

**A-Engrossed**  
**House Bill 2936**

Ordered by the House April 18  
Including House Amendments dated April 18

Sponsored by Representatives THOMPSON, HANNA, ROBLAN, SCHAUFLER, SPRENGER; Representatives BOONE, G SMITH (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.

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

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

*[Establishes tax credit for purchase of equipment to collect or process reclaimed material or to manufacture product from reclaimed material.]*

Applies to tax years beginning on or after January 1, 2011.

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

**Extends tax credit for purchases of qualifying fuel blends, biofuel or home heating fuel partly composed of biodiesel to January 1, 2019.**

**Establishes Task Force on Biomass Facility Siting for purposes related to siting biomass facilities. Requires task force to submit report to interim committee related to revenue no later than October 1, 2012. Sunsets on date of convening of 2013 regular session of Legislative Assembly.**

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to tax treatment of waste materials; creating new provisions; amending ORS 315.141 and  
3 469.790 and sections 6 and 29, chapter 739, Oregon Laws 2007; and prescribing an effective date.

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

5 **SECTION 1.** ORS 469.790 is amended to read:

6 469.790. To be eligible for the tax credit under ORS 315.141, the biomass must be produced or  
7 collected in Oregon as a feedstock for bioenergy or biofuel production in Oregon. The credit rates  
8 for biomass are:

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

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

11 (3) For virgin oil or alcohol delivered for production in Oregon from Oregon-based feedstock,  
12 \$0.10 per gallon.

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

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

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

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

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

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

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

2 (10) **For transportation of woody biomass from forest management operations to a biofuel**  
3 **producer, \$4.00 per green ton. This amount shall be in addition to any amount allowed to the**  
4 **taxpayer, for the same quantity of biomass, at the credit rate under subsection (6) of this**  
5 **section and any amount allowed to the taxpayer as a credit for the production of biofuel from**  
6 **that biomass.**

7 **SECTION 2.** ORS 315.141 is amended to read:

8 315.141. (1) As used in this section:

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

11 (b) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been con-  
12 verted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct  
13 biomass energy use at the biofuel producer's site.

14 (c) "Biofuel producer" means a person that through activities in Oregon:

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

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

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

18 (d) "Biomass" means organic matter that is available on a renewable or recurring basis and that  
19 is derived from:

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

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

23 (C) Agricultural residues;

24 (D) Offal and tallow from animal rendering;

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

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

27 (G) Wastewater solids; or

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

29 (e) "Biomass" does not mean wood that has been treated with creosote, pentachlorophenol, in-  
30 organic arsenic or other inorganic chemical compounds or waste, other than matter described in  
31 paragraph (d) of this subsection.

32 (f) "Biomass collector" means a person that collects biomass in Oregon to be used, in Oregon,  
33 as biofuel or to produce biofuel.

34 (g) **"Woody biomass" has the meaning given that term in ORS 526.277. "Woody**  
35 **biomass" includes biomass as defined in subsection (1)(d)(A) of this section.**

36 (h) **"Woody biomass transporter" means a person that transports woody biomass from**  
37 **forest management operations to a biofuel producer.**

38 (2) The Director of the State Department of Energy may adopt rules to define criteria, only as  
39 the criteria apply to organic biomass, to determine additional characteristics of biomass for purposes  
40 of this section.

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

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

1 (B) The collection of biomass, **or the transportation of woody biomass**, in Oregon that is  
2 used, in Oregon, as biofuel or to produce biofuel.

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

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

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

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

11 (5)(a) The State Department of Energy may establish by rule procedures and criteria for deter-  
12 mining the amount of the tax credit to be certified under this section, consistent with ORS 469.790.  
13 The department shall provide written certification to taxpayers that are eligible to claim the credit  
14 under this section.

15 **(b) A taxpayer seeking a credit for the transportation of woody biomass shall submit the**  
16 **following:**

17 **(A) Scale tickets that document the net green tons of woody biomass delivered to a**  
18 **biofuel producer.**

19 **(B) A statement from the owner of the woody biomass that the taxpayer was authorized**  
20 **to transport the woody biomass. The statement must include the source of the woody**  
21 **biomass, whether the land is publicly or privately owned, the type of forest product treat-**  
22 **ment employed, the number of forest acres treated and the number and type of employment**  
23 **positions created or maintained due to transportation of the woody biomass. The owner of**  
24 **the woody biomass shall also provide the name and address of the biofuel producer to which**  
25 **the taxpayer was authorized by the owner to deliver the woody biomass.**

26 [(b)] (c) The State Department of Energy may charge and collect a fee from taxpayers for cer-  
27 tification of credits under this section. The fee may not exceed the cost to the department of de-  
28 termining the amount of certified cost, **except that the fee for a credit allowed for**  
29 **transportation of woody biomass shall equal the greater of \$0.01 per scale ticket submitted**  
30 **for the tax year by the taxpayer under paragraph (b) of this subsection, or \$50.**

31 [(c)] (d) The State Department of Energy shall provide to the Department of Revenue a list, by  
32 tax year, of taxpayers for which a credit is certified under this section, upon request of the De-  
33 partment of Revenue.

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

36 (7) Each agricultural producer, [or] biomass collector **or woody biomass transporter** shall  
37 maintain the written documentation of the amount certified for tax credit under this section in its  
38 records for a period of at least five years after the tax year in which the credit is claimed and  
39 provide the written documentation to the Department of Revenue upon request.

40 (8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains  
41 the information required by the department.

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

1 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
2 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
3 succeeding tax year, but may not be carried forward for any tax year thereafter.

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

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

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

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

13 **SECTION 3. The amendments to ORS 315.141 and 469.790 by sections 1 and 2 of this 2011**  
14 **Act apply to tax years beginning on or after January 1, 2011.**

15 **SECTION 4.** Section 6, chapter 739, Oregon Laws 2007, as amended by section 5, chapter 590,  
16 Oregon Laws 2007, and section 18, chapter 913, Oregon Laws 2009, is amended to read:

17 **Sec. 6.** (1) ORS 315.141, 315.144 and 469.790 apply to tax credits for tax years beginning on or  
18 after January 1, 2007, and before January 1, [2012] **2019.**

19 (2) Notwithstanding subsection (1) of this section, a tax credit is not allowed for wheat grain  
20 (other than nongrain wheat material) [before] **for** tax years beginning [on or after] **before** January  
21 1, 2009, or on or after January 1, [2012] **2019.**

22 **SECTION 5.** Section 29, chapter 739, Oregon Laws 2007, as amended by section 17, chapter 913,  
23 Oregon Laws 2009, is amended to read:

24 **Sec. 29.** ORS 315.465 and 315.469 apply to tax years beginning on or after January 1, 2007, and  
25 before January 1, [2012] **2019.**

26 **SECTION 6.** (1) **The Task Force on Biomass Facility Siting is established, consisting of**  
27 **15 members appointed as follows:**

28 (a) **The President of the Senate shall appoint:**

29 (A) **Three members from among members of the Senate.**

30 (B) **Three members who are representatives from the biomass collection, transportation**  
31 **or production industries.**

32 (b) **The Speaker of the House of Representatives shall appoint:**

33 (A) **Three members from among members of the House of Representatives.**

34 (B) **Three members who are representatives from the biomass collection, transportation**  
35 **or production industries.**

36 (c) **The Governor shall appoint a representative from each of the following:**

37 (A) **The State Department of Energy.**

38 (B) **The State Forestry Department.**

39 (C) **The Oregon Business Development Department.**

40 (2) **The task force shall identify:**

41 (a) **Locations of biomass in this state.**

42 (b) **The amount of biomass available in the various regions of this state.**

43 (c) **The types of biomass facilities that may be developed using biomass as fuel.**

44 (d) **Potential sites for biomass facilities, which may include existing facilities.**

45 (3) **A majority of the voting members of the task force constitutes a quorum for the**

1 **transaction of business.**

2 **(4) Official action by the task force requires the approval of a majority of the voting**  
3 **members of the task force.**

4 **(5) The task force shall elect one of its members to serve as chairperson.**

5 **(6) If there is a vacancy for any cause, the appointing authority shall make an appoint-**  
6 **ment to become immediately effective.**

7 **(7) The task force shall meet at times and places specified by the call of the chairperson**  
8 **or of a majority of the voting members of the task force.**

9 **(8) The task force may adopt rules necessary for the operation of the task force.**

10 **(9) The task force shall submit a report, and may include recommendations for legis-**  
11 **lation, to an interim committee of the Legislative Assembly related to revenue as appropriate**  
12 **no later than October 1, 2012.**

13 **(10) The Legislative Administrator shall provide staff support to the task force.**

14 **(11) Members of the task force who are not members of the Legislative Assembly are not**  
15 **entitled to compensation, but may be reimbursed for actual and necessary travel and other**  
16 **expenses incurred by them in the performance of their official duties in the manner and**  
17 **amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions**  
18 **of the task force shall be paid out of funds appropriated to the Legislative Administrator for**  
19 **purposes of the task force.**

20 **(12) All agencies of state government, as defined in ORS 174.111, are directed to assist**  
21 **the task force in the performance of its duties and, to the extent permitted by laws relating**  
22 **to confidentiality, to furnish such information and advice as the members of the task force**  
23 **consider necessary to perform their duties.**

24 **SECTION 7. Section 6 of this 2011 Act is repealed on the date of the convening of the 2013**  
25 **regular session of the Legislative Assembly as specified in ORS 171.010.**

26 **SECTION 8. This 2011 Act takes effect on the 91st day after the date on which the 2011**  
27 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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