and Industries under
8 ORS 279C.860 as ineligible to receive a contract or subcontract for public works.

9 (c) Be an equal opportunity employer or small business or be a minority or women business
10 enterprise or disadvantaged business enterprise as those terms are defined in ORS 200.005.

11 (d) Demonstrate a history of compliance with the rules and other requirements of the Con-
12 struction Contractors Board and of the Workers' Compensation Division and the Occupational
13 Safety and Health Division of the Department of Consumer and Business Services.

14 (e) Employ at least 80 percent of employees used for energy efficiency and sustainable technol-
15 ogy loan program projects from the local work force, if a sufficient supply of skilled workers is
16 available locally.

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

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

20 (3) The [*State Department of Energy*] **Oregon Business Development Department** shall consult
21 with the Public Purpose Fund Administrator and utilities when developing contractor certification
22 standards.

23 (4) The Construction Contractors Board may issue a qualifying contractor a certification au-
24 thorizing the contractor to participate in the construction of small scale local energy projects fi-
25 nanced through the energy efficiency and sustainable technology loan program. A contractor
26 seeking certification shall apply to the board as provided under ORS 701.119.

27 (5) The [*State Department of Energy*] **Oregon Business Development Department** shall identify
28 certified contractors that provide employees with health insurance benefits as preferred service
29 providers and may take other actions as practicable to encourage certified contractors to provide
30 employees with health insurance benefits.

31 **SECTION 175a.** Section 48, chapter 753, Oregon Laws 2009, is amended to read:

32 **Sec. 48.** The [*State Department of Energy*] **Oregon Business Development Department** shall
33 adopt rules establishing contractor certification standards required under [*section 13 of this 2009*
34 *Act*] **ORS 470.560** no later than December 1, 2010. The Construction Contractors Board shall im-
35 plement a certification system for contractors under [*section 51 of this 2009 Act*] **ORS 701.119** no
36 later than January 1, 2011.

37 **SECTION 176.** ORS 470.565 is amended to read:

38 470.565. (1) At the request of a loan applicant, a contractor that is authorized to participate in
39 the construction of small scale local energy projects financed through the energy efficiency and
40 sustainable technology loan program may conduct an energy savings projection or similar evaluation
41 for a property and conduct post-project verifications of energy savings in a sustainable energy ter-
42 ritory that does not have a sustainable energy project manager.

43 (2) The [*State Department of Energy*] **Oregon Business Development Department** shall process
44 a loan application submitted by an applicant in a sustainable energy territory that does not have a
45 project manager in the same manner as an application submitted through a project manager.

1 (3) The department may approve an energy efficiency and sustainable technology loan for prop-
 2 erty located in a sustainable energy territory that does not have a project manager if:

3 (a) On-bill financing is available to the loan applicant through a local utility serving the bene-
 4 fited property; or

5 (b) The department and the loan applicant agree to an alternative method for ensuring repay-
 6 ment of the loan.

7 **SECTION 177.** ORS 470.570 is amended to read:

8 470.570. (1) The Energy Project Supplemental Fund is established in the State Treasury, separate
 9 and distinct from the General Fund. Interest earned by the Energy Project Supplemental Fund shall
 10 be credited to the Energy Project Supplemental Fund.

11 (2) The Energy Project Supplemental Fund shall consist of any moneys received for purposes of
 12 the energy efficiency and sustainable technology loan program or for small scale local energy pro-
 13 gram loans other than moneys deposited to:

14 (a) The Small Scale Local Energy Project Loan Fund.

15 (b) The Small Scale Local Energy Project Administration and Bond Sinking Fund.

16 (c) The Energy Project Bond Loan Fund.

17 (d) The Loan Offset Grant Fund, except that Loan Offset Grant Fund moneys used to offset the
 18 energy efficiency and sustainable technology loan or small scale local energy program loan repay-
 19 ment obligation of a borrower shall be deposited to the Energy Project Supplemental Fund.

20 (e) The Energy Revenue Bond Repayment Fund.

21 (3) Moneys in the Energy Project Supplemental Fund are continuously appropriated to the [*State*
 22 *Department of Energy*] **Oregon Business Development Department** for the following purposes:

23 (a) To provide funding, separately or in conjunction with moneys from the Small Scale Local
 24 Energy Project Loan Fund and the Energy Project Bond Loan Fund, for energy efficiency and
 25 sustainable technology loans and small scale local energy program loans;

26 (b) For transfer to the Energy Revenue Bond Repayment Fund, to the extent that moneys
 27 available in the Energy Project Bond Loan Fund are insufficient to provide the amount determined
 28 prudent by the Director of the [*State Department of Energy*] **Oregon Business Development De-**
 29 **partment** under ORS 470.610 (2); and

30 (c) To pay costs incurred by the [*State Department of Energy*] **department** or the director in
 31 implementing or administering loan programs for small scale local energy projects.

32 (4) The State Treasurer may establish any subaccounts in the Energy Project Supplemental Fund
 33 that the treasurer or the director considers reasonable for the efficient administration of the fund.

34 **SECTION 178.** ORS 470.575, as amended by section 2, chapter 92, Oregon Laws 2010, is
 35 amended to read:

36 470.575. (1) The Loan Offset Grant Fund is established in the State Treasury, separate and dis-
 37 tinct from the General Fund. Interest earned by the Loan Offset Grant Fund shall be credited to
 38 the Loan Offset Grant Fund. Moneys in the fund are continuously appropriated to the [*State De-*
 39 *partment of Energy*] **Oregon Business Development Department** for use as provided in this sec-
 40 tion.

41 (2) The fund shall consist of any moneys directed by law, gift, grant or donation to the fund and
 42 moneys from base efficiency package fees collected pursuant to ORS 470.655.

43 (3) The department shall use fund moneys:

44 (a) To promote energy efficiency, renewable energy and energy conservation projects that would
 45 otherwise result in a marginally higher overall cost to the applicant when energy costs and the fi-

1 nancing and repayment costs for the project are considered, by using the fund moneys to help
2 produce a monthly cost savings for the applicant; or

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

5 **SECTION 179.** ORS 470.580 is amended to read:

6 470.580. (1) The Energy Project Bond Loan Fund is established in the State Treasury, separate
7 and distinct from the General Fund. Interest earned by the Energy Project Bond Loan Fund shall
8 be credited to the fund.

9 (2) The fund shall consist of:

10 (a) Net proceeds from the issuance of revenue bonds under ORS 470.610 that are deposited to
11 the fund;

12 (b) Moneys from project initiation fees under ORS 470.655;

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

14 (d) Any moneys appropriated to the fund;

15 (e) Moneys from the sale of refunding bonds under ORS 470.610 and any accrued interest on
16 those bonds; and

17 (f) Interest earned on cash balances invested under ORS 470.595.

18 (3) Moneys in the fund are continuously appropriated to the [*State Department of Energy*]
19 **Oregon Business Development Department** for the following purposes:

20 (a) Subject to ORS 470.620, to issue and administer small scale local energy program loans and
21 energy efficiency and sustainable technology loans and to administer the loan programs.

22 (b) For transfer to the Energy Revenue Bond Repayment Fund for the payment of bond obli-
23 gations, the costs of issuing bonds described in subsection (2) of this section and the costs of ad-
24 ministering the revenue bond program and for the funding of bond payment reserves. Transfers
25 under this paragraph shall be carried out as determined by the Director of the [*State Department*
26 *of Energy*] **Oregon Business Development Department** under ORS 470.610 (2).

27 (4) The State Treasurer may establish any subaccounts in the Energy Project Bond Loan Fund
28 that the treasurer or the director considers reasonable for the efficient administration of the fund.

29 **SECTION 180.** ORS 470.585 is amended to read:

30 470.585. (1) The Energy Revenue Bond Repayment Fund is established in the State Treasury,
31 separate and distinct from the General Fund. Interest earned by the Energy Revenue Bond Repay-
32 ment Fund shall be credited to the fund. Moneys in the fund may be invested as provided in ORS
33 293.701 to 293.820. Moneys in the fund are continuously appropriated to the [*State Department of*
34 *Energy*] **Oregon Business Development Department** for the payment of:

35 (a) Administrative expenses of the [*State Department of Energy and the Director of the State De-*
36 *partment of Energy*] **department and the Director of the Oregon Business Development De-**
37 **partment** for energy efficiency and sustainable technology loans and small scale local energy
38 program loans made from the proceeds of energy project revenue bonds, to the extent those expenses
39 are not paid from the Energy Project Bond Loan Fund, the Energy Project Supplemental Fund or
40 the Loan Offset Grant Fund;

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

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

43 (d) Net investment earnings on moneys loaned to municipal corporations from energy project
44 revenue bonds under ORS 470.610 but withheld as provided in ORS 470.230; and

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

1 (2) The Energy Revenue Bond Repayment Fund shall consist of moneys transferred to the fund
 2 from the Energy Project Bond Loan Fund and Energy Project Supplemental Fund by the State
 3 Treasurer as provided in ORS 470.610 (2).

4 **SECTION 181.** ORS 470.590 is amended to read:

5 470.590. The [*State Department of Energy*] **Oregon Business Development Department** may
 6 request proposals for and select one or more financial managers for the energy efficiency and
 7 sustainable technology loan program. The function of a financial manager is:

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

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

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

16 **SECTION 182.** ORS 470.600 is amended to read:

17 470.600. To achieve the energy efficiency and sustainable technology loan program goals de-
 18 scribed in ORS 470.500, the Director of the [*State Department of Energy*] **Oregon Business Devel-**
 19 **opment Department** may enter into agreements to disburse supplemental capital funds through the
 20 Small Scale Local Energy Project Loan Fund and the Energy Project Supplemental Fund if:

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

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

26 **SECTION 183.** ORS 470.605 is amended to read:

27 470.605. (1) Subject to the approval of the Director of the [*State Department of Energy*] **Oregon**
 28 **Business Development Department**, a local government, public utility or other legally organized
 29 entity may direct moneys to the Energy Project Supplemental Fund or Loan Offset Grant Fund for
 30 use within a limited geographic area of this state as a source of capital for financing energy effi-
 31 ciency and sustainable technology loans, small scale local energy program loans or loan offset
 32 grants.

33 (2) Any moneys deposited under this section shall be separately accounted for and shall be
 34 managed consistently with small scale local energy project goals and any agreement between the
 35 [*State Department of Energy*] **Oregon Business Development Department** and the entity providing
 36 the moneys. The moneys may be disbursed only for use as designated by, and in the geographic area
 37 designated by, the entity providing the moneys.

38 **SECTION 184.** ORS 470.610, as amended by section 5, chapter 92, Oregon Laws 2010, is
 39 amended to read:

40 470.610. (1) The State Treasurer, at the request of the Director of the [*State Department of En-*
 41 *ergy*] **Oregon Business Development Department**, from time to time may issue and sell revenue
 42 bonds in the name of and on behalf of the State of Oregon in compliance with the applicable pro-
 43 visions of ORS chapter 286A in the principal amount necessary to carry out the purposes of ORS
 44 470.500 to 470.710, or for paying or refunding any revenue bonds previously issued on behalf of the
 45 [*State Department of Energy*] **Oregon Business Development Department** for those purposes. At

1 least once every six months, the director shall estimate the anticipated demand for loans under the
2 energy efficiency and sustainable technology loan program, and shall make a written declaration of
3 this amount to the State Treasurer.

4 (2) All bonds shall be special revenue obligations of the State of Oregon, and, unless paid from
5 the proceeds of other bonds, shall be payable as to principal, redemption premium, if any, and in-
6 terest, through the Energy Revenue Bond Repayment Fund solely from the revenues, moneys and
7 other assets of the Energy Project Bond Loan Fund and the Energy Project Supplemental Fund that
8 may be pledged for that payment. The director [*of the State Department of Energy*] shall determine
9 for each fiscal quarter the amount that will fall due during that fiscal quarter for bonds issued under
10 this section, other amounts described in ORS 470.585 and any expected significant changes in bond
11 obligations for upcoming fiscal quarters and the amount necessary to adequately fund reserves. The
12 director shall request that the State Treasurer make transfers from the Energy Project Bond Loan
13 Fund and Energy Project Supplemental Fund to the Energy Revenue Bond Repayment Fund as the
14 director believes prudent to ensure the continuing payment of maturing obligations and the funding
15 of reserves.

16 (3) Prior to an issuance of revenue bonds under this section, the director shall prepare and sign
17 a written declaration setting forth the amount of the bonds to be issued and the terms and condi-
18 tions for issuance. If the State Treasurer approves the declaration, the State Treasurer shall certify
19 the approval on the declaration. The approved declaration shall be known as an “energy revenue
20 bond declaration.” Each bond declaration shall be deemed to be and shall constitute conclusive
21 proof of the authorization to issue the bonds described in the bond declaration and may contain
22 further pledges and covenants as determined by the director or the State Treasurer.

23 **SECTION 184a.** Section 12, chapter 92, Oregon Laws 2010, is amended to read:

24 **Sec. 12.** (1) The amendments to ORS 470.635 by section 3, **chapter 92, Oregon Laws 2010**, [*of*
25 *this 2010 Act*] apply to energy savings projections or similar evaluations completed on or after [*the*
26 *effective date of this 2010 Act*] **March 23, 2010**.

27 (2) The amendments to ORS 470.655 by section 4, **chapter 92, Oregon Laws 2010**, [*of this 2010*
28 *Act*] apply to energy efficiency and sustainable technology loans approved on or after [*the effective*
29 *date of this 2010 Act*] **March 23, 2010**.

30 (3) The amendments to ORS 470.610 by section 5, **chapter 92, Oregon Laws 2010**, [*of this 2010*
31 *Act*] apply to revenue bonds for which the Director of the [*State Department of Energy*] **Oregon**
32 **Business Development Department** submits a written declaration pursuant to ORS 470.610 (3) to
33 the State Treasurer on or after [*the effective date of this 2010 Act*] **March 23, 2010**.

34 (4) The amendments to ORS 470.640 by section 6, **chapter 92, Oregon Laws 2010**, [*of this 2010*
35 *Act*] apply to energy efficiency and sustainable technology loans approved on or after [*the effective*
36 *date of this 2010 Act*] **March 23, 2010**.

37 **SECTION 185.** ORS 470.620 is amended to read:

38 470.620. The bonds issued by the State Treasurer under ORS 470.610 and the energy revenue
39 bond declaration may:

40 (1) Pledge all or any part of the fees received by the [*State Department of Energy*] **Oregon**
41 **Business Development Department** under ORS 470.655 and all or any part of the moneys received
42 in payment of energy efficiency and sustainable technology loans and small scale local energy pro-
43 gram loans that are funded with revenue from bonds issued under ORS 470.610, interest on those
44 amounts and other moneys credited to the Energy Project Bond Loan Fund.

45 (2) Pledge any moneys, loans or grants received from the federal government, this state or any

1 city, county or political subdivision of this state for payment of revenue bonds issued under ORS
2 470.610.

3 (3) Vest in a trustee appointed by the Director of the [*State Department of Energy*] **Oregon**
4 **Business Development Department** and approved by the State Treasurer such property, rights,
5 powers and duties in trust as the director may determine.

6 **SECTION 186.** ORS 470.630 is amended to read:

7 470.630. (1) The [*State Department of Energy*] **Oregon Business Development Department** may
8 disburse energy efficiency and sustainable technology loan and small scale local energy program
9 loan moneys by providing the loan moneys through a sustainable energy project manager or pro-
10 viding the loan moneys to or through an entity described in ORS 470.060. Loan moneys may be
11 disbursed through a project manager only for the purpose of enabling the project manager to issue
12 energy efficiency and sustainable technology loans and small scale local energy program loans to
13 applicants in the sustainable energy territory served by the project manager.

14 (2) The project manager may issue a loan from moneys disbursed under this section only if ad-
15 equate security exists to ensure repayment of the loan. An energy efficiency and sustainable tech-
16 nology loan from a project manager to an applicant located in the sustainable energy territory
17 served by the project manager must have the features described in ORS 470.150 and 470.645 and is
18 subject to the requirements and processes imposed under ORS 470.500 to 470.710 for energy effi-
19 ciency and sustainable technology loans issued by the Director of the [*State Department of Energy*]
20 **Oregon Business Development Department**. A project manager that issues an energy efficiency
21 and sustainable technology loan to support a small scale local energy project may record a fixture
22 filing and lien on the property that benefits from the project as provided in ORS 470.680 or 470.685.

23 **SECTION 187.** ORS 470.635, as amended by section 3, chapter 92, Oregon Laws 2010, is
24 amended to read:

25 470.635. (1) The [*State Department of Energy*] **Oregon Business Development Department** may
26 not complete an agreement for the issuance of an energy efficiency and sustainable technology loan
27 unless the sustainable energy project manager, a contractor designated by the project manager or
28 a person approved by the department completes an energy savings projection or similar evaluation
29 for the property that will benefit from the small scale local energy project. The projection or other
30 evaluation shall be in writing and shall, at a minimum, identify the following:

31 (a) The recommended base efficiency package for the structure. A base energy package may in-
32 clude improvements to existing supply lines and equipment.

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

34 (c) The estimated net monthly cost to the applicant when energy savings, project repayment
35 costs, tax or other incentives, loan offset grants, base efficiency package fees and other relevant
36 economic factors are considered.

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

38 (e) If the base efficiency package or recommended optional package includes the use of nontra-
39 ditional technology, a description of the nontraditional technology.

40 (2) A base efficiency package or optional package may not provide for achieving energy effi-
41 ciency upgrades through the use of appliances or other equipment that lack sufficient relationship
42 to the structure to be subject to a fixture filing or real property lien.

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

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

1 (b) That no liability attaches to the department, any state agency or officer, the project man-
2 agers or any utility if actual energy savings are less than the estimated savings or if the con-
3 struction process or constructed project is unsatisfactory in any way.

4 (4) If the base efficiency package or recommended optional package includes the use of nontra-
5 ditional technology, the projection or other evaluation shall include a statement that the technology
6 is nontraditional, initialed by the prospective loan applicant.

7 (5) An energy efficiency and sustainable technology loan may be used only for a project con-
8 structed by a contractor certified under ORS 701.119.

9 (6) Prior to the disbursement of the loan moneys to the contractor, a project manager or other
10 person approved by the department shall verify that the small scale local energy project has been
11 completed in a manner consistent with energy efficiency and sustainable technology loan program
12 requirements. If this state or any agency of this state adopts or recognizes an energy efficiency
13 scoring system for buildings, the department may require that the verification described in this
14 subsection include the determination of an energy efficiency score for the property benefited by the
15 project.

16 (7) The department shall periodically consult with contractors certified under ORS 701.119 for
17 the purpose of updating average cost and projected savings figures used for energy savings
18 projections or other evaluations under this section. The department shall encourage the use of
19 methods for conducting energy savings projections or other evaluations under this section that are
20 cost-effective and time-effective, take advantage of economies of scale and produce results that are
21 accurate and are replicable for equivalent base energy packages.

22 **SECTION 188.** ORS 470.645 is amended to read:

23 470.645. An application for an energy efficiency and sustainable technology loan must contain:

24 (1) Information sufficient to identify real or personal property located within this state against
25 which a fixture filing and lien may be filed under ORS 470.680 or 470.685 to secure the loan and
26 sufficient to allow verification that the property owner is the applicant or has consented to the
27 fixture filing and lien;

28 (2) A clear and conspicuous disclosure:

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

32 (b) That some lenders may be unwilling to make a mortgage on a property that is subject to a
33 lien or other form of security for the energy efficiency and sustainable technology loan;

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

36 (4) The [*State Department of Energy*] **Oregon Business Development Department** must be
37 satisfied that all conditions required under ORS 470.090 to support the loan have been satisfied.

38 **SECTION 189.** ORS 470.650 is amended to read:

39 470.650. (1) If an applicant for a loan to construct a residential small scale local energy project
40 has household income that may qualify the person for a weatherization program operated by the
41 Housing and Community Services Department, the sustainable energy project manager shall refer
42 the applicant to the department. This subsection does not prohibit a project manager from accepting
43 an application from a person who has been denied, or is receiving, assistance under a department
44 weatherization program.

45 (2) If an applicant for a loan to construct a residential small scale local energy project has

1 household income that is less than 250 percent of the federal poverty guidelines, upon request by
2 the applicant, the [State Department of Energy] **Oregon Business Development Department** may
3 waive all or part of an application fee for the loan and may waive all or part of the project initiation
4 fee.

5 **SECTION 190.** ORS 470.655, as amended by section 4, chapter 92, Oregon Laws 2010, is
6 amended to read:

7 470.655. (1) Except as provided in ORS 470.650, an applicant for an energy efficiency and
8 sustainable technology loan approved by the [State Department of Energy] **Oregon Business De-**
9 **velopment Department** shall pay the department a project initiation fee. Upon request of the loan
10 applicant, the department may add all or part of a project initiation fee to the principal of an issued
11 loan. The department may establish the fee amount by rule, not to exceed four percent of the ap-
12 proved loan amount. If the department does not establish the fee amount, the fee shall be two per-
13 cent of the approved loan amount.

14 (2) The Director of the [State Department of Energy] **Oregon Business Development Depart-**
15 **ment** may by rule establish a base efficiency package fee for energy efficiency and sustainable
16 technology loans if the loans are not financed by moneys from the Loan Offset Grant Fund. The fee
17 may not exceed 10 percent of the estimated economic benefit for the base efficiency package. Any
18 fees collected by the department under this subsection shall be deposited in the fund.

19 **SECTION 191.** ORS 470.660 is amended to read:

20 470.660. (1) If an investor-owned utility serving a sustainable energy territory has established
21 an on-bill financing system, an energy efficiency and sustainable technology loan shall be repaid by
22 on-bill financing unless the loan agreement specifies that the [State Department of Energy] **Oregon**
23 **Business Development Department** and the borrower have agreed to an alternative method for
24 ensuring repayment of the loan.

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

27 (a) Enable a customer to make a single payment to satisfy the periodic utility charges and re-
28 payment on an energy efficiency and sustainable technology loan;

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

31 (c) Direct energy efficiency and sustainable technology loan repayment amounts collected by the
32 utility to the appropriate sustainable energy project manager or to the department for deposit to the
33 credit of the Small Scale Local Energy Project Administration and Bond Sinking Fund, Energy
34 Project Bond Loan Fund or Energy Project Supplemental Fund.

35 (3) The Public Utility Commission shall adopt rules for the use of on-bill financing by investor-
36 owned utilities. The rules may include, but need not be limited to, rules regarding nonpayment, in-
37 sufficient payment, delinquency notices, repayment charge transfers, processing fees, late fees and
38 refunds. The commission may not adopt any rule that imposes responsibility for the repayment of
39 an energy efficiency and sustainable technology loan on the utility.

40 (4) The commission may waive the requirement that an investor-owned utility provide on-bill fi-
41 nancing for one or more loans if the commission determines that providing the on-bill financing is
42 not practicable. If the commission grants a utility a waiver under this subsection, the utility shall
43 bill the affected customers for loan repayment separately from any utility customer meter billings.

44 **SECTION 192.** ORS 470.660, as amended by section 7, chapter 92, Oregon Laws 2010, is
45 amended to read:

1 470.660. (1) All investor-owned utilities, except those that have withheld consent under ORS
2 470.510 (3), shall provide on-bill financing, except as described in subsection (4) of this section. After
3 an investor-owned utility serving a sustainable energy territory has established an on-bill financing
4 system, an energy efficiency and sustainable technology loan shall be repaid by on-bill financing
5 unless the loan agreement specifies that the [*State Department of Energy*] **Oregon Business Devel-**
6 **opment Department** and the borrower have agreed to an alternative method for ensuring repay-
7 ment of the loan.

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

10 (a) Enable a customer to make a single payment to satisfy the periodic utility charges and re-
11 payment on an energy efficiency and sustainable technology loan;

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

14 (c) Direct energy efficiency and sustainable technology loan repayment amounts collected by the
15 utility to the appropriate sustainable energy project manager or to the department for deposit to the
16 credit of the Small Scale Local Energy Project Administration and Bond Sinking Fund, Energy
17 Project Bond Loan Fund or Energy Project Supplemental Fund.

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

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

27 **SECTION 193.** ORS 470.665 is amended to read:

28 470.665. (1) If a consumer-owned utility serving a sustainable energy territory has established
29 an on-bill financing system, an energy efficiency and sustainable technology loan shall be repaid by
30 on-bill financing unless the loan agreement specifies that the [*State Department of Energy*] **Oregon**
31 **Business Development Department** and the borrower have agreed to an alternative method for
32 ensuring repayment of the loan.

33 (2) Unless the Director of the [*State Department of Energy*] **Oregon Business Development**
34 **Department** grants a consumer-owned utility a waiver under subsection (4) of this section, the on-
35 bill financing system of the utility must:

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

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

40 (c) Direct energy efficiency and sustainable technology loan repayment amounts collected by the
41 utility to the appropriate sustainable energy project manager or to the department for deposit to the
42 credit of the Small Scale Local Energy Project Administration and Bond Sinking Fund, Energy
43 Project Bond Loan Fund or Energy Project Supplemental Fund.

44 (3) The director may not adopt any rule that imposes responsibility for the repayment of an
45 energy efficiency and sustainable technology loan on the utility.

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

6 **SECTION 194.** ORS 470.675 is amended to read:

7 470.675. (1) If a utility incurs reasonable costs in implementing an on-bill financing system that
8 exceed any moneys received by the utility to assist in the implementation, the costs are legitimate
9 costs for ratemaking purposes.

10 (2) A loan repayment charge for an energy efficiency and sustainable technology loan may in-
11 clude, but need not be limited to, the amount of the loan, interest on the loan and the cost incurred
12 by the [*State Department of Energy*] **Oregon Business Development Department** to implement,
13 promote and administer the energy efficiency and sustainable technology loan program.

14 (3) The amount of an energy efficiency and sustainable technology loan repayment and any
15 moneys received by a utility to assist in the implementation of an on-bill financing system are not
16 gross revenue for purposes of calculating franchise fees or other regulatory assessments.

17 (4) If there is a change in ownership or other interest in property benefited by an energy effi-
18 ciency and sustainable technology loan, and the loan relies on an on-bill financing system for col-
19 lection of the loan repayment charge, the utility shall transfer the loan repayment charge to the
20 utility customer account of the person acquiring the ownership or other interest in the property.

21 **SECTION 195.** ORS 470.680 is amended to read:

22 470.680. (1) Subject to ORS 470.170, the [*State Department of Energy*] **Oregon Business Devel-**
23 **opment Department** may identify forms of acceptable security for energy efficiency and sustainable
24 technology loans that the department determines will achieve the goals and requirements of the
25 energy efficiency and sustainable technology loan program and that provide adequate security for
26 repayment of the loans.

27 (2) For loans from the Small Scale Local Energy Project Loan Fund, the department may record
28 a fixture filing as defined in ORS 79.0102 covering those building materials to be attached to the real
29 property pursuant to an energy efficiency and sustainable technology loan that remain easily
30 detachable from the property and are not essential to a structure or the use of a structure. The
31 department shall record a lien on the real property benefited by the loan for those indebtedness
32 amounts that are not secured by a fixture filing. The department may record a filing or lien under
33 this section only on a property for which the property owner has agreed to the installation of a base
34 efficiency package or optional package benefiting the property.

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

39 **SECTION 196.** ORS 470.685 is amended to read:

40 470.685. (1) The [*State Department of Energy*] **Oregon Business Development Department** or
41 a sustainable energy project manager may act on behalf of the Director of the [*State Department of*
42 *Energy*] **Oregon Business Development Department** for the purpose of recording a lien in favor
43 of the director as required by ORS 470.170 (3) against property benefited by an energy efficiency and
44 sustainable technology loan.

45 (2) A lien described in this section attaches to the property and is perfected upon recording in

1 the county deed records.

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

5 **SECTION 197.** ORS 470.700 is amended to read:

6 470.700. (1) The [*State Department of Energy*] **Oregon Business Development Department** may
7 use loan offset grant moneys for any of the following if, in the absence of the grant moneys, a utility
8 customer would incur higher overall monthly costs when energy costs and small scale local energy
9 project costs are considered:

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

11 (b) Reducing the loan repayment burden of an energy efficiency and sustainable technology loan
12 borrower.

13 (c) Creating a financial incentive for energy efficiency, renewable energy and energy conserva-
14 tion projects that may not result in significant energy cost savings.

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

18 (2) If a small scale local energy program loan applicant is a person with an income limited as
19 described in ORS 470.650 (2), the department may use loan offset grant moneys for an optional
20 package or to offset reasonable costs associated with structural improvements that are not included
21 in the base efficiency package, but that are necessary to the proper installation of the base effi-
22 ciency package.

23 (3) The Director of the [*State Department of Energy*] **Oregon Business Development Depart-**
24 **ment** may investigate and test the feasibility of using mechanisms other than the disbursing of Loan
25 Offset Grant Fund moneys for accomplishing the purposes described in subsection (1) of this section.

26 **SECTION 198.** ORS 470.710 is amended to read:

27 470.710. (1) The [*State Department of Energy*] **Oregon Business Development Department**
28 shall collaborate with the State Workforce Investment Board and other interested parties to identify
29 opportunities for apprenticeship and for job training and development that would further the goals
30 of ORS 470.500 to 470.710 and provide valuable skills to Oregon workers.

31 (2) In adopting any rules for carrying out apprenticeship and job training and development under
32 the energy efficiency and sustainable technology loan program, the department and the board shall
33 consult with representatives from:

34 (a) State workforce programs;

35 (b) Organized labor;

36 (c) The State Apprenticeship and Training Council;

37 (d) The Bureau of Labor and Industries; and

38 (e) Consumer advocacy organizations.

39 (3) In addition to consulting with entities described in subsection (2) of this section, in adopting
40 any rules for carrying out apprenticeship and job training and development under the energy effi-
41 ciency and sustainable technology loan program, the department and the board may seek input from
42 organizations representing construction contractors.

43 **SECTION 199.** ORS 470.715 is amended to read:

44 470.715. The cost of adopting rules under ORS 470.140 to carry out ORS 470.500 to 470.710:

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

1 (2) May be paid from the Small Scale Local Energy Project Administration and Bond Sinking
2 Fund created under ORS 470.300 if the Director of the [*State Department of Energy*] **Oregon Busi-**
3 **ness Development Department** and the State Treasurer find that:

4 (a) A cash flow projection for the sinking fund shows that, for the term of the sinking fund bonds
5 outstanding at the time the director [*of the State Department of Energy*] transfers the moneys, re-
6 maining moneys in the sinking fund, together with expected loan contract payments and fund
7 earnings, will improve the financial basis of the program and will continue to be adequate to pay
8 bond principal, interest, redemption premiums, if any, and administration costs; and

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

10 **SECTION 199a.** Section 42, chapter 753, Oregon Laws 2009, as amended by section 11, chapter
11 92, Oregon Laws 2010, is amended to read:

12 **Sec. 42.** (1) The Director of the [*State Department of Energy*] **Oregon Business Development**
13 **Department** shall initiate the energy efficiency and sustainable technology loan program described
14 in ORS 470.500 to 470.710 in phases through a series of pilot programs, limiting the geographic
15 availability and other features of the program as the director considers necessary to facilitate an
16 orderly and successful implementation of the program. The director shall initiate the program on a
17 statewide basis as quickly as the director considers practicable, but in no event later than June 30,
18 2011, to achieve the benefits of the program while ensuring high participant satisfaction and pro-
19 gram integrity.

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

23 **SECTION 199b.** Section 43, chapter 753, Oregon Laws 2009, is amended to read:

24 **Sec. 43.** (1) The Public Purpose Fund Administrator shall initiate pilot programs in investor-
25 owned utility service territories to demonstrate the feasibility of innovative approaches to financing
26 and installing energy efficiency and sustainable technology measures as described in [*sections 2 to*
27 *41 of this 2009 Act*] **ORS 470.500 to 470.710** in residences and commercial buildings in urban and
28 rural communities. The pilot programs shall test:

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

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

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

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

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

44 (f) The feasibility and effectiveness of coordinated installations of residential and commercial
45 structure energy packages overseen by a single project manager;

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

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

5 (i) The administrative costs and participation rates associated with various forms of loan secu-
6 rity; and

7 (j) Other strategies and measures identified by the [*State Department of Energy*] **Oregon Busi-
8 ness Development Department** or the Public Utility Commission.

9 (2) The Public Purpose Fund Administrator shall report to the commission no later than October
10 1, 2010. The administrator shall provide a copy of the report to the [*State Department of Energy*]
11 **Oregon Business Development Department**. The report shall evaluate the effectiveness of the
12 pilot programs, and shall include an evaluation of the extent to which various strategies and meas-
13 ures:

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

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

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

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

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

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

23 (b) Order the partial implementation of energy efficiency and sustainable technology loan pro-
24 gram measures and strategies and make recommendations to the Legislative Assembly for appro-
25 priate statutory modification of the program.

26 (4) When carrying out pilot programs under this section, the Public Purpose Fund Administrator
27 and sustainable energy project managers shall cooperate and coordinate their efforts with the efforts
28 of local utilities and encourage utilities to promote energy efficiency and renewable energy and to
29 engage in outreach and promotional efforts to inform customers of the utility about the energy ef-
30 ficiency and sustainable technology loan program. The Public Purpose Fund Administrator and
31 project managers shall coordinate with gas utilities regarding any changes to a gas pipeline and
32 with electric utilities regarding electric charging or any changes to electrical connections that are
33 external to a structure. The Public Purpose Fund Administrator and project managers shall coordi-
34 nate with a gas utility regarding the installation of appliances used for space heating, water heating
35 and compressed natural gas refueling.

36 **SECTION 199c.** Section 44, chapter 753, Oregon Laws 2009, is amended to read:

37 **Sec. 44.** (1) The Director of the [*State Department of Energy*] **Oregon Business Development
38 Department** shall consult with consumer-owned utilities and other interested parties to develop a
39 pilot program for energy efficiency and sustainable technology as described in [*sections 2 to 41 of
40 this 2009 Act*] **ORS 470.500 to 470.710** for use in the consumer-owned utility service territories. The
41 director shall solicit one or more consumer-owned utilities to act as sustainable energy project
42 managers for the pilot program. The director shall solicit utilities to act as project managers for
43 the developed pilot program no later than 180 days after [*the effective date of this 2009 Act*] **July 22,
44 2009.**

45 (2) The pilot program shall test:

1 (a) The effectiveness of direct contact, door-to-door, media outlet and other community-focused
2 outreach and solicitation strategies designed to provide potential energy efficiency and sustainable
3 technology loan program participants with information about energy efficiency and renewable en-
4 ergy opportunities under the program and under similar local, state and federal incentive programs;

5 (b) The costs and benefits of taking alternative approaches to energy audits, including but not
6 limited to identifying measures that are cost-effective and time-effective, taking advantage of econ-
7 omies of scale and producing results that are accurate and are replicable for equivalent base effi-
8 ciency packages;

9 (c) Ways to assist program participants in understanding and accessing small scale local energy
10 project funding and making informed decisions in selecting appropriate energy efficiency and
11 renewable energy projects;

12 (d) The effectiveness of various levels of loan offset grants as incentives to program partic-
13 ipation;

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

16 (f) The feasibility and effectiveness of coordinated installations of residential and commercial
17 structure energy packages overseen by a single project manager;

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

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

22 (i) The administrative costs and participation rates associated with various forms of loan secu-
23 rity; and

24 (j) Other strategies and measures identified by the director.

25 (3) The sustainable energy project managers in the consumer-owned utility service areas shall
26 report to the director no later than October 1, 2010. The report shall evaluate the effectiveness of
27 the pilot program and shall include an evaluation of the extent to which various program strategies
28 and measures:

29 (a) Help to produce significantly higher rates of energy savings or renewable energy 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 per
32 building; and

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

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

40 **SECTION 200.** ORS 701.108 is amended to read:

41 701.108. (1) If a project financed under the energy efficiency and sustainable technology loan
42 program is to be constructed for a commercial structure, the [*State Department of Energy*] **Oregon**
43 **Business Development Department** shall require that the certified contractor pay the employees
44 used for the project at the prevailing wage rate determined by the Commissioner of the Bureau of
45 Labor and Industries for each trade or occupation employed. If a project is not to be constructed

1 for a commercial structure, but the department is uncertain whether prevailing wage requirements
 2 apply to the project, the department shall consult with the Bureau of Labor and Industries. As used
 3 in this subsection, “commercial structure” means a structure that is not a residential structure.

4 (2) If the Construction Contractors Board receives a complaint that a contractor certified under
 5 ORS 701.119 has failed to comply with a wage and hours standard for work on a project financed
 6 under the energy efficiency and sustainable technology loan program, the board shall forward the
 7 complaint to the Bureau of Labor and Industries. If the bureau determines that the contractor has
 8 violated a wage and hours standard for work on a project financed under the loan program, the
 9 bureau shall notify the board of the determination.

10 **SECTION 201.** ORS 701.119 is amended to read:

11 701.119. (1) A licensed contractor that possesses an appropriate endorsement may apply to the
 12 Construction Contractors Board for certification to participate in the construction of small scale
 13 local energy projects financed through the energy efficiency and sustainable technology loan pro-
 14 gram. The board may issue the certification to a contractor that meets the standards established
 15 by the [*State Department of Energy*] **Oregon Business Development Department** under ORS
 16 470.560. The board may charge a reasonable fee for certifying a contractor.

17 (2) If the board receives information that the contractor has failed to comply with the certif-
 18 ication standards established by the department or has violated a wage and hours standard de-
 19 scribed in ORS 701.108, the board shall hold a hearing and may revoke the certification.

20 (3) The board shall give the department notice of the issuance or revocation of a certification
 21 under this section.

22 **SECTION 202.** Section 1, chapter 912, Oregon Laws 2009, is amended to read:

23 **Sec. 1.** (1) [*The State Department of Energy, in consultation with the Public Utility Commission*
 24 *and the Oregon Business Development Department,*] **In consultation with the Public Utility Com-**
 25 **mission, the Oregon Business Development Department** shall prepare an analysis of the finan-
 26 cial aspects of representative projects as determined by the [*State Department of Energy*]
 27 **department** for wind energy facilities and conservation projects that are certified for the receipt
 28 of tax credits under ORS 469.185 to 469.225, including capital invested, federal and state tax incen-
 29 tives received, revenues and costs, and return on investment. The purpose of the analysis will be to
 30 determine the extent to which each facility depends on state tax incentives for initial investment
 31 and continued operation.

32 (2) The [*State Department of Energy*] **department** shall report to the Legislative Assembly prior
 33 to February 1, 2011, on the results of the analysis.

34 **SECTION 203.** Section 2, chapter 76, Oregon Laws 2010, is amended to read:

35 **Sec. 2.** (1) The total amount of potential tax credits for all facilities using or producing
 36 renewable energy resources in this state may not, at the time of preliminary certification under ORS
 37 469.210, exceed:

38 (a) \$300 million for the biennium ending June 30, 2011.

39 (b) \$150 million for the year beginning July 1, 2011, and ending June 30, 2012.

40 (2) In the event that the Director of the [*State Department of Energy*] **Oregon Business De-**
 41 **velopment Department** receives applications for preliminary certification with a total amount of
 42 potential tax credits in excess of the limitations in subsection (1) of this section, the director shall
 43 allocate the issuance of preliminary certifications according to the criteria required by ORS 469.195.

44 (3) The director shall review applications and make determinations whether to issue preliminary
 45 certifications for proposed facilities using or producing renewable energy resources:

1 (a) Within 90 days of the date on which the application is received, in the case of an application
2 for certification with a cost of less than \$6 million.

3 (b) Within six months of the date on which the application is received, in the case of an appli-
4 cation for certification with a cost of \$6 million or more.

5 (4) The total amount of potential tax credits for all renewable energy resource equipment man-
6 ufacturing facilities in this state may not, at the time of preliminary certification under ORS 469.210,
7 exceed:

8 (a) \$200 million for the biennium ending June 30, 2011.

9 (b) \$200 million for the biennium ending June 30, 2013.

10 (c) \$50 million for the six months beginning July 1, 2013, and ending December 31, 2013.

11 **SECTION 204.** Section 1, chapter 92, Oregon Laws 2010, is amended to read:

12 **Sec. 1.** (1) ORS 470.505 does not apply to the pilot programs described in sections 42 to 45,
13 chapter 753, Oregon Laws 2009.

14 (2) Notwithstanding any other provision of ORS chapter 470, if the Director of the [*State De-*
15 *partment of Energy*] **Oregon Business Development Department** determines that available finan-
16 cial resources in the Loan Offset Grant Fund established in ORS 470.575 are insufficient to allow
17 operation of the pilot programs described in sections 42 to 45, chapter 753, Oregon Laws 2009, the
18 director may delay or suspend the pilot programs.

19 **SECTION 205.** Section 10, chapter 92, Oregon Laws 2010, is amended to read:

20 **Sec. 10.** All investor-owned utilities and consumer-owned utilities that have customers enrolled
21 in energy efficiency and sustainable technology loan programs shall, at the request of the Director
22 of the [*State Department of Energy*] **Oregon Business Development Department**, provide the di-
23 rector with the following information in aggregated form regarding the loans:

24 (1) Repayment performance;

25 (2) Default rates;

26 (3) Energy savings data; and

27 (4) Any other information specified by rule adopted by the director pursuant to ORS 470.140.

28
29 **PROVISIONS RELATING TO THE**
30 **PUBLIC UTILITY COMMISSION**

31
32 **(New Duties)**

33
34 **SECTION 206.** In addition to the duties described in ORS 756.036, the Public Utility
35 Commission shall:

36 (1) **Administer federal and state energy allocation and conservation programs; and**

37 (2) **Prepare, after consulting with the Oregon Office of Energy Planning and Siting, en-**
38 **ergy curtailment plans that include all forms of energy not addressed in ORS 757.710 and**
39 **757.720.**

40 **SECTION 206a.** Section 206 of this 2011 Act is added to and made a part of ORS chapter
41 **756.**

42
43 **(Conforming Amendments)**
44
45

1 **SECTION 207.** ORS 261.151 is amended to read:

2 261.151. Upon certification of a petition for formation or adoption of a resolution by the county
3 governing body for district formation, the county clerk shall submit a copy of the resolution or pe-
4 tition, without signatures attached, to the [*Director of the State Department of Energy*] **Public Utility**
5 **Commission**. Not less than 30 days after receipt of the petition or resolution copy, the [*director*]
6 **commission** shall hold a hearing within the proposed district for the purpose of receiving public
7 testimony on the proposed district formation. Notice of the hearing, stating the time and place of
8 the hearing, together with the electors' petition, when applicable, without the signatures attached,
9 shall be published at least two times prior to the date of the meeting. The first publication shall
10 not be more than 25 days nor less than 15 days preceding the hearing and the last publication shall
11 not be more than 14 days nor less than eight days preceding the hearing. Within 60 days after re-
12 ceipt of the petition or resolution copy, the [*director, with the advice and assistance of the Public*
13 *Utility Commission of Oregon,*] **commission** shall prepare and publish a concise report showing the
14 availability and cost of power resources, potential tax consequences and any other information
15 considered by the [*director*] **commission** to be relevant to the proposed formation of the district.
16 A copy of the report shall be mailed, upon publication, by the [*director*] **commission** to the county
17 governing body.

18 **SECTION 208.** ORS 261.161 is amended to read:

19 261.161. (1) After certification of a petition, or passage of the resolution when the formation,
20 annexation or consolidation proposal is by resolution of the county governing body, the county
21 governing body shall, within 10 days, fix a date for a hearing on the boundaries described in the
22 electors' petition or resolution of the county governing body for inclusion in the proposed or estab-
23 lished district. The hearing shall be held by the county governing body not less than 60 days nor
24 more than 90 days after certification of the petition or passage of the resolution. Notice of the
25 hearing, stating the time and place of the meeting, together with the electors' petition, when appli-
26 cable, without the signatures attached, shall be published at least two times prior to the date of the
27 meeting. The first publication shall not be more than 25 days nor less than 15 days preceding the
28 hearing and the last publication shall not be more than 14 days nor less than eight days preceding
29 the hearing. Notice of the hearing, and all other publications required by this chapter, shall be
30 published in at least one newspaper of general circulation in the proposed or established district.
31 The hearing may be adjourned from time to time, but shall not exceed four weeks in total length.
32 Public testimony shall be taken at the hearing.

33 (2) Based upon the record of the hearing prescribed in subsection (1) of this section on the
34 proposed boundaries and, if district formation is proposed, the report of the [*Director of the State*
35 *Department of Energy*] **Public Utility Commission** under ORS 261.151, the county governing body
36 within 10 days of the last date of hearing shall determine the boundaries of the proposed or estab-
37 lished district.

38 (3) No lands shall be included in the boundaries fixed by the governing body lying outside the
39 boundaries described in the electors' petition unless the owners of that land request inclusion in
40 writing before the hearing under subsection (1) of this section is completed.

41 (4) An electors' petition shall not be denied by a county governing body because of any defi-
42 ciency in the description of the boundaries of the proposed district, but the county governing body
43 shall correct those deficiencies.

44 **SECTION 209.** ORS 261.225 is amended to read:

45 261.225. (1) [*The State Department of Energy,*] The Public Utility Commission [*of Oregon*] and any

1 privately owned utility serving the affected territory shall cooperate in providing information and
 2 data as requested by a people's utility district for construction or acquisition of the initial utility
 3 system.

4 (2) As requested, the [*State Department of Energy and the Public Utility Commission of Oregon*]
 5 **commission** shall provide copies of records on file pertinent to the operation of a utility system.

6 (3) As requested, the privately owned utility serving the affected territory shall provide data and
 7 records regarding the affected territory including:

8 (a) Peak load and monthly variations of load required to serve the territory;

9 (b) Load requirements of various classifications of users;

10 (c) Gross revenue;

11 (d) Distribution costs, including operation, maintenance and debt retirement;

12 (e) Inventory of assets by type and value;

13 (f) List of customers with customer addresses;

14 (g) Amount of money loaned to each customer for conservation activity; and

15 (h) Replacement value of an investor owned utility's unreimbursed investment in energy effi-
 16 ciency measures and installations within the territory.

17 **SECTION 210.** ORS 261.470 is amended to read:

18 261.470. (1) The board shall adopt the effective uniform system of accounts prescribed by the
 19 Federal Energy Regulatory Commission and require that accounting for receipts and disbursements
 20 for the district be accomplished in accordance with said system of accounts.

21 (2) The board shall file with the [*Director of the State Department of Energy*] **Public Utility**
 22 **Commission** and with the county clerk of each county included within the boundaries of the district
 23 an annual report in the form required by the Federal Energy Regulatory Commission.

24 (3) An annual audit shall be made in the manner provided in ORS 297.405 to 297.555. A copy
 25 of such audit shall be filed with each county clerk of the county in which the district or any portion
 26 of the boundaries of the district is located, and in the office of the Secretary of State and in the
 27 office of the [*Director of the State Department of Energy*] **Public Utility Commission**, where it shall
 28 remain a public record.

29 **SECTION 211.** ORS 262.025 is amended to read:

30 262.025. A joint operating agency shall be formed and come into existence by order of the [*Di-*
 31 *rector of the State Department of Energy*] **Public Utility Commission** in accordance with the fol-
 32 lowing procedures:

33 (1) The legislative body of each city and people's utility district desiring to form and be a
 34 member of a joint operating agency shall adopt an ordinance declaring their intention and author-
 35 izing formation and membership. The ordinance shall be effective only if submitted to the electors
 36 of the city or people's utility district voting on the ordinance at any general election or at a special
 37 election called for that purpose. The ordinance shall include:

38 (a) A statement of the purpose or purposes for which the joint operating agency is to be formed.

39 (b) A finding by the legislative body that the formation of a joint operating agency is necessary
 40 or desirable in order to plan for and provide an adequate supply of electric energy to meet the needs
 41 of the customers of publicly owned utilities in Oregon.

42 (c) A statement of the projected energy loads and resources relied upon by the legislative body
 43 to support such finding.

44 (d) A general description of the means by which the joint operating agency proposes to accom-
 45 plish its purposes, including a description of any specific utility properties then identified as a pro-

1 posed activity of the joint operating agency.

2 (e) A statement of the financial contribution, if any, to be made by the city or district to the
3 joint operating agency at the time of organization as a condition of membership.

4 (2) Upon such approval of such an ordinance or ordinances, each such city and district shall file
5 with the [*director*] **commission** an application to form and be a member of a joint operating agency.
6 The application shall:

7 (a) State the proposed name of the operating agency, the proposed address of its principal
8 business office, and the purpose or purposes for which it is to be formed;

9 (b) Contain a certified copy of the ordinance of each applicant city and district as approved by
10 the electors; and

11 (c) State generally how the joint operating agency proposes to accomplish its purposes.

12 (3) The [*director*] **commission** shall cause notice of an application to be published forthwith in
13 the bulletin referred to in ORS 183.360. Such notice shall:

14 (a) Summarize fairly the contents of the application;

15 (b) Fix a date not less than 20 nor more than 30 days after the date of publication prior to which
16 interested parties may submit in writing any data, views, or arguments with respect to the applica-
17 tion; and

18 (c) Fix a date not less than 30 nor more than 60 days after the date of publication for the entry
19 of an order approving or disapproving an application.

20 (4) In considering the application, the [*director*] **commission** shall give full and fair consider-
21 ation to all data, views and arguments submitted on behalf of the applicants or any other interested
22 person.

23 (5) On or before the date fixed in subsection (3)(c) of this section, the [*director*] **commission**
24 shall enter an order establishing the joint operating agency in accordance with the application if
25 the [*director*] **commission** finds (a) that the statements set forth in the application are substantially
26 correct; (b) that formation of the proposed joint operating agency is necessary or desirable to plan
27 for or provide an adequate supply of electric energy to meet the needs of the customers of publicly
28 owned utilities in Oregon; and (c) that adequate provision has been or can be made for financing the
29 activities of the joint operating agency. The joint operating agency shall be established as of the
30 date of such order.

31 (6) If the [*director*] **commission** finds that the application is not in the required form or that
32 additional data is required to support the application, the [*director*] **commission** shall enter an order
33 so finding. Such an order shall not preclude the applicants from filing a revised application based
34 upon the same approved ordinances.

35 (7) If the [*director*] **commission** does not enter an order as authorized under subsection (5) or
36 (6) of this section within 60 days after the date of publication, the application shall be considered
37 approved, and the joint operating agency shall be established as of such 60th day.

38 (8) A joint operating agency, organized as provided by this section shall have all of the powers
39 and responsibilities contained in ORS 262.005 to 262.105.

40 (9) Any party who has joined in filing an application in accordance with this section, or who
41 has filed timely objections to such application, and who feels aggrieved by any finding or order of
42 the [*director*] **commission** shall have the right of judicial review pursuant to ORS 183.480.

43 **SECTION 212.** ORS 262.065 is amended to read:

44 262.065. (1) Except as permitted in ORS 262.085, the treasurer shall be custodian of all funds of
45 the joint operating agency and shall pay them out only by order of the board, except as provided

1 in subsection (2) of this section.

2 (2) The board may delegate to the treasurer standing authority to make payments of routine
3 expenses as defined by the board.

4 (3) Before the treasurer enters upon the treasurer's duties, the treasurer shall give bond or an
5 irrevocable letter of credit to the joint operating agency in an amount which the board finds by
6 resolution will protect the agency against loss, conditioned for the faithful discharge of duties and
7 further conditioned that all funds which the treasurer receives as treasurer will be faithfully kept
8 and accounted for. Any letter of credit shall be issued by an insured institution, as defined in ORS
9 706.008. The amount of the treasurer's bond may be increased or decreased from time to time as the
10 board may by resolution direct. The surety on any such bond shall be a corporate surety authorized
11 to do business in this state. The premiums on the bond or the fee for issuing the letter of credit of
12 the treasurer shall be paid by the joint operating agency.

13 (4) All moneys of the joint operating agency shall be deposited by the treasurer in depositories
14 designated by the board of directors, with such security as may be prescribed by the board. The
15 treasurer shall establish a general fund and such special funds as may be created by the board, to
16 which the treasurer shall credit all funds of the joint operating agency as the board by motion or
17 resolution may direct.

18 (5)(a) The board shall adopt the uniform system of accounts prescribed from time to time by the
19 Federal Energy Regulatory Commission and require that accounting for receipts and disbursements
20 for the joint operating agency be accomplished in accordance with the uniform system of accounts.

21 (b) The board shall file with the [*Director of the State Department of Energy*] **Public Utility**
22 **Commission** an annual report in the form required by the Federal Energy Regulatory Commission.

23 (c) An annual audit shall be made in the manner provided in ORS 297.405 to 297.555. A copy
24 of such audit shall be filed in the office of the Secretary of State and in the office of the [*Director*
25 *of the State Department of Energy*] **Public Utility Commission**.

26 (6)(a) The board of each joint operating agency may appoint a manager. The manager shall be
27 appointed for such term and receive such salary as the board shall fix by resolution. Appointments
28 and removals of the manager shall be by resolutions adopted by a majority vote.

29 (b) In case of absence or temporary disability of the manager, the board shall designate an act-
30 ing manager.

31 (c) The manager shall be chief administrative officer of the joint operating agency, shall have
32 control of the administrative functions of the joint operating agency and shall be responsible to the
33 board for efficient administration of all affairs of the joint operating agency placed in the manager's
34 charge. The manager may attend meetings of the board and its committees and take part in dis-
35 cussion of any matters pertaining to the manager's duties, but shall have no vote. The manager
36 shall:

37 (A) Carry out orders of the board and see that all laws of this state pertaining to matters within
38 the functions of the joint operating agency are duly enforced;

39 (B) Keep the board advised as to the financial condition and needs of the joint operating agency;

40 (C) Prepare an annual estimate for the ensuing fiscal year of the probable expenses of the joint
41 operating agency, and recommend to the board what development work should be undertaken, and
42 any extensions and additions which should be made during the ensuing fiscal year, with an estimate
43 of the costs of such development work, extensions and additions;

44 (D) Certify to the board all bills, allowances and payrolls, including claims due contractors of
45 public works;

1 (E) Recommend to the board appropriate salaries of the employees of the office, and scale of
 2 salaries or wages to be paid for different classes of service required by the joint operating agency;

3 (F) Hire and discharge clerks, laborers and other employees under the manager's direction; and

4 (G) Perform such other duties as may be imposed by the board.

5 **SECTION 213.** ORS 317.112 is amended to read:

6 317.112. (1) A credit against taxes otherwise due under this chapter for the taxable year shall
 7 be allowed to a commercial lending institution in an amount equal to the difference between:

8 (a) The amount of finance charge charged during the taxable year including interest on the loan
 9 and interest on any loan fee financed at an annual rate of six and one-half percent, by the lending
 10 institution to a dwelling owner who is or who rents to a residential fuel oil customer, or who is or
 11 who rents to a wood heating resident for the purpose of financing energy conservation measures;
 12 and

13 (b) The amount of finance charge that would have been charged during the taxable year, in-
 14 cluding interest on the loan and interest on any loan fee financed by the lending institution for the
 15 loan for energy conservation measures at an annual rate that is the lesser of the following:

16 (A) The annual rate charged by the commercial lending institution for nonsubsidized loans made
 17 under like terms and conditions at the time the loan for energy conservation measures is made; or

18 (B) An upper limit established by rule by the [*Director of the State Department of Energy*] **Public**
 19 **Utility Commission.**

20 (2) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
 21 particular year may be carried forward and offset against the taxpayer's tax liability for the next
 22 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
 23 forward and used in the second succeeding tax year, and likewise until the 15th succeeding tax year.
 24 The credit may not be carried forward beyond the 15th succeeding tax year.

25 (3) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan
 26 shall:

27 (a) Be made only to an owner of an oil-heated or wood-heated dwelling who presents the results
 28 of an energy audit pursuant to ORS 469.631 to 469.645, 469.649 to 469.659, 469.673 to 469.683 or
 29 469.685 that is conducted by a fuel oil dealer, investor-owned utility or publicly owned utility or
 30 through the [*State Department of Energy*] **Public Utility Commission**, regardless of whether that
 31 fuel oil dealer or utility provides the dwelling's space heating energy.

32 (b) Be subject to an annual rate not to exceed six and one-half percent and have a term not
 33 exceeding 10 years.

34 (c) Not finance any materials installed in the construction of a new dwelling, additions to ex-
 35 isting structures or remodeling that adds living space.

36 (d) Finance only those energy conservation measures that are recommended as cost-effective in
 37 the energy audit, and any loan fee that is included in the body of the loan.

38 (4) The credit allowed under this section may not be allowed to the extent that the loan exceeds
 39 \$5,000 for a single dwelling unit, or, if the dwelling owner is a corporation described in ORS 307.375,
 40 to the extent that the loan exceeds \$2,000 for a single dwelling unit.

41 (5) A commercial lending institution may charge, finance and collect a nonrefundable front-end
 42 loan fee, and such a fee does not affect the eligibility of the loan for a tax credit under this section.
 43 The fee, if any, may not exceed that charged by the lending institution for nonsubsidized loans made
 44 under like terms and conditions at the time the loan for energy conservation measures is made.

45 (6) Nothing in this section or in rules adopted under this section shall be construed to cause a

1 loan to violate the usury laws of this state.

2 (7) As used in this section, “annual rate,” “commercial lending institution,” “cost-effective,”
 3 “dwelling,” “dwelling owner,” “energy audit,” “energy conservation measures,” “finance charge,”
 4 “fuel oil dealer,” “residential fuel oil customer,” “space heating” and “wood heating resident” have
 5 the meaning given those terms in ORS 469.710.

6 **SECTION 214.** ORS 458.505 is amended to read:

7 458.505. (1) The community action agency network, established initially under the federal Eco-
 8 nomic Opportunity Act of 1964, shall be the delivery system for federal antipoverty programs in
 9 Oregon, including the Community Services Block Grant, Low Income Energy Assistance Program,
 10 [*State Department of Energy*] **the Public Utility Commission’s** Weatherization Program and such
 11 others as may become available.

12 (2) Funds for such programs shall be distributed to the community action agencies by the
 13 Housing and Community Services Department with the advice of the Community Action Partnership
 14 of Oregon.

15 (3) In areas not served by a community action agency, funds other than federal community ser-
 16 vices funds may be distributed to and administered by organizations that are found by the Housing
 17 and Community Services Department to serve the antipoverty purpose of the community action
 18 agency network.

19 (4) In addition to complying with all applicable requirements of federal law, a community action
 20 agency shall:

21 (a) Be an office, division or agency of the designating political subdivision or a not for profit
 22 organization in compliance with ORS chapter 65.

23 (b) Have a community action board of at least nine but no more than 33 members, constituted
 24 so that:

25 (A) One-third of the members of the board are elected public officials currently serving or their
 26 designees. If the number of elected officials reasonably available and willing to serve is less than
 27 one-third of the membership, membership of appointed public officials may be counted as meeting the
 28 one-third requirement;

29 (B) At least one-third of the members are persons chosen through democratic selection proce-
 30 dures adequate to assure that they are representatives of the poor in the area served; and

31 (C) The remainder of the members are officials or members of business, industry, labor, religious,
 32 welfare, education or other major groups and interests in the community.

33 (c) If the agency is a private not for profit organization, be governed by the Community Action
 34 Board. The board shall have all duties, responsibilities and powers normally associated with such
 35 boards, including, but not limited to:

36 (A) Selection, appointment and dismissal of the executive director of the agency;

37 (B) Approval of all contracts, grant applications and budgets and operational policies of the
 38 agency;

39 (C) Evaluation of programs; and

40 (D) Securing an annual audit of the agency.

41 (d) If the organization is an office, division or agency of a political subdivision, be administered
 42 by the board that shall provide for the operation of the agency and be directly responsible to the
 43 governing board of the political subdivision. The administering board at a minimum, shall:

44 (A) Review and approve program policy;

45 (B) Be involved in and consulted on the hiring and firing of the agency director;

- 1 (C) Monitor and evaluate program effectiveness;
- 2 (D) Ensure the effectiveness of community involvement in the planning process; and
- 3 (E) Assume all duties delegated to it by the governing board.
- 4 (e) Have a clearly defined, specified service area. Community action service areas may not
- 5 overlap.
- 6 (f) Have an accounting system that meets generally accepted accounting principles and be so
- 7 certified by an independent certified accountant.
- 8 (g) Provide assurances against the use of government funds for political activity by the com-
- 9 munity action agency.
- 10 (h) Provide assurances that no person shall, on the grounds of race, color, sex, sexual orien-
- 11 tation or national origin be excluded from participation in, be denied the benefits of or be subjected
- 12 to discrimination under any program or activity funded in whole or in part with funds made avail-
- 13 able through the community action program.
- 14 (i) Provide assurances the community action agency shall comply with any prohibition against
- 15 discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an
- 16 otherwise qualified individual with disabilities as provided in section 504 of the Rehabilitation Act
- 17 of 1973.
- 18 (5) For the purposes of this section, the Oregon Human Development Corporation is eligible to
- 19 receive federal community service funds and low-income energy assistance funds.
- 20 (6) The Housing and Community Services Department shall:
- 21 (a) Administer federal and state antipoverty programs.
- 22 (b) Apply for all available antipoverty funds on behalf of eligible entities as defined in this sec-
- 23 tion.
- 24 (c) In conjunction with the Community Action Partnership of Oregon, develop a collaborative
- 25 role in advocating for, and addressing the needs of, all low income Oregonians.
- 26 (d) Biennially produce and make available to the public a status report on efforts by it and state
- 27 agencies to reduce the incidence of poverty in Oregon. This report shall contain figures regarding
- 28 the numbers and types of persons living in poverty in Oregon. The report shall also describe the
- 29 status of efforts by the department and the Department of Human Services to implement the state
- 30 policy regarding homelessness described in ORS 458.528.
- 31 (e) On a regular basis provide information to the Community Action Partnership of Oregon on
- 32 the activities and expenditures of the Housing and Community Services Department.
- 33 (f) As resources are available, provide resources for technical assistance, training and program
- 34 assistance to eligible entities.
- 35 (g) As resources are available, provide resources pursuant to ORS 409.750 for the training and
- 36 technical assistance needs of the Community Action Partnership of Oregon.
- 37 (h) Conduct a planning process to meet the needs of low income people in Oregon. That process
- 38 shall fully integrate the Oregon Human Development Corporation into the antipoverty delivery sys-
- 39 tem. The planning process shall include development of a plan for minimum level of services and
- 40 funding for low income migrant and seasonal farmworkers from the antipoverty programs adminis-
- 41 tered by the agency.
- 42 (i) Limit its administrative budget in an effort to maximize the availability of antipoverty federal
- 43 and state funds for expenditures by local eligible entities.
- 44 **SECTION 215.** ORS 469.150 is amended to read:
- 45 469.150. (1) As used in this section "energy conservation services" means services provided by

1 energy suppliers to educate and inform customers and the public about energy conservation. Such
2 services include but are not limited to providing answers to questions concerning energy saving
3 devices and providing inspections and making suggestions concerning the construction and siting
4 of buildings and residences.

5 (2) Energy suppliers other than public utilities as defined in ORS 757.005, that produce, transmit,
6 deliver or furnish heat, light or power shall establish energy conservation services and shall provide
7 energy conservation information to customers and to the public. The services shall be performed in
8 accordance with such guidelines as the [*Director of the State Department of Energy*] **Public Utility**
9 **Commission** may by rule prescribe.

10 (3) As used in this section “energy supplier” means a publicly owned utility or fuel oil dealer
11 which supplies electricity or fuel oil for the space heating of dwellings.

12 **SECTION 216.** ORS 469.155 is amended to read:

13 469.155. (1) As used in this section:

14 (a) “Dwelling” means real or personal property inhabited as the principal residence of an owner
15 or renter. “Dwelling” includes a manufactured dwelling as defined in ORS 446.003, a floating home
16 as defined in ORS 830.700 and multiple unit residential housing. “Dwelling” does not include a rec-
17 reational vehicle as defined in ORS 446.003.

18 (b) “Energy conservation standards” means standards for the efficient use of energy for space
19 and water heating in a dwelling.

20 (2) The [*Director of the State Department of Energy*] **Public Utility Commission** shall establish
21 advisory energy conservation standards for existing dwellings. The standards shall be adopted by
22 rule in accordance with ORS 183.310 to 183.410. The standards:

23 (a) Shall take cost-effectiveness into account; and

24 (b) Shall be compatible with and further the state’s incentive programs for residential energy
25 conservation.

26 (3) The [*director*] **commission** shall publicize the energy conservation standards and encourage
27 home owners to voluntarily comply with the standards.

28 **SECTION 217.** ORS 469.651 is amended to read:

29 469.651. Within 30 days after November 1, 1981, each publicly owned utility shall submit to the
30 [*Director of the State Department of Energy*] **Public Utility Commission** a residential energy con-
31 servation program that:

32 (1) Makes available to all residential customers of the utility information about:

33 (a) Energy conservation measures; and

34 (b) Energy conservation measure financing available to dwelling owners.

35 (2) Provides within 60 days of a request by a residential customer of the publicly owned utility
36 or a dwelling owner, assistance and technical advice concerning various methods of saving energy
37 in that customer’s or dwelling owner’s dwelling including, but not limited to, an energy audit of the
38 customer’s or dwelling owner’s dwelling.

39 (3) Provides financing for cost-effective energy conservation measures at the request of a
40 dwelling owner who occupies the dwelling as a residential customer or rents the dwelling to a ten-
41 ant who is a residential customer. The financing program shall give the dwelling owner a choice
42 between a cash payment and a loan. The dwelling owner may not receive both a cash payment and
43 a loan. Completion of an energy audit of the dwelling offered under the program required by this
44 section or described in ORS 469.685 shall be a condition of eligibility for either a cash payment or
45 a loan. The financing program shall provide:

- 1 (a) The following minimum levels of assistance:
- 2 (A) A loan for a dwelling owner with approved credit upon the following terms:
- 3 (i) A principal amount of up to \$4,000; or
- 4 (ii) An interest rate that does not exceed six and one-half percent annually; and
- 5 (iii) A reasonable repayment period that does not exceed 10 years; and
- 6 (B) A cash payment to a dwelling owner eligible under ORS 469.657 for the lesser of:
- 7 (i) Twenty-five percent of the cost of the energy conservation measures provided in the dwelling;
- 8 or
- 9 (ii) \$350;
- 10 (b) That an otherwise eligible dwelling owner may obtain up to \$4,000 in loans or \$350 in cash
- 11 payments for each dwelling;
- 12 (c) That there may be up to \$4,000 in loans or \$350 in cash payments for each dwelling;
- 13 (d) That a change in ownership of a dwelling shall not prevent the new dwelling owner from
- 14 obtaining a loan or a cash payment for energy conservation measures for the newly acquired
- 15 dwelling under circumstances including, but not necessarily limited to, when:
- 16 (A) The new dwelling owner chooses the same financing option chosen by the previous dwelling
- 17 owner who obtained financing under ORS 469.649 to 469.659; and
- 18 (B) The amount of the financing is within the limit for that dwelling prescribed in paragraph (c)
- 19 of this subsection;
- 20 (e) If the publicly owned utility so determines, that energy conservation measures for any of the
- 21 following building and improvement activities may not be financed under the financing program:
- 22 (A) Construction of a new dwelling; or
- 23 (B) If the construction increases or otherwise changes the living space in the dwelling:
- 24 (i) An addition or substantial alteration; or
- 25 (ii) Remodeling; and
- 26 (f) If the publicly owned utility so determines, that no cash payment shall be allowed or paid for
- 27 the cost of energy conservation measures provided more than one year before the date of the ap-
- 28 plication for payment.
- 29 (4) Provides for verification through a reasonable number of inspections that energy conserva-
- 30 tion measures financed by the publicly owned utility are installed. The verification provisions of the
- 31 residential energy conservation program shall further provide that:
- 32 (a) An installation shall be performed in such a workmanlike manner and with such materials
- 33 as to satisfy prevailing industry standards; and
- 34 (b) The publicly owned utility shall provide a post-installation inspection upon the dwelling
- 35 owner's request.
- 36 (5) Provides, upon the dwelling owner's request, information relevant to the specific site of a
- 37 dwelling with access to:
- 38 (a) Water resources that have hydroelectric potential;
- 39 (b) Wind, which means the natural movement of air at an annual average speed of at least eight
- 40 miles an hour; or
- 41 (c) A resource area known to have geothermal space-heating potential.
- 42 (6) Provides that the publicly owned utility will mail to a dwelling owner an offer to provide
- 43 energy conservation measures in accordance with ORS 469.649 to 469.659 when a tenant who is the
- 44 residential customer:
- 45 (a) Requests that the offer be mailed to the dwelling owner; and

(b) Furnishes the dwelling owner’s name and address with the request.

SECTION 218. ORS 469.659 is amended to read:

469.659. After the publicly owned utility has submitted to the [*Director of the State Department of Energy*] **Public Utility Commission** the residential energy conservation program required by ORS 469.651, the publicly owned utility promptly shall implement that program.

SECTION 219. ORS 469.673 is amended to read:

469.673. As used in ORS 469.673 to 469.683:

(1) “Cash payment” means a payment made by the [*State Department of Energy*] **Public Utility Commission** to the dwelling owner or to the contractor on behalf of the dwelling owner for energy conservation measures.

(2) “Commercial lending institution” means any bank, mortgage banking company, trust company, savings bank, savings and loan association, credit union, national banking association, federal savings and loan association or federal credit union maintaining an office in this state.

(3) “Cost-effective” means that an energy conservation measure that provides or saves a specific amount of energy during its life cycle results in the lowest present value of delivered energy costs of any available alternative. However, the present value of the delivered energy costs of an energy conservation measure shall not be treated as greater than that of a nonconservation energy resource or facility unless that cost is greater than 110 percent of the present value of the delivered energy cost of the nonconservation energy resource or facility.

[(4) “*Director*” means the *Director of the State Department of Energy* appointed under ORS 469.040.]

[(5)] (4) “Dwelling” means real or personal property within the state inhabited as the principal residence of a dwelling owner or a tenant. “Dwelling” includes a manufactured dwelling as defined in ORS 446.003, a floating home as defined in ORS 830.700 and a single unit in multiple-unit residential housing. “Dwelling” does not include a recreational vehicle as defined in ORS 446.003.

[(6)] (5) “Dwelling owner” means the person:

(a) Who has legal title to a dwelling, including the mortgagor under a duly recorded mortgage of real property, the trustor under a duly recorded deed of trust or a purchaser under a duly recorded contract for the purchase of real property; and

(b) Whose dwelling receives space heating from a fuel oil dealer.

[(7)] (6) “Energy audit” means:

(a) The measurement and analysis of the heat loss and energy utilization efficiency of a dwelling;

(b) An analysis of the energy savings and dollar savings potential that would result from providing energy conservation measures for the dwelling;

(c) An estimate of the cost of the energy conservation measures that includes:

(A) Labor for the installation of items designed to improve the space heating and energy utilization efficiency of the dwelling; and

(B) The items installed; and

(d) A preliminary assessment, including feasibility and a range of costs, of the potential and opportunity for installation of:

(A) Passive solar space heating and solar domestic water heating in the dwelling; and

(B) Solar swimming pool heating, if applicable.

[(8)] (7) “Energy conservation measures” means measures that include the installation of items and the items installed that are primarily designed to improve the space heating and energy utilization efficiency of a dwelling. These items include, but are not limited to, caulking,

1 weatherstripping and other infiltration preventative materials, ceiling and wall insulation, crawl
 2 space insulation, vapor barrier materials, timed thermostats, insulation of heating ducts, hot water
 3 pipes and water heaters in unheated spaces, storm doors and windows, double glazed windows, and
 4 dehumidifiers. “Energy conservation measures” does not include the dwelling owner’s own labor.

5 [(9)] (8) “Fuel oil dealer” means a person, association, corporation or other form of organization
 6 that supplies fuel oil at retail for the space heating of dwellings.

7 [(10)] (9) “Residential customer” means a dwelling owner or tenant who is billed by a fuel oil
 8 dealer for fuel oil service received at the dwelling.

9 [(11)] (10) “Space heating” means the heating of living space within a dwelling.

10 [(12)] (11) “Tenant” means a tenant as defined in ORS 90.100 or any other tenant.

11 **SECTION 220.** ORS 469.675 is amended to read:

12 469.675. Within 30 days after November 1, 1981, each fuel oil dealer shall submit for the ap-
 13 proval of the [*Director of the State Department of Energy*] **Public Utility Commission** a residential
 14 energy conservation program that, to the [*director’s*] **commission’s** satisfaction:

15 (1) Makes available to all residential customers of the fuel oil dealer information about:

16 (a) Energy conservation measures; and

17 (b) Energy conservation measure financing available to dwelling owners.

18 (2) Provides within 60 days of a request by a residential customer of the fuel oil dealer or a
 19 dwelling owner, assistance and technical advice concerning various methods of saving energy in that
 20 customer’s or dwelling owner’s dwelling including, but not limited to, an energy audit of the
 21 customer’s or dwelling owner’s dwelling.

22 **SECTION 221.** ORS 469.677 is amended to read:

23 469.677. (1) The [*Director of the State Department of Energy*] **Public Utility Commission** shall
 24 contract [*and a fuel oil dealer may rely upon the director to contract*] for the information, assistance
 25 and technical advice required to be provided by a fuel oil dealer under ORS 469.675.

26 (2) The [*director*] **commission** shall adopt standards for energy audits required under ORS
 27 469.675 by rule in accordance with the rulemaking provisions of ORS chapter 183.

28 **SECTION 222.** ORS 469.679 is amended to read:

29 469.679. After the [*Director of the State Department of Energy*] **Public Utility Commission** has
 30 approved the residential energy conservation program of a fuel oil dealer required by ORS 469.675,
 31 the fuel oil dealer promptly shall implement that program.

32 **SECTION 223.** ORS 469.681 is amended to read:

33 469.681. (1) Each petroleum supplier shall pay to the [*State Department of Energy*] **Public Utility**
 34 **Commission** annually its share of an assessment to fund:

35 (a) Information, assistance and technical advice required of fuel oil dealers under ORS 469.675
 36 for which the [*Director of the State Department of Energy*] **commission** contracts under ORS 469.677;
 37 and

38 (b) Cash payments to a dwelling owner or contractor for energy conservation measures.

39 (2) The amount of the assessment required by subsection (1) of this section shall be determined
 40 by the [*director in a manner consistent with the method prescribed in ORS 469.421*] **commission**. The
 41 aggregate amount of the assessment shall not exceed \$400,000. In making this assessment, the [*di-*
 42 *rector*] **commission** shall exclude all gallons of distillate fuel oil sold by petroleum suppliers that
 43 are subject to the requirements of section 3a, Article IX of the Oregon Constitution, or ORS 319.020
 44 or 319.530.

45 (3) If any petroleum supplier fails to pay any amount assessed to it under this section within

1 30 days after the payment is due, the Attorney General, on behalf of the [*State Department of*
2 *Energy*] **commission**, may institute a proceeding in the circuit court to collect the amount due.

3 (4) Interest on delinquent assessments shall be added to and paid at the rate of one and one-half
4 percent of the payment due per month or fraction of a month from the date the payment was due
5 to the date of payment.

6 (5) The assessment required by subsection (1) of this section is in addition to any assessment
7 required by ORS 469.421 (8), and any other fee or assessment required by law.

8 (6) As used in this section, "petroleum supplier" means a petroleum refiner in this state or any
9 person engaged in the wholesale distribution of distillate fuel oil in the State of Oregon.

10 **SECTION 224.** ORS 469.683 is amended to read:

11 469.683. (1) There is established, separate and distinct from the General Fund, the Oil-Heated
12 Dwellings Energy Audit Account. Moneys deposited in the account under subsections (2) to (5) of
13 this section shall be used to pay the cost of the information, assistance and technical advice re-
14 quired of fuel oil dealers under ORS 469.675 for which the [*Director of the State Department of En-*
15 *ergy*] **Public Utility Commission** contracts under ORS 469.677.

16 (2) The [*State Department of Energy*] **commission** shall pay into the State Treasury all assess-
17 ment moneys received by the [*department*] **commission** under ORS 469.681 during the preceding
18 calendar month. The State Treasurer shall deposit the moneys to the credit of the Oil-Heated
19 Dwellings Energy Audit Account.

20 (3) The moneys in the Oil-Heated Dwellings Energy Audit Account are continuously appropri-
21 ated to the [*State Department of Energy*] **commission** for the purpose of:

22 (a) Paying the cost of information, assistance and technical advice required of fuel oil dealers
23 under ORS 469.675 for which the [*director*] **commission** contracts under ORS 469.677; and

24 (b) Providing cash payments to a dwelling owner or contractor for energy conservation meas-
25 ures.

26 (4) Notwithstanding ORS 293.140, any interest attributable to moneys in the Oil-Heated
27 Dwellings Energy Audit Account shall accrue to that account.

28 (5) The [*State Department of Energy*] **commission** shall keep a record of all moneys deposited
29 in the Oil-Heated Dwellings Energy Audit Account.

30 **SECTION 225.** ORS 469.700 is amended to read:

31 469.700. (1) The Residential and Manufactured Structures Board or the Construction Industry
32 Energy Board, after public hearing and subject to the approval of the Director of the Department
33 of Consumer and Business Services, shall adopt a recommended voluntary energy efficiency rating
34 system for single family residences and provide the [*State Department of Energy*] **Public Utility**
35 **Commission** with a copy thereof.

36 (2) The rating system shall provide a single numerical value or other simple concise means to
37 measure the energy efficiency of any single family residence, taking into account factors including,
38 but not limited to, the heat loss characteristics of ceilings, walls, floors, windows, doors and heating
39 ducts.

40 (3) Upon adoption of the rating system under subsections (1) and (2) of this section, the [*de-*
41 *partment*] **commission** shall publicize the availability of the system, and encourage its voluntary use
42 in real estate transactions.

43 (4) As used in subsections (1) to (3) of this section, "single family residence" means a structure
44 designed as a residence for one family and sharing no common wall with another residence of any
45 type.

1 **SECTION 226.** ORS 469.717 is amended to read:

2 469.717. (1) Installation of the energy conservation measures must be completed within 90 days
3 after receipt of loan funds. The [*State Department of Energy*] **Public Utility Commission** may pro-
4 vide an inspection at the owner's request.

5 (2) Notwithstanding the provisions of subsection (1) of this section, the [*department*] **commission**
6 may inspect installation of energy conservation measures to verify that all loan or other state sub-
7 sidy funds have been used for energy conservation measures recommended in the audit, that instal-
8 lation has been performed in a workmanlike manner and that materials used satisfy prevailing
9 industry standards. If requested to do so by the [*department*] **commission**, the dwelling owner shall
10 provide the [*department*] **commission** with copies of receipts and any other documents verifying the
11 cost of energy conservation measures.

12 **SECTION 227.** ORS 469.720 is amended to read:

13 469.720. (1) A dwelling owner who is or who rents to a residential fuel oil customer, or who is
14 or who rents to a wood heating resident, may not apply for low-interest financing under ORS 469.710
15 to 469.720 unless:

16 (a) The dwelling owner, customer or resident has first requested and obtained an energy audit
17 from a fuel oil dealer, a publicly owned utility or an investor-owned utility or from a person under
18 contract with the [*State Department of Energy*] **Public Utility Commission** under ORS 316.744,
19 317.111, 317.386 and 469.631 to 469.687;

20 (b) The dwelling owner first submits to the [*department*] **commission** written permission to in-
21 spect the installations to verify that installation of energy conservation measures has been made;

22 (c) The dwelling owner presents to the lending institution a copy of the energy audit together
23 with certification that the dwelling in question receives space heating from fuel oil or wood and a
24 copy of the written permission to inspect submitted to the [*department*] **commission** under para-
25 graph (b) of this subsection; and

26 (d) The dwelling owner does not receive any other state incentives for that part of the cost of
27 the energy conservation measures to be financed by the loan.

28 (2) Any dwelling owner applying for low-interest financing under ORS 469.710 to 469.720 who is
29 or who rents to a residential fuel oil customer, or who is or who rents to a wood heating resident,
30 may use without obtaining a new energy audit any assistance and technical advice obtained from
31 an energy supplier before November 1, 1981, under chapter 887, Oregon Laws 1977, or from a public
32 utility under chapter 889, Oregon Laws 1977, including an estimate of cost for installation of
33 weatherization materials.

34 **SECTION 228.** ORS 469.745 is amended to read:

35 469.745. To provide the public with a guide for energy conservation, the [*Director of the State*
36 *Department of Energy*] **Public Utility Commission** shall adopt a program for voluntary compliance
37 by the public with the standard adopted by the Director of the Department of Consumer and Busi-
38 ness Services under ORS 469.740.

39 **SECTION 229.** ORS 469.754 is amended to read:

40 469.754. (1) State agencies are authorized to enter into such contractual and other arrangements
41 as may be necessary or convenient to design, develop, operate and finance projects on-site at state
42 owned or state rented facilities. In developing such projects, state agencies shall offer a right of first
43 refusal of two months for conservation and direct use renewable resources and three months for
44 cogeneration and generating renewable resources to each local utility providing utility service to
45 the agency to jointly develop, finance, operate and otherwise act together in the development and

1 operation of such projects. The [*State Department of Energy*] **Public Utility Commission** shall adopt
2 rules to establish the procedure by which the right of first refusal shall be administered. In adopting
3 the rules, the [*department*] **commission** shall insure that the local utility providing utility service
4 to the state agency is entitled to the first right to negotiate with the state agency and that the
5 utility is entitled to match any offer made by any other entity to participate in the project. The
6 [*department*] **commission** also shall adopt procedures that insure that the right to first negotiate
7 and the right to match any offer applies to the sale of electrical or steam output from the project.

8 (2)(a) For as long as a project established under ORS 469.752 to 469.756 produces savings:

9 (A) A state agency's budget shall not be cut because of savings due to the project; and

10 (B) A state agency shall retain 50 percent of the net savings to the state agency after any
11 project debt service.

12 (b) Savings from a project shall be deposited in a revolving fund administered by the state
13 agency.

14 (3) A state agency shall spend the savings under subsection (2) of this section to increase pro-
15 ductivity through:

16 (a) Energy efficiency projects;

17 (b) High-tech improvements, such as the purchase or installation of new desktop or laptop com-
18 puters or the linkage of computers into systems or networks; or

19 (c) Infrastructure improvements.

20 (4) The moneys credited to the revolving fund may be invested and reinvested as provided in
21 ORS 293.701 to 293.790. Notwithstanding ORS 293.105 (3) or any other provision of law, interest or
22 other earnings on moneys in the revolving fund shall be credited to the revolving fund.

23 (5) The remaining 50 percent of net savings to the state agency after any project debt service
24 shall be deposited in the General Fund.

25 (6) Nothing in ORS 469.752 to 469.756 authorizes a state agency to sell electricity to an entity
26 other than an investor owned utility, a publicly owned utility, an electric cooperative utility or the
27 Bonneville Power Administration.

28 (7) Nothing in ORS 469.752 to 469.756 limits the authority of a state agency conferred by any
29 other provision of law, or affects any authority, including the authority of a municipality, to regulate
30 utility service under existing law.

31 **SECTION 230.** ORS 469.756 is amended to read:

32 469.756. The [*State Department of Energy*] **Public Utility Commission** in consultation with other
33 state agencies and utilities shall adopt rules, guidelines and procedures that are necessary to es-
34 tablish savings for projects and to implement other provisions of ORS 469.752 to 469.756, including,
35 but not limited to, rules prescribing the procedures to be followed by an agency in negotiating with
36 local utilities to develop agreements suitable for the joint development of projects, and procedures
37 to determine which local utility, if any, shall be chosen to jointly develop the project. The [*depart-*
38 *ment*] **commission** may enter into agreements under ORS chapter 190 with state agencies to provide
39 technical assistance in selecting appropriate projects and to evaluate and determine energy and cost
40 savings.

41 **SECTION 231.** ORS 469.840 is amended to read:

42 469.840. (1) There is established a Northwest Regional Power and Conservation Account. Mon-
43 eys received pursuant to Public Law 96-501 shall be placed in the account.

44 (2) The account created by subsection (1) of this section is continuously appropriated for dis-
45 bursement to state agencies, including but not limited to the Public Utility Commission, [*the State*

1 *Department of Energy,*] the State Department of Fish and Wildlife and the Water Resources Depart-
2 ment to carry out the purposes of Public Law 96-501, subject to legislative approval or limitation
3 by law or Emergency Board action.

4 **SECTION 232.** ORS 469.880 is amended to read:

5 469.880. Each publicly owned utility serving Oregon shall, either independently or as part of an
6 association, provide an energy audit program for its commercial customers. The [*Director of the State*
7 *Department of Energy*] **Public Utility Commission** shall adopt rules governing the commercial en-
8 ergy audit program established under this section and may provide for coordination among electric
9 utilities and gas utilities that serve the same commercial building.

10 **SECTION 233.** ORS 469.885 is amended to read:

11 469.885. (1) Within 180 days after the adoption of rules by the [*Director of the State Department*
12 *of Energy*] **Public Utility Commission** under ORS 469.880, each publicly owned utility shall present
13 for the [*director's*] **commission's** approval a commercial energy audit program that shall, to the
14 [*director's*] **commission's** satisfaction:

15 (a) Make information about energy conservation available to any commercial building customer
16 of the publicly owned utility, upon request;

17 (b) Regularly notify all customers in commercial buildings of the availability of the services de-
18 scribed in this section;

19 (c) Provide to any commercial building customer of the publicly owned utility, upon request, an
20 on-site energy audit of the customer's commercial building, including, but not limited to, an estimate
21 of the cost of the energy conservation measures; and

22 (d) Set a reasonable time schedule for effective implementation of the elements set forth in this
23 section.

24 (2) The commercial energy audit program submitted under subsection (1) of this section shall
25 specify whether the publicly owned utility proposes to charge the customer a fee for the energy
26 audit and, if so, the fee amount.

27 **SECTION 234.** ORS 469.890 is amended to read:

28 469.890. (1) Within 365 days after November 1, 1981, the [*Director of the State Department of*
29 *Energy*] **Public Utility Commission** shall adopt rules governing energy conservation programs
30 prescribed by ORS 469.895 and 469.900 (3) and this section and may provide for coordination among
31 electric utilities and gas utilities that serve the same commercial building. Within 180 days of the
32 adoption of rules by the [*director*] **commission**, each covered publicly owned utility shall present for
33 the [*director's*] **commission's** approval a commercial energy conservation services program that
34 shall, to the [*director's*] **commission's** satisfaction:

35 (a) Make information about energy conservation available to all commercial building customers
36 of the covered publicly owned utility, upon request;

37 (b) Regularly notify all customers in commercial buildings of the availability of the services de-
38 scribed in this section; and

39 (c) Provide to any commercial building customer of the covered publicly owned utility, upon
40 request, an on-site energy audit of the customer's commercial building, including, but not limited to,
41 an estimate of the cost of energy conservation measures.

42 (2) The programs submitted and approved under this section shall include a reasonable time
43 schedule for effective implementation of the elements set forth in subsection (1) of this section in
44 the service areas of the covered publicly owned utility.

45 (3) The commercial energy conservation services program submitted under subsections (1) and

(2) of this section shall specify whether the covered publicly owned utility proposes to charge the customer a fee for the energy audit and, if so, the fee amount.

SECTION 235. ORS 469.895 is amended to read:

469.895. (1) ORS 469.890 and 469.900 (3) and this section apply in any calendar year to a publicly owned utility only if during the second preceding calendar year sales of electric energy by the publicly owned utility for purposes other than resale exceeded 750 million kilowatt-hours. For the purpose of ORS 469.890 and 469.900 (3) and this section, a publicly owned utility with sales for nonresale purposes in excess of 750 million kilowatt-hours during the second preceding calendar year shall be known as a “covered publicly owned utility.”

(2) ORS 469.890 and 469.900 (3) and this section shall not apply to a covered publicly owned utility if the [*Director of the State Department of Energy*] **Public Utility Commission** determines that its existing commercial energy conservation services program meets or exceeds the requirements of those sections.

(3) Before the beginning of each calendar year, the [*director*] **commission** shall publish a list identifying each covered publicly owned utility to which ORS 469.890 and 469.900 (3) and this section shall apply during that calendar year.

(4) Any covered publicly owned utility is exempt from the requirements of ORS 469.880 and 469.885.

SECTION 236. ORS 469.900 is amended to read:

469.900. (1) The Public Utility Commission shall insure that each electric utility’s commercial energy conservation services program does not conflict with federal statutes and regulations applicable to electric utilities and energy conservation in commercial buildings.

(2) The commission shall insure that each gas utility’s commercial energy conservation services program does not conflict with federal statutes and regulations applicable to gas utilities and energy conservation in commercial buildings.

(3) The [*Director of the State Department of Energy*] **commission** shall insure that each covered publicly owned utility’s commercial energy conservation services program does not conflict with federal statutes and regulations applicable to covered publicly owned utilities and energy conservation in commercial buildings.

SECTION 237. ORS 469A.020, as amended by section 1, chapter 17, Oregon Laws 2010, and section 1, chapter 71, Oregon Laws 2010, is amended to read:

469A.020. (1) Except as provided in this section, electricity may be used to comply with a renewable portfolio standard only if the electricity is generated by a facility that becomes operational on or after January 1, 1995.

(2) Electricity from a generating facility, other than a hydroelectric facility, that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

(3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power Administration facility, only that portion of the electricity generation attributable to Oregon’s share of the electricity may be used to comply with a renewable portfolio standard.

(4) Subject to the limit imposed by ORS 469A.025 (5), electricity from a hydroelectric facility that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995,

1 by a national certification organization recognized by the [*State Department of Energy*] **Public**
 2 **Utility Commission** by rule, and if the facility is either:

3 (a) Owned by an electric utility; or

4 (b) Not owned by an electric utility and located in Oregon and licensed by the Federal Energy
 5 Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such
 6 license.

7 (5)(a) Electricity from a generating facility located in this state that uses biomass and that be-
 8 came operational before January 1, 1995, may be used to comply with a renewable portfolio standard
 9 if the facility meets the requirements of the federal Public Utility Regulatory Policies Act of 1978
 10 (P.L. 95-617) on March 4, 2010, regardless of whether the facility qualifies under the requirements
 11 of the Public Utility Commission.

12 (b) Renewable energy certificates derived from electricity generated by a facility that qualifies
 13 under paragraph (a) of this subsection may not be used to comply with a renewable portfolio
 14 standard before January 1, 2026. However, renewable energy certificates issued before January 1,
 15 2026, may be banked pursuant to ORS 469A.005 to 469A.210 for use on or after January 1, 2026.

16 (6) A facility located in this state that generates electricity from direct combustion of municipal
 17 solid waste and that became operational before January 1, 1995, may be used to comply with a
 18 renewable portfolio standard for up to 11 average megawatts of electricity generated per calendar
 19 year. Renewable energy certificates derived from electricity generated by a facility described in this
 20 subsection may not be used to comply with a renewable portfolio standard before January 1, 2026.
 21 However, renewable energy certificates issued before January 1, 2026, may be banked pursuant to
 22 ORS 469A.005 to 469A.210 for use on or after January 1, 2026.

23 **SECTION 237a.** Section 4, chapter 17, Oregon Laws 2010, is amended to read:

24 **Sec. 4.** The [*State Department of Energy*] **Oregon Business Development Department** may
 25 certify as eligible for renewable energy certificates a facility that qualifies under ORS 469A.020 (5)
 26 and (6) and 469A.025 (6) and (7) only for electricity generated on or after January 1, 2011.

27 **SECTION 238.** ORS 469A.025, as amended by section 3, chapter 17, Oregon Laws 2010, and
 28 section 2, chapter 71, Oregon Laws 2010, is amended to read:

29 469A.025. (1) Electricity generated utilizing the following types of energy may be used to comply
 30 with a renewable portfolio standard:

31 (a) Wind energy.

32 (b) Solar photovoltaic and solar thermal energy.

33 (c) Wave, tidal and ocean thermal energy.

34 (d) Geothermal energy.

35 (2) Except as provided in subsection (3) of this section, electricity generated from biomass and
 36 biomass by-products may be used to comply with a renewable portfolio standard, including but not
 37 limited to electricity generated from:

38 (a) Organic human or animal waste;

39 (b) Spent pulping liquor;

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

42 (d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);

43 (e) Agricultural residues;

44 (f) Dedicated energy crops; and

45 (g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or

1 municipal solid waste.

2 (3) Electricity generated from the direct combustion of biomass may not be used to comply with
3 a renewable portfolio standard if any of the biomass combusted to generate the electricity includes
4 wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or
5 chromated copper arsenate.

6 (4) Electricity generated by a hydroelectric facility may be used to comply with a renewable
7 portfolio standard only if:

8 (a) The facility is located outside any protected area designated by the Pacific Northwest Elec-
9 tric Power and Conservation Planning Council as of July 23, 1999, or any area protected under the
10 federal Wild and Scenic Rivers Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805
11 to 390.925; or

12 (b) The electricity is attributable to efficiency upgrades made to the facility on or after January
13 1, 1995.

14 (5)(a) Up to 50 average megawatts of electricity per year generated by an electric utility from
15 certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(a) may be used to comply
16 with a renewable portfolio standard, without regard to the number of certified facilities operated
17 by the electric utility or the generating capacity of those facilities. A hydroelectric facility described
18 in this paragraph is not subject to the requirements of subsection (4) of this section.

19 (b) Up to 40 average megawatts of electricity per year generated by certified low-impact hy-
20 droelectric facilities described in ORS 469A.020 (4)(b) may be used to comply with a renewable
21 portfolio standard, without regard to the number of certified facilities or the generating capacity
22 of those facilities. A hydroelectric facility described in this paragraph is not subject to the require-
23 ments of subsection (4) of this section.

24 (6)(a) Direct combustion of municipal solid waste in a generating facility located in this state
25 may be used to comply with a renewable portfolio standard. The qualification of a municipal solid
26 waste facility for use in compliance with a renewable portfolio standard has no effect on the quali-
27 fication of the facility for a tax credit under ORS 469.185 to 469.225.

28 (b) The total amount of electricity generated in this state by direct combustion of municipal
29 solid waste by generating facilities that became operational in this state on or after January 1, 1995,
30 may not exceed nine average megawatts per year for the purpose of complying with a renewable
31 portfolio standard.

32 (7) Electricity generated from hydrogen gas, including electricity generated by hydrogen power
33 stations using anhydrous ammonia as a fuel source, may be used to comply with a renewable port-
34 folio standard if:

35 (a) The electricity is derived from:

36 (A) Any source of energy described in subsection (1) or (2) of this section; or

37 (B) A hydroelectric facility that complies with subsection (4) of this section and that is certified
38 as a low-impact hydroelectric facility as described in ORS 469A.020 (4); and

39 (b) The output of the original source of energy is not also used to comply with a renewable
40 portfolio standard.

41 (8) If electricity generation employs multiple energy sources, that portion of the electricity
42 generated that is attributable to energy sources described in this section may be used to comply
43 with a renewable portfolio standard.

44 (9) The [State Department of Energy] **Public Utility Commission** by rule may approve energy
45 sources other than those described in this section that may be used to comply with a renewable

1 portfolio standard. The [department] **commission** may not approve petroleum, natural gas, coal or
 2 nuclear fission as an energy source that may be used to comply with a renewable portfolio standard.

3 **SECTION 239.** ORS 469A.130 is amended to read:

4 469A.130. (1) The [State Department of Energy] **Public Utility Commission** shall establish a
 5 system of renewable energy certificates that can be used by an electric utility or electricity service
 6 supplier to establish compliance with the applicable renewable portfolio standard. [*The department*
 7 *shall consult with the Public Utility Commission before establishing a system of renewable energy*
 8 *certificates under this section.*] The [department] **commission** may allow use of renewable energy
 9 certificates that are issued, monitored, accounted for or transferred by or through a regional system
 10 or trading program, including but not limited to the Western Renewable Energy Generation Infor-
 11 mation System. The system established by the [department] **commission** shall allow issuance,
 12 transfer and use of renewable energy certificates in electronic form.

13 (2) The validity of a bundled renewable energy certificate for purposes of compliance with the
 14 applicable renewable portfolio standard is not affected by the substitution of any other electricity
 15 for the qualifying electricity at any point after the time of generation.

16 **SECTION 240.** ORS 756.047 is amended to read:

17 756.047. For the purpose of requesting a state or nationwide criminal records check under ORS
 18 181.534, the Public Utility Commission may require the fingerprints of a person who:

19 (1)(a) Is employed or applying for employment by the commission; or

20 (b) Provides services or seeks to provide services to the commission as a contractor or volun-
 21 teer; and

22 (2) Is, or will be, working or providing services in a position:

23 (a) In which the person has access to chemicals or hazardous materials, to facilities in which
 24 chemicals and hazardous materials are present or to information regarding the transportation of
 25 chemical or hazardous materials;

26 (b) In which the person inspects gas or electrical lines or facilities;

27 (c) In which the person has access to critical infrastructure or security-sensitive facilities or
 28 information;

29 **(d) In which the person conducts energy audits in schools, colleges, universities or med-
 30 ical facilities;** or

31 [(d)] (e) That has fiscal, payroll or purchasing responsibilities as one of the position's primary
 32 responsibilities.

33 **SECTION 241.** ORS 757.524 is amended to read:

34 757.524. (1) Unless modified by rule by the Public Utility Commission as provided in this section,
 35 the greenhouse gas emissions standard that applies to electric companies and electricity service
 36 suppliers is 1,100 pounds of greenhouse gases per megawatt-hour for a generating facility.

37 (2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions
 38 standard applies only to carbon dioxide emissions.

39 (3) For purposes of applying the emissions standard to cogeneration facilities, the commission
 40 shall establish an output-based methodology to ensure that the calculation of emissions of
 41 greenhouse gases for cogeneration facilities recognizes the total usable energy output of the process
 42 and includes all greenhouse gases emitted by the facility in the production of both electrical and
 43 thermal energy.

44 (4) The commission shall review the greenhouse gas emissions standard established under this
 45 section no more than once every three years. After public notice and hearing, [*and consultation with*

1 *the State Department of Energy,*] the commission may:

2 (a) Modify the emissions standard to include other greenhouse gases as defined in ORS 468A.210,
3 with the other greenhouse gases expressed as their carbon dioxide equivalent; and

4 (b) Modify the emissions standard based upon current information on the rate of greenhouse gas
5 emissions from a commercially available combined-cycle natural gas generating facility that:

6 (A) Employs a combination of one or more gas turbines and one or more steam turbines and
7 produces electricity in the steam turbines from waste heat produced by the gas turbines;

8 (B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordi-
9 nating Council; and

10 (C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.

11 (5) In modifying the greenhouse gas emissions standard, the commission shall:

12 (a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions
13 through cogeneration recognizes the total usable energy output of the process and includes all
14 greenhouse gases emitted by the generating facility in the production of both electrical and thermal
15 energy; and

16 (b) Consider the effects of the emissions standard on system reliability and overall costs to
17 electricity consumers.

18 (6) If upon a review conducted pursuant to subsection (4) of this section, the commission deter-
19 mines that a mandatory greenhouse gas emissions limit has been established pursuant to state or
20 federal law, the commission shall issue a report to the appropriate legislative committees of the
21 Legislative Assembly stating which portions, if any, of the greenhouse gas emissions standard are
22 no longer necessary as a matter of state law.

23 (7) Modifications to the emissions standard made pursuant to this section do not apply to long-
24 term financial commitments entered into prior to the time of such modification. A long-term financial
25 commitment begins upon execution of a contract for the acquisition of baseload electricity or upon
26 construction of a generating facility.

27 **SECTION 242.** ORS 757.528 is amended to read:

28 757.528. (1) Unless modified by rule by the [*State Department of Energy*] **Public Utility Com-**
29 **mission** as provided in this section, the greenhouse gas emissions standard that applies to
30 consumer-owned utilities is 1,100 pounds of greenhouse gases per megawatt-hour for a generating
31 facility.

32 (2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions
33 standard includes only carbon dioxide emissions.

34 (3) For purposes of applying the emissions standard to cogeneration facilities, the [*department*]
35 **commission** shall establish an output-based methodology to ensure that the calculation of emissions
36 of greenhouse gases for cogeneration facilities recognizes the total usable energy output of the
37 process and includes all greenhouse gases emitted by the facility in the production of both electrical
38 and thermal energy.

39 (4) The [*department*] **commission** shall review the greenhouse gas emissions standard estab-
40 lished under this section no more than once every three years. After public notice and hearing, [*and*
41 *consultation with the Public Utilities Commission, the department*] **the commission** may:

42 (a) Modify the emissions standard to include other greenhouse gases as defined in ORS 468A.210,
43 with the other greenhouse gases expressed as their carbon dioxide equivalent; and

44 (b) Modify the emissions standard based upon current information on the rate of greenhouse gas
45 emissions from a commercially available combined-cycle natural gas generating facility that:

1 (A) Employs a combination of one or more gas turbines and one or more steam turbines and
2 produces electricity in the steam turbines from waste heat produced by the gas turbines;

3 (B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordi-
4 nating Council; and

5 (C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.

6 (5) In modifying the greenhouse gas emissions standard, the [department] **commission** shall:

7 (a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions
8 through cogeneration recognizes the total usable energy output of the process and includes all
9 greenhouse gases emitted by the generating facility in the production of both electrical and thermal
10 energy; and

11 (b) Consider the effects of the emissions standard on system reliability and overall costs to
12 electricity consumers.

13 (6) If upon a review conducted pursuant to subsection (4) of this section, the [department]
14 **commission** determines that a mandatory greenhouse gas emissions limit has been established pur-
15 suant to state or federal law, the [department] **commission** shall issue a report to the appropriate
16 legislative committees of the Legislative Assembly stating which portions, if any, of the greenhouse
17 gas emissions standard are no longer necessary as a matter of state law.

18 **SECTION 243.** ORS 757.533 is amended to read:

19 757.533. (1)(a) A governing board of a consumer-owned utility may not enter into a long-term
20 financial commitment unless the baseload electricity acquired under the commitment is produced by
21 a generating facility that complies with a greenhouse gas emissions standard established under ORS
22 757.528.

23 (b) A generating facility complies with the greenhouse gas emissions standard established under
24 ORS 757.528 if the rate of emissions of the facility does not exceed the emissions standard.

25 (c) In determining whether a generating facility complies with the emissions standard, the total
26 emissions associated with producing baseload electricity at the generating facility shall be included
27 in determining the rate of emissions of greenhouse gases. The total emissions associated with
28 producing electricity at the generating facility do not include emissions associated with transporta-
29 tion, fuel extraction or other life-cycle emissions associated with obtaining the fuel for the facility.

30 (2) Notwithstanding subsection (1) of this section, the emissions standard does not apply to
31 greenhouse gas emissions produced by a generating facility owned by a consumer-owned utility or
32 contracted through a long-term financial commitment if the emissions:

33 (a) Come from a facility powered exclusively by renewable energy sources described in ORS
34 469A.025;

35 (b) Come from a cogeneration facility in this state that is fueled by natural gas, synthetic gas,
36 distillate fuels, waste gas or a combination of these fuels, and that is producing energy, in service
37 for tax purposes, commercially operable, or in rates as of July 1, 2010, until the facility is subject
38 to a new long-term financial commitment; or

39 (c) Come from a generating facility that has in place a plan to be a low-carbon emission re-
40 source, as determined by the [State Department of Energy] **Public Utility Commission**, pursuant to
41 sufficient technical documentation, within seven years of commencing plant operations.

42 (3) The governing board may provide an exemption for an individual generating facility from the
43 emissions performance standard to address:

44 (a) Unanticipated electricity system reliability needs;

45 (b) Catastrophic events or threat of significant financial harm that may arise from unforeseen

1 circumstances; or

2 (c) Long-term financial commitments between members of a joint operating entity recognized
3 under federal law or the joint operating entity's predecessor organization, or with the joint operat-
4 ing entity for a baseload resource that the consumer-owned utility had an ownership interest in
5 prior to July 1, 2010.

6 (4) A governing board shall report to the consumer-owned utility's customers or members and
7 to the [*State Department of Energy*] **commission** information on any case-by-case exemption from the
8 emissions performance standard granted by the governing board.

9 (5) For purposes of ORS 757.522 to 757.536, a long-term financial commitment for a consumer-
10 owned utility does not include agreements to purchase electricity from the Bonneville Power Ad-
11 ministration.

12 (6) The [*department*] **commission** by rule shall establish:

13 (a) Standards for identifying contracts for electricity for which the emissions cannot readily be
14 determined with any specificity; and

15 (b) Emissions to be attributed to such contracts for purposes of determining compliance with the
16 emissions standard established under ORS 757.528.

17 **SECTION 244.** ORS 757.538 is amended to read:

18 757.538. The Public Utility Commission [*and the State Department of Energy*] shall adopt rules
19 as necessary to implement ORS 757.522 to 757.536.

20 **SECTION 245.** ORS 757.600 is amended to read:

21 757.600. As used in ORS 757.600 to 757.689, unless the context requires otherwise:

22 (1) "Aggregate" means combining retail electricity consumers into a buying group for the pur-
23 chase of electricity and related services.

24 (2) "Ancillary services" means services necessary or incidental to the transmission and delivery
25 of electricity from generating facilities to retail electricity consumers, including but not limited to
26 scheduling, load shaping, reactive power, voltage control and energy balancing services.

27 (3) "Commission" means the Public Utility Commission.

28 (4) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an
29 electric cooperative.

30 (5) "Default supplier" means an electricity service supplier or electric company that has a legal
31 obligation to provide electricity services to a consumer, as determined by the commission.

32 (6) "Direct access" means the ability of a retail electricity consumer to purchase electricity and
33 certain ancillary services, as determined by the commission for an electric company or the govern-
34 ing body of a consumer-owned utility, directly from an entity other than the distribution utility.

35 (7) "Direct service industrial consumer" means an end user of electricity that obtains electricity
36 directly from the transmission grid and not through a distribution utility.

37 (8) "Distribution" means the delivery of electricity to retail electricity consumers through a
38 distribution system consisting of local area power poles, transformers, conductors, meters, sub-
39 stations and other equipment.

40 (9) "Distribution utility" means an electric utility that owns and operates a distribution system
41 connecting the transmission grid to the retail electricity consumer.

42 (10) "Economic utility investment" means all electric company investments, including plants and
43 equipment and contractual or other legal obligations, properly dedicated to generation or conser-
44 vation, that were prudent at the time the obligations were assumed but the full benefits of which
45 are no longer available to consumers as a direct result of ORS 757.600 to 757.667, absent transition

1 credits. "Economic utility investment" does not include costs or expenses disallowed by the com-
2 mission in a prudence review or other proceeding, to the extent of such disallowance, and does not
3 include fines or penalties authorized and imposed under state or federal law.

4 (11) "Electric company" means an entity engaged in the business of distributing electricity to
5 retail electricity consumers in this state, but does not include a consumer-owned utility.

6 (12) "Electric cooperative" means an electric cooperative corporation organized under ORS
7 chapter 62 or under the laws of another state if the service territory of the electric cooperative
8 includes a portion of this state.

9 (13) "Electric utility" means an electric company or consumer-owned utility that is engaged in
10 the business of distributing electricity to retail electricity consumers in this state.

11 (14) "Electricity" means electric energy, measured in kilowatt-hours, or electric capacity,
12 measured in kilowatts, or both.

13 (15) "Electricity services" means electricity distribution, transmission, generation or
14 generation-related services.

15 (16) "Electricity service supplier" means a person or entity that offers to sell electricity services
16 available pursuant to direct access to more than one retail electricity consumer. "Electricity ser-
17 vice supplier" does not include an electric utility selling electricity to retail electricity consumers
18 in its own service territory.

19 (17) "Governing body" means the board of directors or the commissioners of an electric coop-
20 erative or people's utility district, or the council or board of a city with respect to a municipal
21 electric utility.

22 (18) "Load" means the amount of electricity delivered to or required by a retail electricity
23 consumer at a specific point of delivery.

24 (19) "Low-income weatherization" means repairs, weatherization and installation of energy effi-
25 cient appliances and fixtures for low-income residences for the purpose of enhancing energy effi-
26 ciency.

27 (20) "Municipal electric utility" means an electric distribution utility owned and operated by or
28 on behalf of a city.

29 (21) "New renewable energy resource" means a renewable energy resource project, or a new
30 addition to an existing renewable energy resource project, or the electricity produced by the project,
31 that is not in operation on July 23, 1999. "New renewable energy resource" does not include any
32 portion of a renewable energy resource project under contract to the Bonneville Power Adminis-
33 tration on or before July 23, 1999.

34 (22) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.

35 (23) "People's utility district" has the meaning given that term in ORS 261.010.

36 (24) "Portfolio access" means the ability of a retail electricity consumer to choose from a set
37 of product and pricing options for electricity determined by the governing board of a consumer-
38 owned utility and may include product and pricing options offered by the utility or by an electricity
39 service supplier.

40 (25) "Power generation company" means a company engaged in the production and sale of
41 electricity to wholesale customers, including but not limited to independent power producers, affil-
42 iated generation companies, municipal and state authorities, provided the company is not regulated
43 by the commission.

44 (26) "Qualifying expenditures" means those expenditures for energy conservation measures that
45 have a simple payback period of not less than one year and not more than 10 years, and expen-

1 ditures for the above-market costs of new renewable energy resources, provided that the [*State De-*
2 *partment of Energy*] **commission** by rule may establish a limit on the maximum above-market cost
3 for renewable energy that is allowed as a credit.

4 (27) "Renewable energy resources" means:

5 (a) Electricity generation facilities fueled by wind, waste, solar or geothermal power or by low-
6 emission nontoxic biomass based on solid organic fuels from wood, forest and field residues.

7 (b) Dedicated energy crops available on a renewable basis.

8 (c) Landfill gas and digester gas.

9 (d) Hydroelectric facilities located outside protected areas as defined by federal law in effect
10 on July 23, 1999.

11 (28) "Residential electricity consumer" means an electricity consumer who resides at a dwelling
12 primarily used for residential purposes. "Residential electricity consumer" does not include retail
13 electricity consumers in a dwelling typically used for residency periods of less than 30 days, in-
14 cluding hotels, motels, camps, lodges and clubs. As used in this subsection, "dwelling" includes but
15 is not limited to single family dwellings, separately metered apartments, adult foster homes, manu-
16 factured dwellings, recreational vehicles and floating homes.

17 (29) "Retail electricity consumer" means the end user of electricity for specific purposes such
18 as heating, lighting or operating equipment, and includes all end users of electricity served through
19 the distribution system of an electric utility on or after July 23, 1999, whether or not each end user
20 purchases the electricity from the electric utility.

21 (30) "Site" means a single contiguous area of land containing buildings or other structures that
22 are separated by not more than 1,000 feet, or buildings and related structures that are intercon-
23 nected by facilities owned by a single retail electricity consumer and that are served through a
24 single electric meter.

25 (31) "Transition charge" means a charge or fee that recovers all or a portion of an uneconomic
26 utility investment.

27 (32) "Transition credit" means a credit that returns to consumers all or a portion of the benefits
28 from an economic utility investment.

29 (33) "Transmission facility" means the plant and equipment used to transmit electricity in
30 interstate commerce.

31 (34) "Undue market power" means the unfair or improper exercise of influence to increase or
32 decrease the availability or price of a service or product in a manner inconsistent with competitive
33 markets.

34 (35) "Uneconomic utility investment" means all electric company investments, including plants
35 and equipment and contractual or other legal obligations, properly dedicated to generation, conser-
36 vation and workforce commitments, that were prudent at the time the obligations were assumed but
37 the full costs of which are no longer recoverable as a direct result of ORS 757.600 to 757.667, absent
38 transition charges. "Uneconomic utility investment" does not include costs or expenses disallowed
39 by the commission in a prudence review or other proceeding, to the extent of such disallowance, and
40 does not include fines or penalties as authorized by state or federal law.

41 **SECTION 246.** ORS 757.612 is amended to read:

42 757.612. (1) There is established an annual public purpose expenditure standard for electric
43 companies and Oregon Community Power to fund new cost-effective local energy conservation, new
44 market transformation efforts, the above-market costs of new renewable energy resources and new
45 low-income weatherization. The public purpose expenditure standard shall be funded by the public

1 purpose charge described in subsection (2) of this section.

2 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-
3 cess to its retail electricity consumers, except residential electricity consumers, the electric com-
4 pany or Oregon Community Power shall collect a public purpose charge from all of the retail
5 electricity consumers located within its service area until January 1, 2026. Except as provided in
6 paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the
7 total revenues collected by the electric company, Oregon Community Power or the electricity ser-
8 vice supplier from its retail electricity consumers for electricity services, distribution, ancillary
9 services, metering and billing, transition charges and other types of costs included in electric rates
10 on July 23, 1999.

11 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use
12 per year, beginning on March 1, 2002, the electric company or Oregon Community Power whose
13 territory abuts the greatest percentage of the site of the aluminum plant shall collect from the alu-
14 minum company a public purpose charge equal to one percent of the total revenue from the sale of
15 electricity services to the aluminum plant from any source.

16 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this
17 section relating to electric companies and Oregon Community Power.

18 (b) Subject to paragraph (e) of this subsection, funds collected by an electric company or Oregon
19 Community Power through public purpose charges shall be allocated as follows:

20 (A) Sixty-three percent for new cost-effective conservation and new market transformation.

21 (B) Nineteen percent for the above-market costs of constructing and operating new renewable
22 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20
23 megawatts or less.

24 (C) Thirteen percent for new low-income weatherization.

25 (D) Five percent shall be transferred to the Housing and Community Services Department
26 Electricity Public Purpose Charge Fund established by ORS 456.587 (1) and used for the purpose of
27 providing grants as described in ORS 458.625 (2).

28 (c) The costs of administering subsections (1) to (6) of this section for an electric company or
29 Oregon Community Power shall be paid out of the funds collected through public purpose charges.
30 The commission may require that an electric company or Oregon Community Power direct funds
31 collected through public purpose charges to the state agencies responsible for implementing sub-
32 subsections (1) to (6) of this section in order to pay the costs of administering such responsibilities.

33 (d) The commission shall direct the manner in which public purpose charges are collected and
34 spent by an electric company or Oregon Community Power and may require an electric company
35 or Oregon Community Power to expend funds through competitive bids or other means designed to
36 encourage competition, except that funds dedicated for low-income weatherization shall be directed
37 to the Housing and Community Services Department as provided in subsection (7) of this section.
38 The commission may also direct that funds collected by an electric company or Oregon Community
39 Power through public purpose charges be paid to a nongovernmental entity for investment in public
40 purposes described in subsection (1) of this section. Notwithstanding any other provision of this
41 subsection:

42 (A) At least 80 percent of the funds allocated for conservation shall be spent within the service
43 area of the electric company that collected the funds; or

44 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated
45 for conservation shall be spent within the service area of Oregon Community Power.

1 (e)(A) The first 10 percent of the funds collected annually by an electric company or Oregon
2 Community Power under subsection (2) of this section shall be distributed to education service dis-
3 tricts, as described in ORS 334.010, that are located in the service territory of the electric company
4 or Oregon Community Power. The funds shall be distributed to individual education service districts
5 according to the weighted average daily membership (ADMw) of the component school districts of
6 the education service district for the prior fiscal year as calculated under ORS 327.013. The com-
7 mission shall establish by rule a methodology for distributing a proportionate share of funds under
8 this paragraph to education service districts that are only partially located in the service territory
9 of the electric company or Oregon Community Power.

10 (B) An education service district that receives funds under this paragraph shall use the funds
11 first to pay for energy audits for school districts located within the education service district. An
12 education service district may not expend additional funds received under this paragraph on a
13 school district facility until an energy audit has been completed for that school district. To the
14 extent practicable, an education service district shall coordinate with the [*State Department of En-*
15 *ergy*] **commission** and incorporate federal funding in complying with this paragraph. Following
16 completion of an energy audit for an individual school district, the education service district may
17 expend funds received under this paragraph to implement the energy audit. Once an energy audit
18 has been conducted and completely implemented for each school district within the education ser-
19 vice district, the education service district may expend funds received under this paragraph for any
20 of the following purposes:

21 (i) Conducting energy audits. A school district shall conduct an energy audit prior to expending
22 funds on any other purpose authorized under this paragraph unless the school district has performed
23 an energy audit within the three years immediately prior to receiving the funds.

24 (ii) Weatherization and upgrading the energy efficiency of school district facilities.

25 (iii) Energy conservation education programs.

26 (iv) Purchasing electricity from environmentally focused sources and investing in renewable
27 energy resources.

28 (f) The commission may not establish a different public purpose charge than the public purpose
29 charge described in subsection (2) of this section.

30 (g) If the commission directs funds collected through public purpose charges to a nongovern-
31 mental entity, the entity shall:

32 (A) Include on the entity's board of directors an ex officio member designated by the commis-
33 sion, who shall also serve on the entity's nominating committee for filling board vacancies.

34 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-
35 terest to be filed with the commission on or prior to April 15 of each calendar year for public review
36 in a form similar to the statement of economic interest required for public officials under ORS
37 244.060.

38 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest
39 at regular meetings of the entity's governing body when such conflicts arise, and require an officer
40 or director to abstain from participating in any discussion or vote on any item where that officer
41 or director has an actual conflict of interest. For the purposes of this subparagraph, "actual conflict
42 of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.

43 (D) Arrange for an independent auditor to audit the entity's financial statements annually, and
44 direct the auditor to file an audit opinion with the commission for public review.

45 (E) File with the commission annually the entity's budget, action plan and quarterly and annual

1 reports for public review.

2 (F) At least once every five years, contract for an independent management evaluation to review
3 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a
4 report with the commission for public review.

5 (h) The commission may remove from the board of directors of a nongovernmental entity an of-
6 ficer or director who fails to provide an annual disclosure of economic interest or declare actual
7 or potential conflict of interest, as described in paragraph (g)(B) and (C) of this subsection, in con-
8 nection with the allocation or expenditure of funds collected through public purpose charges and
9 directed to the entity.

10 (4)(a) An electric company that satisfies its obligations under this section shall have no further
11 obligation to invest in conservation, new market transformation or new low-income weatherization
12 or to provide a commercial energy conservation services program and is not subject to ORS 469.631
13 to 469.645 and 469.860 to 469.900.

14 (b) Oregon Community Power, for any period during which Oregon Community Power collects
15 a public purpose charge under subsection (2) of this section:

16 (A) Shall have no other obligation to invest in conservation, new market transformation or new
17 low-income weatherization or to provide a commercial energy conservation services program; and

18 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

19 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
20 any site in the prior year shall receive a credit against public purpose charges billed by an electric
21 company or Oregon Community Power for that site. The amount of the credit shall be equal to the
22 total amount of qualifying expenditures for new energy conservation, not to exceed 68 percent of the
23 annual public purpose charges, and the above-market costs of purchases of new renewable energy
24 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public
25 purpose charges, less administration costs incurred under this subsection. The credit may not ex-
26 ceed, on an annual basis, the lesser of:

27 (A) The amount of the retail electricity consumer's qualifying expenditures; or

28 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
29 dedicated to new energy conservation, new market transformation or the above-market costs of new
30 renewable energy resources.

31 (b) To obtain a credit under this subsection, a retail electricity consumer shall file with the
32 [*State Department of Energy*] **commission** a description of the proposed conservation project or new
33 renewable energy resource and a declaration that the retail electricity consumer plans to incur the
34 qualifying expenditure. The [*State Department of Energy*] **commission** shall issue a notice of pre-
35 certification within 30 days of receipt of the filing, if such filing is consistent with this subsection.
36 The credit may be taken after a retail electricity consumer provides a letter from a certified public
37 accountant to the [*State Department of Energy*] **commission** verifying that the precertified qualify-
38 ing expenditure has been made.

39 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
40 are not used in one year may be carried forward for use in subsequent years.

41 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
42 any site in the prior year may request that the [*State Department of Energy*] **commission** hire an
43 independent auditor to assess the potential for conservation investments at the site. If the inde-
44 pendent auditor determines there is no available conservation measure at the site that would have
45 a simple payback of one to 10 years, the retail electricity consumer shall be relieved of 54 percent

1 of its payment obligation for public purpose charges related to the site. If the independent auditor
2 determines that there are potential conservation measures available at the site, the retail electricity
3 consumer shall be entitled to a credit against public purpose charges related to the site equal to
4 54 percent of the public purpose charges less the estimated cost of available conservation measures.

5 (B) A retail electricity consumer shall be entitled each year to the credit described in this sub-
6 section unless a subsequent independent audit determines that new conservation investment oppor-
7 tunities are available. The [*State Department of Energy*] **commission** may require that a new
8 independent audit be performed on the site to determine whether new conservation measures are
9 available, provided that the independent audits shall occur no more than once every two years.

10 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
11 subsection.

12 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
13 for the public purpose expenditures of their energy suppliers. The [*State Department of Energy*]
14 **commission** shall adopt rules to determine eligible expenditures and the methodology by which such
15 credits are accounted for and used. The rules also shall adopt methods to account for eligible public
16 purpose expenditures made through consortia or collaborative projects.

17 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an
18 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-
19 ment assistance in an amount determined under paragraph (b) of this subsection.

20 (b) The commission shall establish the amount to be collected by each electric company in cal-
21 endar year 2008 from retail electricity consumers served by the company, and the rates to be
22 charged to retail electricity consumers served by the company, so that the total anticipated col-
23 lection for low-income electric bill payment assistance by all electric companies in calendar year
24 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the commission may not
25 change the rates established for retail electricity consumers, but the total amount collected in a
26 calendar year for low-income electric bill payment assistance may vary based on electricity usage
27 by retail electricity consumers and changes in the number of retail electricity consumers in this
28 state. In no event shall a retail electricity consumer be required to pay more than \$500 per month
29 per site for low-income electric bill payment assistance.

30 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into
31 the Housing and Community Services Department Low-Income Electric Bill Payment Assistance
32 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
33 used by the Housing and Community Services Department for the purpose of funding low-income
34 electric bill payment assistance. The department's cost of administering this subsection shall be paid
35 out of funds collected by the low-income electric bill payment assistance charge. Moneys deposited
36 in the fund under this paragraph shall be expended solely for low-income electric bill payment as-
37 sistance. Funds collected from an electric company or Oregon Community Power shall be expended
38 in the service area of the electric company or Oregon Community Power from which the funds are
39 collected.

40 (d) The Housing and Community Services Department, in consultation with the federal Advisory
41 Committee on Energy, shall determine the manner in which funds collected under this subsection
42 will be allocated by the department to energy assistance program providers for the purpose of pro-
43 viding low-income bill payment and crisis assistance, including programs that effectively reduce
44 service disconnections and related costs to retail electricity consumers and electric utilities. Priority
45 assistance shall be directed to low-income electricity consumers who are in danger of having their

1 electricity service disconnected.

2 (e) Interest on moneys deposited in the Housing and Community Services Department Low-
3 Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to pro-
4 vide heating bill payment and crisis assistance to electricity consumers whose primary source of
5 heat is not electricity.

6 (f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon
7 Community Power to provide reduced rates or other payment or crisis assistance or low-income
8 program assistance to a low-income household eligible for assistance under the federal Low Income
9 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

10 (8) For purposes of this section, "retail electricity consumers" includes any direct service in-
11 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
12 tric utility.

13 (9) For purposes of this section, amounts collected by Oregon Community Power through public
14 purpose charges are not considered moneys received from electric utility operations.

15 **SECTION 247.** ORS 757.617 is amended to read:

16 757.617. (1)(a) The Public Utility Commission [*and the State Department of Energy jointly*] shall
17 select an independent nongovernmental entity to prepare a biennial report to the Legislative As-
18 sembly describing program spending and results for public purpose requirements undertaken pursu-
19 ant to ORS 757.612. The first report shall be due on January 1, 2003.

20 (b) The commission [*and the department jointly*] shall select an independent nongovernmental
21 entity to prepare a report to the Legislative Assembly describing proposed modifications to public
22 purpose requirements undertaken pursuant to ORS 757.612. The report shall be due on January 1,
23 2007.

24 (c) The commission [*and the department jointly*] shall select an independent nongovernmental
25 entity to prepare a report to the Legislative Assembly recommending whether the public purpose
26 funding requirements under ORS 757.612 should be renewed. The report shall be due on January 1,
27 2011.

28 (2) The Housing and Community Services Department shall prepare a biennial report to the
29 Legislative Assembly describing program spending and needs for low-income bill assistance. The first
30 report shall be due on January 1, 2003.

31 **SECTION 248.** ORS 757.687 is amended to read:

32 757.687. (1) Beginning on the date a consumer-owned utility provides direct access to any class
33 of retail electric consumers, the consumer-owned utility shall collect from that consumer class a
34 nonbypassable public purpose charge until January 1, 2026. Except as provided in subsection (8)
35 of this section, the amount of the public purpose charge shall be sufficient to produce revenue of
36 not less than three percent of the total revenue collected by the consumer-owned utility from its
37 retail electricity consumers for electricity services, distribution, ancillary services, metering and
38 billing, transition charges and any other costs included in rates as of July 23, 1999, except that the
39 consumer-owned utility may exclude from the calculation of such costs any cost related to the public
40 purposes described in subsection (5) of this section. If a consumer-owned utility has fewer than 17
41 consumers per mile of distribution line, the amount of the public purpose charge shall be sufficient
42 to produce revenue not less than three percent of the total revenue from the sale of electricity
43 services in the utility's service area to the consumer class that is provided direct access, or the
44 utility's consumer class percentage share of state total electricity sales multiplied by three percent
45 of total statewide retail electric revenue, whichever is less.

1 (2) Except as provided in subsection (9) of this section, the governing body of a consumer-owned
2 utility shall determine the manner of collecting and expending funds for public purposes required
3 by law to be assessed against and paid by the retail electric consumers of the utility. A determi-
4 nation by the governing body shall include:

5 (a) The manner for collecting public purpose charges;

6 (b) Public purpose programs upon which revenue from the charges may be expended; and

7 (c) The allocation of expenditures for each program.

8 (3) Beginning on the same date two years after July 23, 1999, a consumer-owned utility shall
9 report annually to the [*State Department of Energy created under ORS 469.030*] **Public Utility**
10 **Commission** on the public purpose charges paid to the utility by its retail electric consumers and
11 the public purposes on which the revenue was expended.

12 (4) A consumer-owned utility may comply with the public purpose requirements of this section
13 by participating in collaborative efforts with other consumer-owned utilities located in this state.

14 (5) Funds assessed and paid by, and credits or other financial assistance issued or extended to,
15 retail electric consumers for purposes of this section may, in the discretion of the governing body
16 of the consumer-owned utility, be expended to fund programs for energy conservation, renewable
17 resources or low-income energy services otherwise required by the laws of this state, adopted by the
18 governing body pursuant to the National Energy Conservation Policy Act (Public Law 95-619, as
19 amended November 10, 1981), or conducted by the utility pursuant to agreement with the Bonneville
20 Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act
21 (Public Law 96-501). All such funds expended, credits issued and incremental costs incurred in con-
22 nection with the performance of a consumer-owned utility's obligations under this section shall be
23 credited toward the utility's public purpose funding obligation under this section.

24 (6) A consumer-owned utility also may credit toward its funding obligations under this section
25 any incremental costs incurred by the utility for capital expenditures made to reduce its distribution
26 system energy losses, existing biomass gas and waste to energy systems, existing hydroelectric
27 generation projects using fish attraction water, for new energy conservation and renewable resource
28 funding costs included in its wholesale power supplier's charges and for electric power generated
29 by renewable or cogeneration resources pursuant to requirements of the Public Utilities Regulatory
30 Policy Act of 1978 (Public Law 95-617), to the extent that such costs exceed the average cost of the
31 utility's other electric power resources.

32 (7) A consumer-owned utility also may credit toward its public purpose funding obligations under
33 this section any costs incurred in complying with ORS 469.649 to 469.659.

34 (8) Beginning on March 1, 2002, a consumer-owned utility whose territory abuts the greatest
35 percentage of the site of an aluminum plant that averages more than 100 megawatts of electricity
36 use per year shall collect from the aluminum company a public purpose charge equal to one percent
37 of the total revenue from the sale of electricity services to the aluminum plant from any source.

38 (9)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
39 any site in the prior year shall receive a credit against public purpose charges billed by a
40 consumer-owned utility for that site. The amount of the credit shall be equal to the total amount
41 of qualifying expenditures for new energy conservation, not to exceed 68 percent of the annual
42 public purpose charges, and the above-market costs of purchases of new renewable energy resources
43 incurred by the retail electricity consumer, less administration costs incurred under this subsection.
44 The credit shall not exceed, on an annual basis, the lesser of:

45 (A) The amount of the retail electricity consumer's qualifying expenditures; or

1 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
2 dedicated to new energy conservation, new market transformation or the above-market costs of new
3 renewable resources.

4 (b) To obtain a credit under this subsection, a retail electricity consumer shall file with the
5 [department] **commission** a description of the proposed conservation project, new market transfor-
6 mation or new renewable energy resource and a declaration that the retail electricity consumer
7 plans to incur the qualifying expenditure. The [department] **commission** shall issue a notice of pre-
8 certification within 30 days of receipt of the filing, if such filing is consistent with this subsection.
9 Notice shall be issued to the retail electricity consumer and the appropriate consumer-owned utility.
10 The credit may be taken after a retail electricity consumer provides a letter from a certified public
11 accountant to the [department] **commission** verifying that the precertified qualifying expenditure
12 has been made.

13 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
14 are not used in one year may be carried forward for use in subsequent years.

15 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
16 any site in the prior year may request that the [department] **commission** hire an independent audi-
17 tor to assess the potential for conservation measures at the site. If the independent auditor deter-
18 mines there is no available conservation measure at the site that would have a simple payback of
19 one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment obli-
20 gation for public purpose charges related to the site. If the auditor determines that there are po-
21 tential conservation measures available at the site, the retail electricity consumer shall be entitled
22 to a credit against public purpose charges related to the site equal to 54 percent of the public pur-
23 pose charges less the estimated cost of available conservation measures.

24 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-
25 agraph unless a subsequent audit determines that new conservation investment opportunities are
26 available. The [department] **commission** may require that a new audit be performed on the site to
27 determine whether new conservation measures are available, provided that the audits occur no more
28 than once every two years.

29 (C) The retail electricity consumer shall pay the cost of the audits described in this subsection.

30 (10) A retail electricity consumer with a load greater than one average megawatt shall not be
31 required to pay a public purpose charge in excess of three percent of the consumer's total cost of
32 electricity services unless the charge is established in an agreement between the consumer and the
33 consumer-owned utility.

34 (11) Beginning on March 1, 2002, a consumer-owned utility shall have in operation a bill assist-
35 ance program for households that qualify for federal low-income energy assistance in the
36 consumer-owned utility's service area. A consumer-owned utility shall report annually to the Hous-
37 ing and Community Services Department detailing the utility's program and program expenditures.

38 (12) A consumer-owned utility may require an electricity service supplier to provide information
39 necessary to ensure compliance with this section. The consumer-owned utility shall ensure the pri-
40 vacy and protection of any proprietary information provided.

41 **SECTION 249.** ORS 757.720 is amended to read:

42 757.720. (1) Approval of utility plans for the curtailment of load shall be based on the following
43 factors:

- 44 (a) The consistency of the plan with the public health, safety and welfare;
45 (b) The technical feasibility of implementation of the plan;

1 (c) The effectiveness with which the plan minimizes the impact of any curtailment; and

2 (d) Consistency with Oregon energy policies formulated under [ORS 469.010 to 469.225,] **this**
 3 **section and ORS 469.010, 469.055, 469.060, 469.070, 469.080, 469.085, 469.097, 469.110, 469.120,**
 4 **469.135,** 469.300 to 469.563 and 757.710 and [*this section*] **sections 11 and 12 of this 2011 Act.**

5 (2) In the event of an emergency threatening the health, safety and welfare of the general public,
 6 the Public Utility Commission may on the commission's own motion and without hearing establish
 7 a plan for the curtailment of load by any person referred to in ORS 757.710. If an emergency is not
 8 present, the commission shall prior to approval hold public hearings with respect to any proposed
 9 plan and give reasonable notice of such hearings.

10 (3) The commission shall consult with the Director of the [*State Department of Energy*] **Oregon**
 11 **Office of Energy Planning and Siting** before approving a plan.

12 **SECTION 250.** Section 25, chapter 301, Oregon Laws 2007, is amended to read:

13 **Sec. 25.** (1) The [*State Department of Energy*] **Public Utility Commission** shall periodically
 14 conduct a study to evaluate the impact of [*sections 1 to 24 of this 2007 Act*] **ORS 469A.005 to**
 15 **469A.210** on jobs in this state. The study shall assess the number of new jobs created in the
 16 renewable energy sector in this state and the average wage rates and the provision of health care
 17 and other benefits for those jobs. In addition, the study shall investigate the extent to which
 18 workforce training opportunities are being provided to employees to prepare the employees for jobs
 19 in the renewable energy sector.

20 (2) The [*department*] **commission** shall conduct the first study under this section not later than
 21 two years after [*the effective date of this 2007 Act*] **June 6, 2007.**

22
 23 **ADDITIONAL CONFORMING AMENDMENTS**

24
 25 **SECTION 251.** ORS 468B.500 is amended to read:

26 468B.500. The plan developed under ORS 468B.495 shall include at a minimum:

27 (1) A compilation of maps and information about the waters of the state including shorelines,
 28 access points, critical habitats, shoreline sensitivity, disposal sites, ownership and jurisdictional
 29 control over each area. [*This portion of the plan shall use and expand the computer mapping system*
 30 *currently being developed by the State Department of Energy.*]

31 (2) An index of federal, state and local agency personnel, private contractors, volunteers, labor
 32 employment centers, wildlife rehabilitation centers and other sources of persons and equipment
 33 available to respond in the event of an oil or hazardous material spill. The index shall include in-
 34 formation necessary to contact the organizations and persons in the index in the event of an oil or
 35 hazardous material spill.

36 (3) A spill response strategy. This strategy shall include methods for discovery of the spill, no-
 37 tification of agencies, organizations and individuals in the index, evaluation and initiation of re-
 38 sponse, containment and countermeasures and cleanup. The spill response strategy shall also include
 39 provisions for documenting the response measures taken and procedures for cost recovery.

40 (4) Provisions for coordinating Oregon's oil or hazardous material spill response procedures for
 41 coastal and interstate waters with the states of Washington and California. To the maximum extent
 42 practicable, interstate cooperation shall include but need not be limited to coordination of:

43 (a) Development of coastal and ocean information systems with those of adjacent states; and

44 (b) Oregon's oil or hazardous material spill response, damage assessment and cost recovery
 45 procedures for coastal or interstate waters with those developed by adjacent states.

SECTION 252. ORS 469.401 is amended to read:

469.401. (1) Upon approval, the site certificate or any amended site certificate with any conditions prescribed by the Energy Facility Siting Council shall be executed by the chairperson of the council and by the applicant. The certificate or amended certificate shall authorize the applicant to construct, operate and retire the facility subject to the conditions set forth in the site certificate or amended site certificate. The duration of the site certificate or amended site certificate shall be the life of the facility.

(2) The site certificate or amended site certificate shall contain conditions for the protection of the public health and safety, for the time for completion of construction, and to ensure compliance with the standards, statutes and rules described in ORS 469.501 and 469.503. The site certificate or amended site certificate shall require both parties to abide by local ordinances and state law and the rules of the council in effect on the date the site certificate or amended site certificate is executed, except that upon a clear showing of a significant threat to the public health, safety or the environment that requires application of later-adopted laws or rules, the council may require compliance with such later-adopted laws or rules. For a permit addressed in the site certificate or amended site certificate, the site certificate or amended site certificate shall provide for facility compliance with applicable state and federal laws adopted in the future to the extent that such compliance is required under the respective state agency statutes and rules.

(3) Subject to the conditions set forth in the site certificate or amended site certificate, any certificate or amended certificate signed by the chairperson of the council shall bind the state and all counties and cities and political subdivisions in this state as to the approval of the site and the construction and operation of the facility. After issuance of the site certificate or amended site certificate, any affected state agency, county, city and political subdivision shall, upon submission by the applicant of the proper applications and payment of the proper fees, but without hearings or other proceedings, promptly issue the permits, licenses and certificates addressed in the site certificate or amended site certificate, subject only to conditions set forth in the site certificate or amended site certificate. After the site certificate or amended site certificate is issued, the only issue to be decided in an administrative or judicial review of a state agency or local government permit for which compliance with governing law was considered and determined in the site certificate or amended site certificate proceeding shall be whether the permit is consistent with the terms of the site certificate or amended site certificate. Each state or local government agency that issues a permit, license or certificate shall continue to exercise enforcement authority over the permit, license or certificate.

(4) Nothing in ORS [*chapter 469*] **469.300 to 469.563** shall be construed to preempt the jurisdiction of any state agency or local government over matters that are not included in and governed by the site certificate or amended site certificate. Such matters include but are not limited to employee health and safety, building code compliance, wage and hour or other labor regulations, local government fees and charges or other design or operational issues that do not relate to siting the facility.

ASSESSMENT OF ENERGY RESOURCE SUPPLIERS

SECTION 253. ORS 469.421 is amended to read:

469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent, a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370,

1 a request for an expedited review under ORS 469.373, a request for the [*State Department of*
2 *Energy*] **Oregon Office of Energy Planning and Siting** to approve a pipeline under ORS 469.405
3 (3), an application for a site certificate or a request to amend a site certificate shall pay all expenses
4 incurred by the **office, the Energy Facility Siting Council**[, *the State Department of Energy*] and the
5 Oregon Department of Administrative Services related to the review and decision of the council.
6 These expenses may include legal expenses, expenses incurred in processing and evaluating the ap-
7 plication, issuing a final order or site certificate, commissioning an independent study by a con-
8 tractor, state agency or local government under ORS 469.360, and changes to the rules of the
9 council that are specifically required and related to the particular site certificate.

10 (2) Every person submitting a notice of intent to file for a site certificate, a request for ex-
11 emption or a request for expedited review shall submit the fee required under the fee schedule es-
12 tablished under ORS 469.441 to the [*State Department of Energy*] **office** when the notice or request
13 is submitted to the council. To the extent possible, the full cost of the evaluation shall be paid from
14 the fee paid under this subsection. However, if costs of the evaluation exceed the fee, the person
15 submitting the notice or request shall pay any excess costs shown in an itemized statement prepared
16 by the council. In no event shall the council incur evaluation expenses in excess of 110 percent of
17 the fee initially paid unless the council provides prior notification to the applicant and a detailed
18 projected budget the council believes necessary to complete the project. If costs are less than the
19 fee paid, the excess shall be refunded to the person submitting the notice or request.

20 (3) Before submitting a site certificate application, the applicant shall request from the [*State*
21 *Department of Energy*] **office** an estimate of the costs expected to be incurred in processing the ap-
22 plication. The [*department*] **office** shall inform the applicant of that amount and require the applicant
23 to make periodic payments of the costs pursuant to a cost reimbursement agreement. The cost re-
24 imbursement agreement shall provide for payment of 25 percent of the estimated costs when the
25 applicant submits the application. If costs of the evaluation exceed the estimate, the applicant shall
26 pay any excess costs shown in an itemized statement prepared by the council. In no event shall the
27 council incur evaluation expenses in excess of 110 percent of the fee initially estimated unless the
28 council provided prior notification to the applicant and a detailed projected budget the council be-
29 lieves is necessary to complete the project. If costs are less than the fee paid, the council shall re-
30 fund the excess to the applicant.

31 (4) Any person who is delinquent in the payment of fees under subsections (1) to (3) of this
32 section shall be subject to the provisions of subsection (11) of this section.

33 (5) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual fee,
34 due every July 1 following issuance of a site certificate. For each fiscal year, upon approval of the
35 [*State Department of Energy's*] budget authorization **for the office** by a regular session of the Leg-
36 islative Assembly or as revised by the Emergency Board, the Director of the [*State Department of*
37 *Energy*] **Oregon Office of Energy Planning and Siting** promptly shall enter an order establishing
38 an annual fee based on the amount of revenues that the director estimates is needed to fund the cost
39 of ensuring that the facility is being operated consistently with the terms and conditions of the site
40 certificate, any order issued by the [*department*] **office** under ORS 469.405 (3) and any applicable
41 health or safety standards. In determining this cost, the director shall include both the actual direct
42 cost to be incurred by the council, the [*State Department of Energy*] **office** and the Oregon Depart-
43 ment of Administrative Services to ensure that the facility is being operated consistently with the
44 terms and conditions of the site certificate, any order issued by the [*State Department of Energy*]
45 **office** under ORS 469.405 (3) and any applicable health or safety standards, and the general costs

1 to be incurred by the council, the [*State Department of Energy and the Oregon Department of Ad-*
 2 *ministrative Services*] **office and the department** to ensure that all certificated facilities are being
 3 operated consistently with the terms and conditions of the site certificates, any orders issued by the
 4 [*State Department of Energy*] **office** under ORS 469.405 (3) and any applicable health or safety stan-
 5 dards that cannot be allocated to an individual, licensed facility. Not more than 35 percent of the
 6 annual fee charged each facility shall be for the recovery of these general costs. The fees for direct
 7 costs shall reflect the size and complexity of the facility and its certificate conditions.

8 (6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for
 9 the remaining portion of the year. The amount of the fee shall be set at the cost of regulating the
 10 facility during the remaining portion of the year determined in the same manner as the annual fee.

11 (7) When the actual costs of regulation incurred by the council, the [*State Department of Energy*
 12 *and the Oregon Department of Administrative Services*] **office and the department** for the year, in-
 13 cluding that portion of the general regulation costs that have been allocated to a particular facility,
 14 are less than the annual fees for that facility, the unexpended balance shall be refunded to the site
 15 certificate holder. When the actual regulation costs incurred by the council, the [*State Department*
 16 *of Energy and the Oregon Department of Administrative Services*] **office and the department** for the
 17 year, including that portion of the general regulation costs that have been allocated to a particular
 18 facility, are projected to exceed the annual fee for that facility, the director [*of the State Department*
 19 *of Energy*] may issue an order revising the annual fee.

20 (8) In addition to any other fees required by law, each energy resource supplier shall [*pay to the*
 21 *State Department of Energy annually its share of an assessment to fund the activities of the Energy*
 22 *Facility Siting Council, the Oregon Department of Administrative Services and the State Department*
 23 *of Energy, determined by the Director of the State Department of Energy*] **annually pay to the office**
 24 **an assessment no later than July 1 or 90 days following adjournment sine die of the Legis-**
 25 **lative Assembly, whichever is later. The office shall determine the amount of the assessment**
 26 in the following manner:

27 (a) Upon approval of the budget authorization [*of the Energy Facility Siting Council, the Oregon*
 28 *Department of Administrative Services and the State Department of Energy*] **for the council, the of-**
 29 **ice, the Public Utility Commission and the Oregon Business Development Department** by a
 30 regular session of the Legislative Assembly, the director [*of the State Department of Energy*] shall
 31 promptly enter an order establishing the amount of revenues required to be derived from an as-
 32 sessment pursuant to this subsection in order to fund the [*activities of the Energy Facility Siting*
 33 *Council, the Oregon Department of Administrative Services and the State Department of Energy, in-*
 34 *cluding those enumerated in ORS 469.030 and others authorized by law,*] **expenses described in**
 35 **paragraph (h) of this subsection** for the first fiscal year of the forthcoming biennium. On or before
 36 June 1 of each even-numbered year, the director [*of the State Department of Energy*] shall enter an
 37 order establishing the amount of revenues required to be derived from an assessment pursuant to
 38 this subsection in order to fund the [*activities of the Energy Facility Siting Council, the Oregon De-*
 39 *partment of Administrative Services and the State Department of Energy, including those enumerated*
 40 *in ORS 469.030 and others authorized by law,*] **expenses described in paragraph (h) of this sub-**
 41 **section** for the second fiscal year of the biennium. The order shall take into account any revisions
 42 to the biennial budget of the [*Energy Facility Siting Council, the State Department of Energy and the*
 43 *Oregon Department of Administrative Services*] **council, the office, the commission and the de-**
 44 **partment** made by the Emergency Board or by a special session of the Legislative Assembly sub-
 45 sequent to the most recently concluded regular session of the Legislative Assembly. However, an

1 assessment under this [section] **subsection** may not be used to derive revenue for funding [State
2 Department of Energy] activities related to the energy efficiency and sustainable technology loan
3 program described in ORS chapter 470.

4 (b) Each order issued by the director pursuant to paragraph (a) of this subsection shall allocate
5 the aggregate assessment set forth therein to energy resource suppliers in accordance with para-
6 graph (c) of this subsection.

7 (c) The amount assessed to an energy resource supplier shall be based on the ratio which that
8 supplier's annual gross operating revenue derived within this state in the preceding calendar year
9 bears to the total gross operating revenue derived within this state during that year by all energy
10 resource suppliers. The assessment against an energy resource supplier shall not exceed five-tenths
11 of one percent of the supplier's gross operating revenue derived within this state in the preceding
12 calendar year. The director [shall] **may** exempt from payment of an assessment [any individual en-
13 ergy resource supplier whose calculated share of the annual assessment is less than \$250] **individual**
14 **energy resource suppliers.**

15 (d) The director shall send each energy resource supplier subject to assessment pursuant to this
16 subsection a copy of each order issued, by registered or certified mail. The amount assessed to the
17 energy resource supplier pursuant to the order shall be considered to the extent otherwise permitted
18 by law a government-imposed cost and recoverable by the energy resource supplier as a cost in-
19 cluded within the price of the service or product supplied.

20 [(e) The amounts assessed to individual energy resource suppliers pursuant to paragraph (c) of this
21 subsection shall be paid to the State Department of Energy as follows:]

22 [(A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days
23 following the close of the regular session of the Legislative Assembly; and]

24 [(B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July
25 1 of each even-numbered year.]

26 [(f)] (e) An energy resource supplier shall provide the director, on or before May 1 of each year,
27 a verified statement showing its gross operating revenues derived within the state for the preceding
28 calendar year. The statement shall be in the form prescribed by the director and is subject to audit
29 by the director. The statement shall include an entry showing the total operating revenue derived
30 by petroleum suppliers from fuels sold that are subject to the requirements of section 3a, Article IX
31 of the Oregon Constitution, and ORS 319.020 with reference to aircraft fuel and motor vehicle fuel,
32 and ORS 319.530. The director may grant an extension of not more than 15 days **to an energy re-**
33 **source supplier that cannot pay to the office the assessment by the date required under this**
34 **subsection. The director may grant the extension** for the requirements of this subsection if:

35 (A) The energy supplier makes a showing of hardship caused by the deadline;

36 (B) The energy supplier provides reasonable assurance that the energy supplier can comply with
37 the revised deadline; and

38 (C) The extension of time does not prevent the [Energy Facility Siting Council, the Oregon De-
39 partment of Administrative Services or the State Department of Energy] **council, the office, the**
40 **commission and the department** from fulfilling their statutory responsibilities.

41 (f) **In determining the amount of revenues that must be derived from any class of energy**
42 **resource suppliers by assessment pursuant to this subsection, the director shall take into**
43 **account all other known or readily ascertainable sources of revenue to the council, the of-**
44 **ice, the commission and the department, including, but not limited to, fees imposed under**
45 **this section and federal funds, and may take into account any funds previously assessed**

1 pursuant to ORS 469.420 (1979 Replacement Part) or section 7, chapter 792, Oregon Laws
2 1981.

3 (g) Orders issued by the director pursuant to this section shall be subject to judicial re-
4 view under ORS 183.484. The taking of judicial review does not operate to stay the obligation
5 of an energy resource supplier to pay amounts assessed to it pursuant to this subsection on
6 or before the statutory deadline.

7 (h)(A) The office shall equally apportion an assessment collected under this subsection
8 and deposit the apportioned moneys in the Energy Planning and Siting Account established
9 in ORS 469.120, the Renewable Energy Resource and Alternative Energy Device Tax Relief
10 Fund established in section 254 of this 2011 Act and the Public Utility Commission Account
11 established in ORS 756.305.

12 (B) Moneys deposited in the Energy Planning and Siting Account under this paragraph
13 shall be used by the Oregon Office of Energy Planning and Siting only for expenses related
14 to the administration of ORS 469.300 to 469.563;

15 (C) Moneys deposited in the Renewable Energy Resource and Alternative Energy Device
16 Tax Relief Fund under this paragraph shall be used by the Oregon Business Development
17 Department only for expenses related to the administration of ORS 469.160 to 469.180 and
18 469.185 to 469.225.

19 (D) Notwithstanding ORS 756.360, moneys deposited in the Public Utility Commission
20 Account under this paragraph shall be used by the Public Utility Commission only for ex-
21 penses related to:

22 (i) The administration of ORS 469.631 to 469.645, 469.649 to 469.659, 469.673 to 469.683,
23 469.710 to 469.720, 469.730 to 469.745, 469.752 to 469.756 and 469.860 to 469.900; and

24 (ii) The provision of electric or gas utility services for areas not served by an investor-
25 owned utility.

26 [(g)] (i) As used in this [section] subsection:

27 (A) "Energy resource supplier" means an electric utility, natural gas utility or petroleum sup-
28 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-
29 ducts in Oregon.

30 (B) "Gross operating revenue" means gross receipts from sales or service made or provided
31 within this state during the regular course of the energy supplier's business, but does not include
32 either revenue derived from interutility sales within the state or revenue received by a petroleum
33 supplier from the sale of fuels that are subject to the requirements of section 3a, Article IX of the
34 Oregon Constitution, or ORS 319.020 or 319.530.

35 (C) "Investor-owned utility" has the meaning given that term in ORS 469.631.

36 [(C)] (D) "Petroleum supplier" has the meaning given that term in ORS 469.020.

37 [(h)] *In determining the amount of revenues that must be derived from any class of energy resource*
38 *suppliers by assessment pursuant to this subsection, the director shall take into account all other known*
39 *or readily ascertainable sources of revenue to the Energy Facility Siting Council, the Oregon Depart-*
40 *ment of Administrative Services and the State Department of Energy, including, but not limited to, fees*
41 *imposed under this section and federal funds, and may take into account any funds previously assessed*
42 *pursuant to ORS 469.420 (1979 Replacement Part) or section 7, chapter 792, Oregon Laws 1981.]*

43 [(i)] *Orders issued by the director pursuant to this section shall be subject to judicial review under*
44 *ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an energy re-*
45 *source supplier to pay amounts assessed to it on or before the statutory deadline.]*

1 (9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal
 2 power plant or nuclear installation within this state shall pay to the [*State Department of Energy*]
 3 **office** annually on July 1, an assessment in an amount determined by the director to be necessary
 4 to fund the activities of the state and the counties associated with emergency preparedness for a
 5 nuclear fueled thermal power plant or nuclear installation. The assessment shall not exceed \$461,250
 6 per year. Moneys collected as assessments under this subsection are continuously appropriated to
 7 the [*State Department of Energy*] **office** for this purpose.

8 (b) The [*State Department of Energy*] **office** shall maintain and shall cause other state agencies
 9 and counties to maintain time and billing records for the expenditure of any [*fees*] **assessments**
 10 collected from an operator of a nuclear fueled thermal power plant under paragraph (a) of this
 11 subsection.

12 (10) Reactors operated by a college, university or graduate center for research purposes and
 13 electric utilities not connected to the Northwest Power Grid are exempt from the fee **and assess-**
 14 **ment** requirements of subsections (5), (8) and (9) of this section.

15 (11)(a) [*All fees assessed by the director against*] Holders of site certificates for facilities that
 16 have an installed capacity of 500 megawatts or greater may [*be paid*] **pay any fee or assessment**
 17 **required under this section** in several installments, the schedule for which shall be negotiated
 18 between the director and the site certificate holder.

19 (b) Energy resource suppliers or applicants or holders of a site certificate who fail to pay a fee
 20 **or assessment** provided under subsections (1) to (9) of this section or the [*fees*] **fee** required under
 21 ORS 469.360 after it is due and payable shall pay, in addition to that fee **or assessment**, a penalty
 22 of two percent of the fee [*a*] **or assessment per** month for the period that the fee **or assessment**
 23 is past due. Any payment made according to the terms of a schedule negotiated under paragraph (a)
 24 of this subsection shall not be considered past due. The director may bring an action to collect an
 25 unpaid fee, **assessment** or penalty in the name of the State of Oregon in a court of competent ju-
 26 risdiction. The court may award reasonable attorney fees to the director if the director prevails in
 27 an action under this subsection. The court may award reasonable attorney fees to a defendant who
 28 prevails in an action under this subsection if the court determines that the director had no objec-
 29 tively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse de-
 30 cision of the trial court.

31 **SECTION 253a.** Section 47a, chapter 753, Oregon Laws 2009, is amended to read:

32 **Sec. 47a.** Notwithstanding ORS 469.441, in addition to any assessment imposed under ORS
 33 469.421 (8), the [*State Department of Energy*] **Oregon Office of Energy Planning and Siting** may
 34 impose a special assessment on energy resource suppliers that are subject to the assessment de-
 35 scribed in ORS 469.421 (8). The special assessment authorized under this section may not exceed
 36 \$300,000. The [*department*] **office** shall calculate the share of the special assessment to be paid by
 37 an energy resource supplier based on the most recent gross operating revenue ratio determined for
 38 that supplier under ORS 469.421 (8)(c) as of the special assessment date. The [*department*] **office** may
 39 not impose the special assessment authorized under this section more than once and may not impose
 40 the special assessment after July 1, 2010. Moneys received by the [*department*] **office** from the spe-
 41 cial assessment must be deposited to the Energy Project Supplemental Fund and used to pay costs
 42 incurred by the [*department*] **office** or the Director of the [*State Department of Energy*] **Oregon Of-**
 43 **ice of Energy Planning and Siting** in implementing or administering loan programs for small scale
 44 local energy projects.

45 **SECTION 254. (1) The Renewable Energy Resource and Alternative Energy Device Tax**

1 Relief Fund is established separate and distinct from the General Fund. Interest earned by
 2 the Renewable Energy Resource and Alternative Energy Device Tax Relief Fund shall be
 3 credited to the fund. All moneys in the fund are continuously appropriated to the Oregon
 4 Business Development Department for the purpose of administering ORS 469.160 to 469.180
 5 and 469.185 to 469.225.

6 (2) The fund shall consist of moneys deposited in the fund under ORS 469.421.

7
 8 **REPEALS**

9
 10 **SECTION 255.** (1) ORS 469.030, 469.040 and 469.050 are repealed.

11 (2) Section 3, chapter 551, Oregon Laws 2007, is repealed.

12
 13 **OPERATIVE DATE**

14
 15 **SECTION 256.** Except as otherwise specifically provided in section 8 of this 2011 Act,
 16 sections 1 to 15, 111, 206 and 254 of this 2011 Act, the amendments to ORS 176.809, 176.820,
 17 183.457, 183.530, 192.502, 215.044, 223.396, 227.190, 240.855, 244.050, 261.151, 261.161, 261.225,
 18 261.470, 262.025, 262.065, 267.030, 267.517, 276.910, 276.915, 279A.065, 279C.527, 279C.528, 283.337,
 19 285A.070, 285A.075, 286A.630, 286A.710, 286A.712, 286A.716, 286A.718, 291.055, 291.445, 315.141,
 20 315.144, 315.354, 315.356, 317.112, 401.054, 453.347, 455.492, 455.511, 458.505, 466.380, 466.615,
 21 468A.040, 468A.220, 468A.225, 468A.245, 468A.250, 468B.500, 469.020, 469.055, 469.060, 469.070,
 22 469.080, 469.085, 469.097, 469.110, 469.120, 469.135, 469.150, 469.155, 469.160, 469.165, 469.170,
 23 469.171, 469.172, 469.176, 469.180, 469.185, 469.195, 469.197, 469.200, 469.205, 469.206, 469.208,
 24 469.210, 469.215, 469.217, 469.220, 469.225, 469.255, 469.261, 469.300, 469.320, 469.330, 469.350,
 25 469.370, 469.373, 469.375, 469.401, 469.402, 469.405, 469.410, 469.421, 469.430, 469.441, 469.442,
 26 469.503, 469.504, 469.507, 469.520, 469.530, 469.533, 469.534, 469.535, 469.536, 469.540, 469.550,
 27 469.559, 469.560, 469.561, 469.571, 469.594, 469.605, 469.606, 469.609, 469.611, 469.613, 469.615,
 28 469.617, 469.619, 469.651, 469.659, 469.673, 469.675, 469.677, 469.679, 469.681, 469.683, 469.700,
 29 469.717, 469.720, 469.745, 469.754, 469.756, 469.785, 469.840, 469.880, 469.885, 469.890, 469.895,
 30 469.900, 469.992, 469.994, 469A.020, 469A.025, 469A.130, 470.050, 470.060, 470.070, 470.080, 470.090,
 31 470.100, 470.110, 470.130, 470.135, 470.140, 470.145, 470.150, 470.160, 470.170, 470.180, 470.190,
 32 470.200, 470.210, 470.230, 470.270, 470.300, 470.310, 470.500, 470.505, 470.510, 470.520, 470.525,
 33 470.530, 470.535, 470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575, 470.580,
 34 470.585, 470.590, 470.600, 470.605, 470.610, 470.620, 470.630, 470.635, 470.645, 470.650, 470.655,
 35 470.660, 470.665, 470.675, 470.680, 470.685, 470.700, 470.710, 470.715, 522.125, 526.274, 526.280,
 36 526.786, 701.108, 701.119, 756.047, 757.524, 757.528, 757.533, 757.538, 757.600, 757.612, 757.617,
 37 757.687, 757.720, 759.405 and 759.430 and section 8a, chapter 832, Oregon Laws 2005, section
 38 25, chapter 301, Oregon Laws 2007, sections 1, 2 and 4, chapter 551, Oregon Laws 2007, section
 39 8a, chapter 739, Oregon Laws 2007, sections 42, 43, 44, 47a and 48, chapter 753, Oregon Laws
 40 2009, section 37, chapter 865, Oregon Laws 2009, section 1, chapter 912, Oregon Laws 2009,
 41 section 4, chapter 17, Oregon Laws 2010, section 2, chapter 76, Oregon Laws 2010, section 5,
 42 chapter 85, Oregon Laws 2010, and sections 1, 10 and 12, chapter 92, Oregon Laws 2010, by
 43 sections 17 to 110, 112 to 205 and 207 to 253a of this 2011 Act and the repeal of ORS 469.030,
 44 469.040 and 469.050 and section 3, chapter 551, Oregon Laws 2007, by section 255 of this 2011
 45 Act become operative on January 1, 2012.

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UNIT CAPTIONS

SECTION 257. The unit captions used in this 2011 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2011 Act.

EMERGENCY CLAUSE

SECTION 258. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.
