

A-Engrossed
House Bill 2960

Ordered by the House April 21
Including House Amendments dated April 21

Sponsored by Representatives BAILEY, J SMITH, Senators EDWARDS, ROSENBAUM; Representatives BARNHART, BOONE, CANNON, CLEM, DEMBROW, TOMEI (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 Jobs, Energy and Schools Fund. Continuously appropriates moneys in fund to State Department of Energy. Specifies uses of moneys.]

[Requires department to establish grant and loan program to support certain initiatives.]

[Requires department to develop plan for weatherization of kindergarten through grade 12 public schools.]

Directs State Department of Energy to establish clean energy deployment program to provide grants and loans to support energy efficiency or clean energy projects, including projects to weatherize, upgrade or retrofit public schools. Provides for establishment of pilot program within clean energy deployment program. Sunsets pilot program on June 30, 2015.

Establishes Clean Energy Deployment Fund. Continuously appropriates moneys in fund to department for purpose of establishing clean energy deployment program.

Changes name of Loan Offset Grant Fund to Jobs, Energy and Schools Fund. Authorizes using moneys in fund to make, as part of program, loans or grants to school districts.

Requires Public Utility Commission to submit report on energy efficiency agreements and investments to appropriate interim committee on or before December 1, 2012.

Lists energy-related qualifications for use of Article XI-P bonds by school districts.

Changes, from education service districts to school districts, recipient of moneys derived from public purpose charge on retail electricity consumers.

Deletes provision that prohibits using moneys derived from annual assessment on energy resource suppliers to fund energy efficiency and sustainable technology loan program.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to energy; creating new provisions; amending ORS 469.421, 470.050, 470.570, 470.575,
3 470.585, 470.590, 470.605, 470.655, 470.700, 470.715 and 757.612 and section 1, chapter 92, Oregon
4 Laws 2010; appropriating money; and declaring an emergency.

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

6 **SECTION 1. (1) The Clean Energy Deployment Fund is established in the State Treasury,**
7 **separate and distinct from the General Fund. Interest earned by the Clean Energy Deploy-**
8 **ment Fund shall be credited to the Clean Energy Deployment Fund. Moneys in the fund are**
9 **continuously appropriated to the State Department of Energy for use as provided in section**
10 **2 of this 2011 Act.**

11 **(2) The department may accept grants, donations, contributions or gifts from any source**
12 **for deposit in the Clean Energy Deployment Fund.**

13 **SECTION 2. (1) The State Department of Energy shall establish the clean energy de-**
14 **ployment program to provide grants and loans to support energy efficiency or clean energy**
15 **projects in this state. The department shall establish criteria for qualifications of the**
16 **projects by rule.**

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 (2)(a) The department may use funds from the Jobs, Energy and Schools Fund and the
2 Clean Energy Deployment Fund to provide loans and grants to school districts that have
3 projects to weatherize, upgrade and retrofit kindergarten through grade 12 public schools in
4 this state, in order to improve energy efficiency.

5 (b) A school district that finances a project through the clean energy deployment pro-
6 gram may not self-perform work constituting more than five percent of the total cost of the
7 project being financed.

8 (c) All school projects financed pursuant to paragraph (a) of this subsection through the
9 clean energy deployment program are deemed to be public works projects and are subject to
10 the prevailing wage requirements of ORS 279C.800 to 279C.870.

11 (3) The department may contract for the implementation of the clean energy deployment
12 program in all or parts of this state with a sustainable energy project manager as defined in
13 ORS 470.050.

14 **SECTION 3.** (1) School districts that participate in the clean energy deployment program
15 established in section 2 of this 2011 Act may finance projects to:

16 (a) Weatherize, upgrade and retrofit kindergarten through grade 12 public schools;

17 (b) Retrofit school bus fleets to operate on compressed natural gas or other alternative
18 fuels such as propane; or

19 (c) Replace school bus fleets with school buses that operate on compressed natural gas
20 or other alternative fuels such as propane.

21 (2) The projects described in subsection (1) of this section shall be designed to improve
22 energy efficiency, decrease fuel costs, increase use of alternative fuels and decrease emis-
23 sions of air contaminants.

24 (3) School districts may finance the projects described in subsection (1) of this section
25 by:

26 (a) Paying directly for the projects;

27 (b) Receiving lower interest loans from the Clean Energy Deployment Fund or the Small
28 Scale Local Energy Project Loan Fund, supported by:

29 (A) Grant moneys from the Jobs, Energy and Schools Fund;

30 (B) Public purpose charges directed to a school district in areas served by investor-owned
31 utilities under ORS 757.612;

32 (C) Qualified Energy Conservation Bonds issued under the Energy Improvement and Ex-
33 tension Act of 2008 or other federal loan programs; or

34 (D) Revenues generated by the savings in energy costs resulting from the energy effi-
35 ciency improvements;

36 (c) Issuing general obligation bonds, subject to the bond election requirements under ORS
37 328.210; or

38 (d) Using any other source of moneys.

39 **SECTION 4.** (1) The State Department of Energy shall establish and administer a four-
40 year high performance schools pilot program within the clean energy deployment program
41 established in section 2 of this 2011 Act to create energy savings projects at public schools
42 in this state. To facilitate short-term implementation of the pilot program, the department
43 shall establish a schedule of projects, procured through a central contracting system, that
44 will allow school districts to apply for energy efficiency projects encompassing both short-
45 term and long-term improvements to existing public schools.

1 **(2) The factors by which the State Department of Energy shall consider applications from**
2 **school districts in this state for projects to be funded through the high performance schools**
3 **pilot program shall include, but are not limited to:**

4 **(a) The comprehensiveness of the project improvements, with special attention given to**
5 **improvements designed to attain compliance with standards set in the State of Oregon**
6 **Structural Specialty Code and Fire and Life Safety Code and also to improve seismic safety**
7 **of school buildings;**

8 **(b) The incorporation of biomass to generate onsite heat at school district facilities;**

9 **(c) Geographic diversity;**

10 **(d) The use of matching funds from other governmental and private sources;**

11 **(e) The timeliness of the projects;**

12 **(f) Whether the projects are supported by an energy management plan adopted by the**
13 **school district that includes a program for monitoring and verifying energy cost savings**
14 **from the projects;**

15 **(g) Whether the projects include retrofit of school bus fleets to operate on compressed**
16 **natural gas or other alternative fuels such as propane, or replacement with school buses that**
17 **operate on such fuels; and**

18 **(h) The amount of cost savings generated by the proposed improvements.**

19 **(3) Before approving a project under this section that includes elements unrelated to**
20 **energy efficiency and that is designed to attain compliance with standards set in the State**
21 **of Oregon Structural Specialty Code and Fire and Life Safety Code and to improve seismic**
22 **safety of school buildings, the State Department of Energy must find that:**

23 **(a) The project showcases new or improved technologies or designs that promise cost-**
24 **effective energy efficiency if adopted by the marketplace, including elements unrelated to**
25 **energy efficiency that are practically inseparable from the project, and would not receive**
26 **adequate financing unless those unrelated elements are also eligible for financing as part of**
27 **the project; or**

28 **(b) The elements unrelated to energy efficiency are closely integrated with the energy**
29 **efficiency improvements within the project, and elimination of these elements would result**
30 **in significant additional expense or delays in completing the project.**

31 **SECTION 5. Section 4 of this 2011 Act is repealed on June 30, 2015.**

32 **SECTION 6. (1) The Public Utility Commission shall prepare a report on:**

33 **(a) The feasibility of energy efficiency power purchase agreements;**

34 **(b) The cost effectiveness of packaging energy efficiency investments for sale to public**
35 **utilities as the equivalent of new energy generation facilities;**

36 **(c) The potential avoided costs to ratepayers of energy efficiency power purchase agree-**
37 **ments; and**

38 **(d) The most effective means of maximizing energy efficiency achieved from energy effi-**
39 **ciency power purchase agreements through monitoring and verification.**

40 **(2) The commission shall direct public utilities to provide necessary data on individual**
41 **energy efficiency projects sufficient for the commission to complete the study.**

42 **(3) The commission shall submit the report to an appropriate interim committee of the**
43 **Legislative Assembly on or before December 1, 2012.**

44 **SECTION 7. Section 6 of this 2011 Act is repealed on January 2, 2013.**

45 **SECTION 8. (1) As used in this section:**

1 (a) “Green Globes program” means a building guidance and assessment program to ad-
2 vance overall environmental performance and sustainability of commercial buildings estab-
3 lished by the Green Building Initiative.

4 (b) “LEED” means the Leadership in Energy and Environmental Design rating system
5 for certification of energy efficient and environmentally sustainable buildings established by
6 the United States Green Building Council.

7 (c) “LEED Silver” means the second of four tiers of standards for certification in the
8 LEED rating system.

9 (d) “Two globes” means the second of four tiers of ratings for certification in the Green
10 Globes program rating system.

11 (2) If general obligation bonds are issued under Article XI-P of the Oregon Constitution,
12 and proceeds from the bonds are used for the construction, improvement, remodel, equip-
13 ment, maintenance or repair of a building of a school district, the building of the school
14 district that is constructed, improved, remodeled, equipped, maintained or repaired must
15 qualify for, at a minimum:

16 (a) LEED Silver certification;

17 (b) A two globes rating from the Green Globes program; or

18 (c) An equivalent numeric rating from a nationally recognized, accepted and appropriate
19 sustainable development rating system as determined by the State Department of Energy.

20 **SECTION 9.** ORS 470.575, as amended by section 2, chapter 92, Oregon Laws 2010, is amended
21 to read:

22 470.575. (1) The [*Loan Offset Grant*] **Jobs, Energy and Schools** Fund is established in the State
23 Treasury, separate and distinct from the General Fund. Interest earned by the [*Loan Offset Grant*]
24 **Jobs, Energy and Schools** Fund shall be credited to the [*Loan Offset Grant*] **Jobs, Energy and**
25 **Schools** Fund. Moneys in the fund are continuously appropriated to the State Department of Energy
26 for use as provided in this section.

27 (2) The fund shall consist of any moneys directed by law, gift, grant or donation to the fund and
28 moneys from base efficiency package fees collected pursuant to ORS 470.655.

29 (3) The department shall use fund moneys:

30 (a) To promote energy efficiency, renewable energy and energy conservation projects, **including**
31 **the clean energy deployment program established in section 2 of this 2011 Act**, that would
32 otherwise result in a [*marginally*] higher overall cost to the applicant when energy costs and the
33 financing and repayment costs for the project are considered, by using the fund moneys to help
34 produce [*a monthly cost savings*] **a lower- or zero-interest cost of loans obtained through the**
35 **Small Scale Local Energy Project Loan Fund established in section 1, Article XI-J of the**
36 **Oregon Constitution, or the Clean Energy Deployment Fund established in section 1 of this**
37 **2011 Act** for the applicant; or

38 (b) To transfer to an appropriate fund for carrying out any purpose under this chapter specified
39 as a condition of a gift, grant or donation.

40 **SECTION 10.** ORS 757.612 is amended to read:

41 757.612. (1) There is established an annual public purpose expenditure standard for electric
42 companies and Oregon Community Power to fund new cost-effective local energy conservation, new
43 market transformation efforts, the above-market costs of new renewable energy resources and new
44 low-income weatherization. The public purpose expenditure standard shall be funded by the public
45 purpose charge described in subsection (2) of this section.

1 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-
2 cess to its retail electricity consumers, except residential electricity consumers, the electric com-
3 pany or Oregon Community Power shall collect a public purpose charge from all of the retail
4 electricity consumers located within its service area until January 1, 2026. Except as provided in
5 paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the
6 total revenues collected by the electric company, Oregon Community Power or the electricity ser-
7 vice supplier from its retail electricity consumers for electricity services, distribution, ancillary
8 services, metering and billing, transition charges and other types of costs included in electric rates
9 on July 23, 1999.

10 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use
11 per year, beginning on March 1, 2002, the electric company or Oregon Community Power whose
12 territory abuts the greatest percentage of the site of the aluminum plant shall collect from the alu-
13 minum company a public purpose charge equal to one percent of the total revenue from the sale of
14 electricity services to the aluminum plant from any source.

15 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this
16 section relating to electric companies and Oregon Community Power.

17 (b) Subject to paragraph (e) of this subsection, funds collected by an electric company or Oregon
18 Community Power through public purpose charges shall be allocated as follows:

19 (A) Sixty-three percent for new cost-effective conservation, [and] new market transformation.

20 (B) Nineteen percent for the above-market costs of constructing and operating new renewable
21 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20
22 megawatts or less.

23 (C) Thirteen percent for new low-income weatherization.

24 (D) Five percent shall be transferred to the Housing and Community Services Department
25 Electricity Public Purpose Charge Fund established by ORS 456.587 (1) and used for the purpose of
26 providing grants as described in ORS 458.625 (2).

27 (c) The costs of administering subsections (1) to (6) of this section for an electric company or
28 Oregon Community Power shall be paid out of the funds collected through public purpose charges.
29 The commission may require that an electric company or Oregon Community Power direct funds
30 collected through public purpose charges to the state agencies responsible for implementing sub-
31 sections (1) to (6) of this section in order to pay the costs of administering such responsibilities.

32 (d) The commission shall direct the manner in which public purpose charges are collected and
33 spent by an electric company or Oregon Community Power and may require an electric company
34 or Oregon Community Power to expend funds through competitive bids or other means designed to
35 encourage competition, except that funds dedicated for low-income weatherization shall be directed
36 to the Housing and Community Services Department as provided in subsection (7) of this section.
37 The commission may also direct that funds collected by an electric company or Oregon Community
38 Power through public purpose charges be paid to a nongovernmental entity for investment in public
39 purposes described in subsection (1) of this section. Notwithstanding any other provision of this
40 subsection:

41 (A) At least 80 percent of the funds allocated for conservation shall be spent within the service
42 area of the electric company that collected the funds; or

43 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated
44 for conservation shall be spent within the service area of Oregon Community Power.

45 (e)(A) The first 10 percent of the funds collected annually by an electric company or Oregon

1 Community Power under subsection (2) of this section shall be distributed to *[education service dis-*
 2 *tricts, as described in ORS 334.010,]* **school districts** that are located in the service territory of the
 3 electric company or Oregon Community Power. The funds shall be distributed to individual *[educa-*
 4 *tion service]* **school** districts according to the weighted average daily membership (ADMw) of *[the*
 5 *component school districts of the education service district]* **each school district** for the prior fiscal
 6 year as calculated under ORS 327.013. The commission shall establish by rule a methodology for
 7 distributing a proportionate share of funds under this paragraph to *[education service]* **school** dis-
 8 tricts that are only partially located in the service territory of the electric company or Oregon
 9 Community Power.

10 (B) *[An education service]* **A school** district that receives funds under this paragraph shall use
 11 the funds first to pay for energy audits for *[school districts]* **schools** located within the *[education*
 12 *service]* **school** district. *[An education service]* **A school** district may not expend additional funds
 13 received under this paragraph on a school *[district]* facility until an energy audit has been completed
 14 for that school *[district]* **facility**. To the extent practicable, *[an education service]* **a school** district
 15 shall coordinate with the State Department of Energy and incorporate federal funding in complying
 16 with this paragraph. Following completion of an energy audit for an individual school *[district, the*
 17 *education service]*, **the school** district may expend funds received under this paragraph to implement
 18 the energy audit. Once an energy audit has been conducted and completely implemented for each
 19 school *[district]* within the *[education service]* **school** district, the *[education service]* **school** district
 20 may expend funds received under this paragraph for any 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 a description of the proposed conservation project or new renewable
33 energy resource and a declaration that the retail electricity consumer plans to incur the qualifying
34 expenditure. The State Department of Energy shall issue a notice of precertification within 30 days
35 of receipt of the filing, if such filing is consistent with this subsection. The credit may be taken after
36 a retail electricity consumer provides a letter from a certified public accountant to the State De-
37 partment of Energy verifying that the precertified qualifying expenditure has been made.

38 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
39 are not used in one year may be carried forward for use in subsequent years.

40 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
41 any site in the prior year may request that the State Department of Energy hire an independent
42 auditor to assess the potential for conservation investments at the site. If the independent auditor
43 determines there is no available conservation measure at the site that would have a simple payback
44 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
45 obligation for public purpose charges related to the site. If the independent auditor determines that

1 there are potential conservation measures available at the site, the retail electricity consumer shall
2 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the
3 public purpose charges less the estimated cost of available conservation measures.

4 (B) A retail electricity consumer shall be entitled each year to the credit described in this sub-
5 section unless a subsequent independent audit determines that new conservation investment oppor-
6 tunities are available. The State Department of Energy may require that a new independent audit
7 be performed on the site to determine whether new conservation measures are available, provided
8 that the independent audits shall occur no more than once every two years.

9 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
10 subsection.

11 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
12 for the public purpose expenditures of their energy suppliers. The State Department of Energy shall
13 adopt rules to determine eligible expenditures and the methodology by which such credits are ac-
14 counted for and used. The rules also shall adopt methods to account for eligible public purpose
15 expenditures made through consortia or collaborative projects.

16 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an
17 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-
18 ment assistance in an amount determined under paragraph (b) of this subsection.

19 (b) The commission shall establish the amount to be collected by each electric company in cal-
20 endar year 2008 from retail electricity consumers served by the company, and the rates to be
21 charged to retail electricity consumers served by the company, so that the total anticipated col-
22 lection for low-income electric bill payment assistance by all electric companies in calendar year
23 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the commission may not
24 change the rates established for retail electricity consumers, but the total amount collected in a
25 calendar year for low-income electric bill payment assistance may vary based on electricity usage
26 by retail electricity consumers and changes in the number of retail electricity consumers in this
27 state. In no event shall a retail electricity consumer be required to pay more than \$500 per month
28 per site for low-income electric bill payment assistance.

29 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into
30 the Housing and Community Services Department Low-Income Electric Bill Payment Assistance
31 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
32 used by the Housing and Community Services Department for the purpose of funding low-income
33 electric bill payment assistance. The department's cost of administering this subsection shall be paid
34 out of funds collected by the low-income electric bill payment assistance charge. Moneys deposited
35 in the fund under this paragraph shall be expended solely for low-income electric bill payment as-
36 sistance. Funds collected from an electric company or Oregon Community Power shall be expended
37 in the service area of the electric company or Oregon Community Power from which the funds are
38 collected.

39 (d) The Housing and Community Services Department, in consultation with the federal Advisory
40 Committee on Energy, shall determine the manner in which funds collected under this subsection
41 will be allocated by the department to energy assistance program providers for the purpose of pro-
42 viding low-income bill payment and crisis assistance, including programs that effectively reduce
43 service disconnections and related costs to retail electricity consumers and electric utilities. Priority
44 assistance shall be directed to low-income electricity consumers who are in danger of having their
45 electricity service disconnected.

1 (e) Interest on moneys deposited in the Housing and Community Services Department Low-
2 Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to pro-
3 vide heating bill payment and crisis assistance to electricity consumers whose primary source of
4 heat is not electricity.

5 (f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon
6 Community Power to provide reduced rates or other payment or crisis assistance or low-income
7 program assistance to a low-income household eligible for assistance under the federal Low Income
8 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

9 (8) For purposes of this section, “retail electricity consumers” includes any direct service in-
10 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
11 tric utility.

12 (9) For purposes of this section, amounts collected by Oregon Community Power through public
13 purpose charges are not considered moneys received from electric utility operations.

14 **SECTION 11.** ORS 470.050 is amended to read:

15 470.050. As used in this chapter, unless the context requires otherwise:

16 (1) “Alternative fuel project” means:

17 (a) Equipment, including vehicles that are not used primarily for personal, family or household
18 purposes, that is modified or acquired directly from a factory and that:

19 (A) Uses an alternative fuel including electricity, biofuel, gasohol with at least 20 percent de-
20 natured alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other
21 fuel approved by the Director of the State Department of Energy; and

22 (B) Produces lower exhaust emissions or is more energy efficient than equivalent equipment fu-
23 eled by gasoline or diesel; and

24 (b) A facility, including a fueling station, or equipment necessary to produce alternative fuel or
25 operate equipment that uses an alternative fuel.

26 (2) “Applicant” means an applicant for a loan to construct a small scale local energy project.

27 (3) “Base efficiency package” means the package of energy efficiency upgrades or renewable
28 energy projects for a property that, when energy savings, project repayment costs, tax or other in-
29 centives, loan offset grants and other relevant economic factors are considered, is estimated to not
30 increase the utility bill of the customer over the loan repayment term.

31 (4) “Committee” means the Small Scale Local Energy Project Advisory Committee created under
32 ORS 470.070.

33 (5) “Cooperative” means a cooperative corporation organized under ORS chapter 62.

34 (6) “Director” means the Director of the State Department of Energy appointed under ORS
35 469.040.

36 (7) “Eligible federal agency” means a federal agency or public corporation created by the federal
37 government that proposes to use a loan for a small scale local energy project. “Eligible federal
38 agency” does not include a federal agency or public corporation created by the federal government
39 that proposes to use a loan for a small scale local energy project to generate electricity for sale.

40 (8) “Eligible state agency” means a state officer, board, commission, department, institution,
41 branch or agency of the state whose costs are paid wholly or in part from funds held in the State
42 Treasury.

43 (9) “Energy efficiency and sustainable technology loan” means a loan for a small scale local
44 energy project that is repayable by means of:

45 (a) A charge included with the participant’s utility customer account billing; or

1 (b) An alternative repayment method identified by the department and the borrower and speci-
2 fied in the loan agreement.

3 (10) “Energy Project Bond Loan Fund” means the fund established under ORS 470.580.

4 (11) “Energy Project Supplemental Fund” means the fund established under ORS 470.570.

5 (12) “Energy Revenue Bond Repayment Fund” means the fund established under ORS 470.585.

6 (13) “Energy savings projection” means an examination of the energy performance and site
7 characteristics of a property that, at a minimum, identifies:

8 (a) A base efficiency package; and

9 (b) Any additional optional measures that a customer is able to repay and that the sustainable
10 energy project manager believes to be feasible for the site.

11 **(14) “Jobs, Energy and Schools Fund” means the fund established under ORS 470.575.**

12 ~~[(14)]~~ (15) “Loan” includes the purchase or other acquisition of evidence of indebtedness and
13 money used for the purchase or other acquisition of evidence of indebtedness.

14 ~~[(15)]~~ (16) “Loan contract” means the evidence of indebtedness and all instruments used in the
15 purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or
16 municipal corporations that are tax exempt entities, a loan contract may include a lease purchase
17 agreement with respect to personal property.

18 ~~[(16)]~~ (17) “Loan offset grant” means moneys from the ~~[Loan Offset Grant]~~ **Jobs, Energy and**
19 **Schools** Fund that are used to help offset the initial project costs or loan payments for energy ef-
20 ficiency, renewable energy and energy conservation projects.

21 ~~[(17) “Loan Offset Grant Fund” means the fund established under ORS 470.575.]~~

22 (18) “Loan repayment charge” means an amount charged to a utility customer account through
23 on-bill financing as a mechanism for the repayment of an energy efficiency and sustainable tech-
24 nology loan.

25 (19) “Municipal corporation” has the meaning given in ORS 297.405 and also includes any Indian
26 tribe or authorized Indian tribal organization or any combination of two or more of these tribes or
27 organizations acting jointly in connection with a small scale local energy project.

28 (20) “On-bill financing” means a mechanism for collecting the repayment of an energy efficiency
29 and sustainable technology loan through a utility customer account billing system.

30 (21) “Optional package” means measures for promoting energy efficiency or the use of renewable
31 energy:

32 (a) That are in addition to the measures described in the customer’s base efficiency package;

33 (b) For which a customer has the ability to repay; and

34 (c) That the sustainable energy project manager believes to be feasible for the site.

35 (22) “Oregon business” means a sole proprietorship, partnership, company, cooperative, corpo-
36 ration or other form of business entity that is organized or authorized to do business under Oregon
37 law for profit.

38 (23) “Public Purpose Fund Administrator” means the entity designated by the Public Utility
39 Commission to administer moneys collected by a company through the public purpose charge de-
40 scribed under ORS 757.612.

41 (24) “Recycling project” means a facility or equipment that converts waste into a new and usa-
42 ble product.

43 (25) “Small business” means:

44 (a) An Oregon business that is:

45 (A) A retail or service business employing 50 or fewer persons at the time the loan is made; or

1 (B) An industrial or manufacturing business employing 200 or fewer persons at the time the loan
2 is made; or

3 (b) An Oregon subsidiary of a sole proprietorship, partnership, company, cooperative, corpo-
4 ration or other form of business entity for which the total number of employees for both the sub-
5 sidiary and the parent sole proprietorship, partnership, company, cooperative, corporation or other
6 form of business entity at the time the loan is made is:

7 (A) Fifty or fewer persons if the subsidiary is a retail or service business; and

8 (B) Two hundred or fewer if the subsidiary is an industrial or manufacturing business.

9 (26) "Small scale local energy program loan" means a loan for a small scale local energy project
10 other than an energy efficiency and sustainable technology loan.

11 (27) "Small scale local energy project" means **any of the following:**

12 (a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or
13 indirectly uses or enables the use of, by the applicant or another person, renewable resources in-
14 cluding, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to
15 produce energy, including heat, electricity and substitute fuels, to meet a local community or re-
16 gional energy need in this state[;].

17 (b) A system, mechanism or series of mechanisms located primarily in Oregon or providing
18 substantial benefits to Oregon that directly or indirectly conserves energy or enables the conserva-
19 tion of energy by the applicant or another person, including energy used in transportation[;].

20 (c) A recycling project[;].

21 (d) An alternative fuel project[;].

22 (e) An improvement that increases the production or efficiency, or extends the operating life,
23 of a system, mechanism, series of mechanisms or project otherwise described in this subsection, in-
24 cluding but not limited to restarting a dormant project[;].

25 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility
26 that directly or indirectly reduces the amount of energy needed for the construction and operation
27 of the facility and that meets the sustainable building practices standard established by the State
28 Department of Energy by rule; *or*. **For purposes of this paragraph, "system, mechanism or**
29 **series of mechanisms" includes related and integrated upgrades to attain compliance with**
30 **standards set in the State of Oregon Structural Specialty Code and Fire and Life Safety Code,**
31 **and seismic safety upgrades.**

32 (g) A project described in paragraphs (a) to (f) of this subsection, whether or not the existing
33 project was originally financed under this chapter, together with any refinancing necessary to re-
34 move prior liens or encumbrances against the existing project.

35 (h) A project described in paragraphs (a) to (g) of this subsection that conserves energy or
36 produces energy by generation or by processing or collection of a renewable resource.

37 (28) "Small Scale Local Energy Project Administration and Bond Sinking Fund" means the fund
38 created under ORS 470.300.

39 (29) "Small Scale Local Energy Project Loan Fund" means the loan fund created by Article XI-J
40 of the Oregon Constitution and appropriated to the State Department of Energy under ORS 470.130.

41 (30) "Sustainable energy project manager" means the organization responsible for promoting the
42 energy efficiency and sustainable technology loan program **or the clean energy deployment pro-**
43 **gram** and related incentives for energy efficiency and renewable energy at the neighborhood and
44 community level.

45 (31) "Sustainable energy territory" means the geographic service area that a sustainable energy

1 project manager is responsible for serving.

2 **SECTION 12.** ORS 470.570 is amended to read:

3 470.570. (1) The Energy Project Supplemental Fund is established in the State Treasury, separate
4 and distinct from the General Fund. Interest earned by the Energy Project Supplemental Fund shall
5 be credited to the Energy Project Supplemental Fund.

6 (2) The Energy Project Supplemental Fund shall consist of any moneys received for purposes of
7 the energy efficiency and sustainable technology loan program or for small scale local energy pro-
8 gram loans other than moneys deposited to:

9 (a) The Small Scale Local Energy Project Loan Fund.

10 (b) The Small Scale Local Energy Project Administration and Bond Sinking Fund.

11 (c) The Energy Project Bond Loan Fund.

12 (d) The [*Loan Offset Grant*] **Jobs, Energy and Schools** Fund, except that [*Loan Offset Grant*]
13 **Jobs, Energy and Schools** Fund moneys used to offset the energy efficiency and sustainable tech-
14 nology loan or small scale local energy program loan repayment obligation of a borrower shall be
15 deposited to the Energy Project Supplemental Fund.

16 (e) The Energy Revenue Bond Repayment Fund.

17 (3) Moneys in the Energy Project Supplemental Fund are continuously appropriated to the State
18 Department of Energy for the following purposes:

19 (a) To provide funding, separately or in conjunction with moneys from the Small Scale Local
20 Energy Project Loan Fund and the Energy Project Bond Loan Fund, for energy efficiency and
21 sustainable technology loans and small scale local energy program loans;

22 (b) For transfer to the Energy Revenue Bond Repayment Fund, to the extent that moneys
23 available in the Energy Project Bond Loan Fund are insufficient to provide the amount determined
24 prudent by the Director of the State Department of Energy under ORS 470.610 (2); and

25 (c) To pay costs incurred by the State Department of Energy or the director in implementing
26 or administering loan programs for small scale local energy projects.

27 (4) The State Treasurer may establish any subaccounts in the Energy Project Supplemental Fund
28 that the treasurer or the director considers reasonable for the efficient administration of the fund.

29 **SECTION 13.** 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 for the payment of:

35 (a) Administrative expenses of the State Department of Energy and the Director of the State
36 Department of Energy for energy efficiency and sustainable technology loans and small scale local
37 energy program loans made from the proceeds of energy project revenue bonds, to the extent those
38 expenses are not paid from the Energy Project Bond Loan Fund, the Energy Project Supplemental
39 Fund or the [*Loan Offset Grant*] **Jobs, Energy and Schools** Fund;

40 (b) Administrative expenses incurred by the State Treasurer under this chapter;

41 (c) Principal, interest and any redemption premiums of energy project revenue bonds;

42 (d) Net investment earnings on moneys loaned to municipal corporations from energy project
43 revenue bonds under ORS 470.610 but withheld as provided in ORS 470.230; and

44 (e) Costs of issuing revenue bonds and obtaining credit enhancement for those revenue bonds.

45 (2) The Energy Revenue Bond Repayment Fund shall consist of moneys transferred to the fund

1 from the Energy Project Bond Loan Fund and Energy Project Supplemental Fund by the State
2 Treasurer as provided in ORS 470.610 (2).

3 **SECTION 14.** ORS 470.590 is amended to read:

4 470.590. The State Department of Energy may request proposals for and select one or more fi-
5 nancial managers for the energy efficiency and sustainable technology loan program. The function
6 of a financial manager is:

7 (1) To assist in energy efficiency and sustainable technology loan program development;

8 (2) To cooperate with federal and state agencies and public and private entities for the purpose
9 of securing federal funding, public and private investments of capital and gifts, grants and donations
10 for the purpose of financing small scale local energy projects; and

11 (3) To provide a platform for the blending of private and public capital from various sources
12 including, but not limited to, small scale local energy project financing, moneys from the Energy
13 Project Bond Loan Fund, the [*Loan Offset Grant*] **Jobs, Energy and Schools** Fund and the Energy
14 Project Supplemental Fund, private activity bonds and grant moneys.

15 **SECTION 15.** ORS 470.605 is amended to read:

16 470.605. (1) Subject to the approval of the Director of the State Department of Energy, a local
17 government, public utility or other legally organized entity may direct moneys to the Energy Project
18 Supplemental Fund or [*Loan Offset Grant*] **Jobs, Energy and Schools** Fund for use within a limited
19 geographic area of this state as a source of capital for financing energy efficiency and sustainable
20 technology loans, small scale local energy program loans or loan offset grants.

21 (2) Any moneys deposited under this section shall be separately accounted for and shall be
22 managed consistently with small scale local energy project goals and any agreement between the
23 State Department of Energy and the entity providing the moneys. The moneys may be disbursed only
24 for use as designated by, and in the geographic area designated by, the entity providing the moneys.

25 **SECTION 16.** ORS 470.655, as amended by section 4, chapter 92, Oregon Laws 2010, is amended
26 to read:

27 470.655. (1) Except as provided in ORS 470.650, an applicant for an energy efficiency and
28 sustainable technology loan approved by the State Department of Energy shall pay the department
29 a project initiation fee. Upon request of the loan applicant, the department may add all or part of
30 a project initiation fee to the principal of an issued loan. The department may establish the fee
31 amount by rule, not to exceed four percent of the approved loan amount. If the department does not
32 establish the fee amount, the fee shall be two percent of the approved loan amount.

33 (2) The Director of the State Department of Energy may by rule establish a base efficiency
34 package fee for energy efficiency and sustainable technology loans if the loans are not financed by
35 moneys from the [*Loan Offset Grant*] **Jobs, Energy and Schools** Fund. The fee may not exceed 10
36 percent of the estimated economic benefit for the base efficiency package. Any fees collected by the
37 department under this subsection shall be deposited in the fund.

38 **SECTION 17.** ORS 470.700 is amended to read:

39 470.700. (1) The State Department of Energy may use loan offset grant moneys for any of the
40 following if, in the absence of the grant moneys, a utility customer would incur higher overall
41 monthly costs when energy costs and small scale local energy project costs are considered:

42 (a) Offsetting the cost of an approved small scale local energy project.

43 (b) Reducing the loan repayment burden of an energy efficiency and sustainable technology loan
44 borrower.

45 (c) Creating a financial incentive for energy efficiency, renewable energy and energy conserva-

1 tion projects that may not result in significant energy cost savings.

2 (d) Providing support, in coordination with the Oregon Innovation Council or other sustainable
3 energy technology research bodies or companies, for small scale local energy projects that use
4 nontraditional technology.

5 (2) If a small scale local energy program loan applicant is a person with an income limited as
6 described in ORS 470.650 (2), the department may use loan offset grant moneys for an optional
7 package or to offset reasonable costs associated with structural improvements that are not included
8 in the base efficiency package, but that are necessary to the proper installation of the base effi-
9 ciency package.

10 (3) The Director of the State Department of Energy may investigate and test the feasibility of
11 using mechanisms other than the disbursing of [*Loan Offset Grant*] **Jobs, Energy and Schools** Fund
12 moneys for accomplishing the purposes described in subsection (1) of this section.

13 **SECTION 18.** ORS 470.715 is amended to read:

14 470.715. The cost of adopting rules under ORS 470.140 to carry out ORS 470.500 to 470.710:

15 (1) May be paid from the [*Loan Offset Grant*] **Jobs, Energy and Schools** Fund or Energy Project
16 Bond Loan Fund; or

17 (2) May be paid from the Small Scale Local Energy Project Administration and Bond Sinking
18 Fund created under ORS 470.300 if the Director of the State Department of Energy and the State
19 Treasurer find that:

20 (a) A cash flow projection for the sinking fund shows that, for the term of the sinking fund bonds
21 outstanding at the time the Director of the State Department of Energy transfers the moneys, re-
22 maining moneys in the sinking fund, together with expected loan contract payments and fund
23 earnings, will improve the financial basis of the program and will continue to be adequate to pay
24 bond principal, interest, redemption premiums, if any, and administration costs; and

25 (b) The transfer will not create the need for issuance of any bonds.

26 **SECTION 19.** ORS 469.421 is amended to read:

27 469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent,
28 a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370,
29 a request for an expedited review under ORS 469.373, a request for the State Department of Energy
30 to approve a pipeline under ORS 469.405 (3), an application for a site certificate or a request to
31 amend a site certificate shall pay all expenses incurred by the Energy Facility Siting Council, the
32 State Department of Energy and the Oregon Department of Administrative Services related to the
33 review and decision of the council. These expenses may include legal expenses, expenses incurred
34 in processing and evaluating the application, issuing a final order or site certificate, commissioning
35 an independent study by a contractor, state agency or local government under ORS 469.360, and
36 changes to the rules of the council that are specifically required and related to the particular site
37 certificate.

38 (2) Every person submitting a notice of intent to file for a site certificate, a request for ex-
39 emption or a request for expedited review shall submit the fee required under the fee schedule es-
40 tablished under ORS 469.441 to the State Department of Energy when the notice or request is
41 submitted to the council. To the extent possible, the full cost of the evaluation shall be paid from
42 the fee paid under this subsection. However, if costs of the evaluation exceed the fee, the person
43 submitting the notice or request shall pay any excess costs shown in an itemized statement prepared
44 by the council. In no event shall the council incur evaluation expenses in excess of 110 percent of
45 the fee initially paid unless the council provides prior notification to the applicant and a detailed

1 projected budget the council believes necessary to complete the project. If costs are less than the
2 fee paid, the excess shall be refunded to the person submitting the notice or request.

3 (3) Before submitting a site certificate application, the applicant shall request from the State
4 Department of Energy an estimate of the costs expected to be incurred in processing the application.
5 The department shall inform the applicant of that amount and require the applicant to make periodic
6 payments of the costs pursuant to a cost reimbursement agreement. The cost reimbursement agree-
7 ment shall provide for payment of 25 percent of the estimated costs when the applicant submits the
8 application. If costs of the evaluation exceed the estimate, the applicant shall pay any excess costs
9 shown in an itemized statement prepared by the council. In no event shall the council incur evalu-
10 ation expenses in excess of 110 percent of the fee initially estimated unless the council provided
11 prior notification to the applicant and a detailed projected budget the council believes is necessary
12 to complete the project. If costs are less than the fee paid, the council shall refund the excess to the
13 applicant.

14 (4) Any person who is delinquent in the payment of fees under subsections (1) to (3) of this
15 section shall be subject to the provisions of subsection (11) of this section.

16 (5) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual fee,
17 due every July 1 following issuance of a site certificate. For each fiscal year, upon approval of the
18 State Department of Energy's budget authorization by a regular session of the Legislative Assembly
19 or as revised by the Emergency Board, the Director of the State Department of Energy promptly
20 shall enter an order establishing an annual fee based on the amount of revenues that the director
21 estimates is needed to fund the cost of ensuring that the facility is being operated consistently with
22 the terms and conditions of the site certificate, any order issued by the department under ORS
23 469.405 (3) and any applicable health or safety standards. In determining this cost, the director shall
24 include both the actual direct cost to be incurred by the council, the State Department of Energy
25 and the Oregon Department of Administrative Services to ensure that the facility is being operated
26 consistently with the terms and conditions of the site certificate, any order issued by the State De-
27 partment of Energy under ORS 469.405 (3) and any applicable health or safety standards, and the
28 general costs to be incurred by the council, the State Department of Energy and the Oregon De-
29 partment of Administrative Services to ensure that all certificated facilities are being operated
30 consistently with the terms and conditions of the site certificates, any orders issued by the State
31 Department of Energy under ORS 469.405 (3) and any applicable health or safety standards that
32 cannot be allocated to an individual, licensed facility. Not more than 35 percent of the annual fee
33 charged each facility shall be for the recovery of these general costs. The fees for direct costs shall
34 reflect the size and complexity of the facility and its certificate conditions.

35 (6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for
36 the remaining portion of the year. The amount of the fee shall be set at the cost of regulating the
37 facility during the remaining portion of the year determined in the same manner as the annual fee.

38 (7) When the actual costs of regulation incurred by the council, the State Department of Energy
39 and the Oregon Department of Administrative Services for the year, including that portion of the
40 general regulation costs that have been allocated to a particular facility, are less than the annual
41 fees for that facility, the unexpended balance shall be refunded to the site certificate holder. When
42 the actual regulation costs incurred by the council, the State Department of Energy and the Oregon
43 Department of Administrative Services for the year, including that portion of the general regulation
44 costs that have been allocated to a particular facility, are projected to exceed the annual fee for
45 that facility, the Director of the State Department of Energy may issue an order revising the annual

1 fee.

2 (8) In addition to any other fees required by law, each energy resource supplier shall pay to the
3 State Department of Energy annually its share of an assessment to fund the activities of the Energy
4 Facility Siting Council, the Oregon Department of Administrative Services and the State Department
5 of Energy, determined by the Director of the State Department of Energy in the following manner:

6 (a) Upon approval of the budget authorization of the Energy Facility Siting Council, the Oregon
7 Department of Administrative Services and the State Department of Energy by a regular session of
8 the Legislative Assembly, the Director of the State Department of Energy shall promptly enter an
9 order establishing the amount of revenues required to be derived from an assessment pursuant to
10 this subsection in order to fund the activities of the Energy Facility Siting Council, the Oregon
11 Department of Administrative Services and the State Department of Energy, including those enu-
12 merated in ORS 469.030 and others authorized by law, for the first fiscal year of the forthcoming
13 biennium. On or before June 1 of each even-numbered year, the Director of the State Department
14 of Energy shall enter an order establishing the amount of revenues required to be derived from an
15 assessment pursuant to this subsection in order to fund the activities of the Energy Facility Siting
16 Council, the Oregon Department of Administrative Services and the State Department of Energy,
17 including those enumerated in ORS 469.030 and others authorized by law, for the second fiscal year
18 of the biennium. The order shall take into account any revisions to the biennial budget of the En-
19 ergy Facility Siting Council, the State Department of Energy and the Oregon Department of Ad-
20 ministrative Services made by the Emergency Board or by a special session of the Legislative
21 Assembly subsequent to the most recently concluded regular session of the Legislative Assembly.
22 [*However, an assessment under this section may not be used to derive revenue for funding State De-*
23 *partment of Energy activities related to the energy efficiency and sustainable technology loan program*
24 *described in ORS chapter 470.*]

25 (b) Each order issued by the director pursuant to paragraph (a) of this subsection shall allocate
26 the aggregate assessment set forth therein to energy resource suppliers in accordance with para-
27 graph (c) of this subsection.

28 (c) The amount assessed to an energy resource supplier shall be based on the ratio which that
29 supplier's annual gross operating revenue derived within this state in the preceding calendar year
30 bears to the total gross operating revenue derived within this state during that year by all energy
31 resource suppliers. The assessment against an energy resource supplier shall not exceed five-tenths
32 of one percent of the supplier's gross operating revenue derived within this state in the preceding
33 calendar year. The director shall exempt from payment of an assessment any individual energy re-
34 source supplier whose calculated share of the annual assessment is less than \$250.

35 (d) The director shall send each energy resource supplier subject to assessment pursuant to this
36 subsection a copy of each order issued, by registered or certified mail. The amount assessed to the
37 energy resource supplier pursuant to the order shall be considered to the extent otherwise permitted
38 by law a government-imposed cost and recoverable by the energy resource supplier as a cost in-
39 cluded within the price of the service or product supplied.

40 (e) The amounts assessed to individual energy resource suppliers pursuant to paragraph (c) of
41 this subsection shall be paid to the State Department of Energy as follows:

42 (A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days
43 following the close of the regular session of the Legislative Assembly; and

44 (B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July
45 1 of each even-numbered year.

1 (f) An energy resource supplier shall provide the director, on or before May 1 of each year, a
2 verified statement showing its gross operating revenues derived within the state for the preceding
3 calendar year. The statement shall be in the form prescribed by the director and is subject to audit
4 by the director. The statement shall include an entry showing the total operating revenue derived
5 by petroleum suppliers from fuels sold that are subject to the requirements of section 3a, Article IX
6 of the Oregon Constitution, and ORS 319.020 with reference to aircraft fuel and motor vehicle fuel,
7 and ORS 319.530. The director may grant an extension of not more than 15 days for the require-
8 ments of this subsection if:

9 (A) The energy supplier makes a showing of hardship caused by the deadline;

10 (B) The energy supplier provides reasonable assurance that the energy supplier can comply with
11 the revised deadline; and

12 (C) The extension of time does not prevent the Energy Facility Siting Council, the Oregon De-
13 partment of Administrative Services or the State Department of Energy from fulfilling their statu-
14 tory responsibilities.

15 (g) As used in this section:

16 (A) "Energy resource supplier" means an electric utility, natural gas utility or petroleum sup-
17 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-
18 ducts in Oregon.

19 (B) "Gross operating revenue" means gross receipts from sales or service made or provided
20 within this state during the regular course of the energy supplier's business, but does not include
21 either revenue derived from interutility sales within the state or revenue received by a petroleum
22 supplier from the sale of fuels that are subject to the requirements of section 3a, Article IX of the
23 Oregon Constitution, or ORS 319.020 or 319.530.

24 (C) "Petroleum supplier" has the meaning given that term in ORS 469.020.

25 (h) In determining the amount of revenues that must be derived from any class of energy re-
26 source suppliers by assessment pursuant to this subsection, the director shall take into account all
27 other known or readily ascertainable sources of revenue to the Energy Facility Siting Council, the
28 Oregon Department of Administrative Services and the State Department of Energy, including, but
29 not limited to, fees imposed under this section and federal funds, and may take into account any
30 funds previously assessed pursuant to ORS 469.420 (1979 Replacement Part) or section 7, chapter
31 792, Oregon Laws 1981.

32 (i) Orders issued by the director pursuant to this section shall be subject to judicial review un-
33 der ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an energy
34 resource supplier to pay amounts assessed to it on or before the statutory deadline.

35 (9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal
36 power plant or nuclear installation within this state shall pay to the State Department of Energy
37 annually on July 1, an assessment in an amount determined by the director to be necessary to fund
38 the activities of the state and the counties associated with emergency preparedness for a nuclear
39 fueled thermal power plant or nuclear installation. The assessment shall not exceed \$461,250 per
40 year. Moneys collected as assessments under this subsection are continuously appropriated to the
41 State Department of Energy for this purpose.

42 (b) The State Department of Energy shall maintain and shall cause other state agencies and
43 counties to maintain time and billing records for the expenditure of any fees collected from an op-
44 erator of a nuclear fueled thermal power plant under paragraph (a) of this subsection.

45 (10) Reactors operated by a college, university or graduate center for research purposes and

1 electric utilities not connected to the Northwest Power Grid are exempt from the fee requirements
2 of subsections (5), (8) and (9) of this section.

3 (11)(a) All fees assessed by the director against holders of site certificates for facilities that have
4 an installed capacity of 500 megawatts or greater may be paid in several installments, the schedule
5 for which shall be negotiated between the director and the site certificate holder.

6 (b) Energy resource suppliers or applicants or holders of a site certificate who fail to pay a fee
7 provided under subsections (1) to (9) of this section or the fees required under ORS 469.360 after it
8 is due and payable shall pay, in addition to that fee, a penalty of two percent of the fee a month for
9 the period that the fee is past due. Any payment made according to the terms of a schedule nego-
10 tiated under paragraph (a) of this subsection shall not be considered past due. The director may
11 bring an action to collect an unpaid fee or penalty in the name of the State of Oregon in a court
12 of competent jurisdiction. The court may award reasonable attorney fees to the director if the di-
13 rector prevails in an action under this subsection. The court may award reasonable attorney fees
14 to a defendant who prevails in an action under this subsection if the court determines that the di-
15 rector had no objectively reasonable basis for asserting the claim or no reasonable basis for ap-
16 pealing an adverse decision of the trial court.

17 **SECTION 20.** Section 1, chapter 92, Oregon Laws 2010, is amended to read:

18 **Sec. 1.** (1) ORS 470.505 does not apply to the pilot programs described in sections 42 to 45,
19 chapter 753, Oregon Laws 2009.

20 (2) Notwithstanding any other provision of ORS chapter 470, if the Director of the State De-
21 partment of Energy determines that available financial resources in the [*Loan Offset Grant*] **Jobs,**
22 **Energy and Schools** Fund established in ORS 470.575 are insufficient to allow operation of the pilot
23 programs described in sections 42 to 45, chapter 753, Oregon Laws 2009, the director may delay or
24 suspend the pilot programs.

25 **SECTION 21.** **This 2011 Act being necessary for the immediate preservation of the public**
26 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
27 **on its passage.**