

House Bill 3507

Sponsored by Representative READ; Representatives BAILEY, BARKER, DOHERTY, GELSER, HOLVEY, Senators EDWARDS, HASS

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**.

Authorizes Oregon Innovation Council to make grants and loans and provide gap funding and seed capital from Oregon Innovation Fund to Oregon emerging businesses that further innovation-based economic development in this state.

Permits council to determine eligibility of proposals for revenue bond financing. Requires Oregon Business Development Department to request issuance of revenue bonds by State Treasurer upon determination of eligibility.

Authorizes Oregon Innovation Council to establish one or more signature research centers.

Establishes clean energy economic development charge to be collected by public utilities for deposit in Oregon Innovation Fund to fund loans, grants, gap funding and seed capital for innovation-based economic development that involves clean energy.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to innovation-based economic development; creating new provisions; amending ORS 284.701,
3 284.706, 284.711, 284.715, 284.720, 284.725, 284.735 and 284.740; appropriating money; and declar-
4 ing an emergency.

5 Whereas the Legislative Assembly finds that Oregon is recognized as a leader in business and
6 economic development and has the foundation to become a leader in innovation-based economic de-
7 velopment; and

8 Whereas prosperity in this global economy is critically tied to the ability to innovate and to
9 translate knowledge into new products, processes, technologies and services that create high-skill,
10 high-wage job growth; and

11 Whereas Oregon, to compete in this challenging global economy, must have focused sources of
12 innovation-based economic development, new technologies, a sustainable talent base of workers, en-
13 trepreneurs that are sufficiently capitalized to further innovation-based economic development and
14 a receptive market base; and

15 Whereas Oregon's ability to create high-skill, high-wage jobs must be enhanced to significantly
16 address the increasingly high levels of unemployment in this state; and

17 Whereas many high-skill, high-wage jobs are technology-based and require a skilled workforce
18 and sufficiently capitalized innovation-based businesses; and

19 Whereas Oregon's competitive edge in innovation-based economic development should be
20 nurtured and enhanced; and

21 Whereas Oregon's public and private educational institutions must improve and expand their
22 facilities, programs and educational and research capabilities to further innovation-based economic
23 development in this state; and

24 Whereas the Oregon University System, as well as private universities and research institutions
25 in this state, are strategic partners in furthering the unique educational and employment needs of

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 Oregon’s innovation-based economic development businesses; and

2 Whereas to become a leader in innovation-based economic development, Oregon needs policies
 3 and strategies to develop new technologies, to attract funding from federal sources and private
 4 sector investments, to attract and grow innovation-based economic development businesses and to
 5 create high-skill, high-wage jobs; and

6 Whereas a critical component to further Oregon’s innovation-based economic development is a
 7 stable source of funding; and

8 Whereas the Legislative Assembly finds that state agencies, innovation-based economic devel-
 9 opment businesses, research institutions, national laboratories and workforce development agencies
 10 must collaborate so that Oregon is well-positioned to compete for funds from federal sources and
 11 private sector investments; now, therefore,

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

13 **SECTION 1.** ORS 284.701 is amended to read:

14 284.701. As used in ORS 284.701 to 284.740:

15 (1) **“Clean energy” means a technology, product, process or innovation that involves**
 16 **conservation of natural resources, solar energy, green building products and services,**
 17 **biofuels, biomass energy, bio-based products or other renewable and sustainable energy as**
 18 **defined by the Oregon Innovation Council by rule.**

19 (2) **“Gap funding” means funding provided to an Oregon emerging business to fund the**
 20 **initial phase of a business endeavor until funding for subsequent phases of the Oregon**
 21 **emerging business endeavor can be obtained from another source.**

22 (3) **“Innovation-based economic development” means a technology, product, process or**
 23 **innovation that:**

24 (a) **Derives from and supports innovation and research;**

25 (b) **Promotes Oregon’s market capacities and competitive advantages;**

26 (c) **Involves technology-based innovation;**

27 (d) **Facilitates the creation of new products, processes and services that retain and cre-**
 28 **ate high-wage jobs;**

29 (e) **Involves the establishment of partnerships between and collaboration with research**
 30 **institutions and public entities;**

31 (f) **Endeavors to transfer innovative technologies to the private sector or to**
 32 **commercialize innovative research and development; and**

33 (g) **Includes clean energy and clean energy economic development.**

34 [(1)] (4) **“Oregon emerging business” means [an emerging growth business as defined in ORS**
 35 **348.701 that has:]**

36 [(a) *Fewer than 100 employees; and]*

37 [(b) *At least 51 percent of its employees employed in Oregon.];*

38 (a) **An individual, group of individuals or private sector business entity, including but not**
 39 **limited to, a partnership, limited liability company, corporation, firm, association or other**
 40 **business entity, that engages in business that furthers innovation-based economic develop-**
 41 **ment, that has the capacity upon obtaining appropriate capital to generate significant high-**
 42 **skill, high-wage employment and that conducts business in Oregon; and**

43 (b) **An emerging growth business as defined in ORS 348.701.**

44 (5) **“Public entity” means any agency of the federal or state government, county, city,**
 45 **town, public corporation or political subdivision in this state.**

[2] (6) "Research institution" means:

- (a) A community college as defined in ORS 341.005;
- (b) A state institution of higher education listed in ORS 352.002;
- (c) The Oregon Health and Science University public corporation created under ORS 353.020;
- (d) An Oregon-based, generally accredited, not-for-profit private institution of higher education;
- (e) A federal research laboratory conducting research in Oregon; or
- (f) A private not-for-profit research institution located in Oregon.

(7) "Seed capital" has the meaning given that term in ORS 348.701.

[3] (8) "Traded sector" has the meaning given that term in ORS 285A.010.

SECTION 2. ORS 284.706 is amended to read:

284.706. (1) There is created the Oregon Innovation Council consisting of the following voting members:

(a) The Governor or the Governor's designated representative, who shall be chairperson of the council.

(b) Five members appointed by the Governor who are engaged in the operations of Oregon traded sector industries **and Oregon emerging businesses**.

(c) One member appointed by the Governor who is a representative of an Oregon-based, generally accredited, not-for-profit private institution of higher education.

(d) A member of the Oregon Growth Account Board, appointed by the board, who has experience in the field of venture capital.

(e) A member of the Engineering and Technology Industry Council, appointed by the Engineering and Technology Industry Council.

(f) The Director of the Oregon Business Development Department.

(g) The Chancellor of the Oregon University System.

(h) The Commissioner for Community College Services.

(i) The State Treasurer.

(2)(a) The Speaker of the House of Representatives shall appoint two members to the council who are members of the House of Representatives.

(b) The President of the Senate shall appoint two members to the council who are members of the Senate.

(c) Members of the Legislative Assembly appointed to the council are nonvoting members and may act in an advisory capacity only.

(3) The following persons, or their representatives, shall serve as ex officio, nonvoting members of the council:

(a) The [*chairperson*] **presiding officer** of the Oregon Business Development Commission.

(b) The president of the State Board of Higher Education.

(c) The chairperson of the State Board of Education.

(d) An executive officer of an association representing Oregon-based, generally accredited, not-for-profit private institutions of higher education, appointed by the Governor.

(4) The term of office of each appointed voting member of the council is three years, but an appointed member serves at the pleasure of the appointing authority. Before the expiration of the term of an appointed voting member, the appointing authority shall appoint a successor whose term begins on July 1 next following. An appointed member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for the remainder of the unexpired term.

1 (5) A majority of the voting members of the council constitutes a quorum for the transaction
2 of business.

3 (6) Official action by the council requires the approval of a majority of the voting members of
4 the council.

5 (7) The council shall meet at least twice per fiscal year at a place, day and time determined by
6 the chairperson. The council may also meet at other times and places specified by a call of the
7 chairperson or by written request of a majority of the voting members of the council.

8 (8) The council may adopt rules necessary for the operation of the council.

9 (9) The council may establish committees and delegate to the committees duties as the council
10 considers desirable.

11 (10) The Oregon Business Development Department shall provide staff support to the council.

12 (11) Members of the council who are not members of the Legislative Assembly are entitled to
13 compensation and expenses incurred by them in the performance of their official duties in the man-
14 ner and amounts provided for in ORS 292.495. Claims for compensation and expenses of members
15 of the council who are public officers shall be paid out of funds appropriated to the public agency
16 that employs the member. Claims for compensation and expenses of members of the council who are
17 not public officers shall be paid out of funds appropriated to the Oregon Business Development De-
18 partment for that purpose.

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

23 **SECTION 3.** ORS 284.711 is amended to read:

24 284.711. (1) The Oregon Innovation Council shall provide advice to the Governor, the Legislative
25 Assembly, [*public and private post-secondary educational*] **research** institutions, public agencies that
26 provide economic development and the private sector on issues related to:

27 (a) Promoting agreements between [*public and private post-secondary educational*] **research** in-
28 stitutions and private industry that increase technology transfer and the commercialization of re-
29 search;

30 (b) Promoting investment in specialized research facilities and signature research centers where
31 Oregon has a distinct or emerging advantage for creating new products and businesses;

32 (c) Stimulating seed and start-up capital investment and entrepreneurial capacity that will pro-
33 mote economic growth in Oregon traded sector industries **and Oregon emerging businesses**;

34 (d) Developing the entrepreneurial and management capacity critical to the competitiveness of
35 Oregon traded sector industries **and Oregon emerging businesses in** rapidly growing global mar-
36 kets;

37 (e) Enhancing the international competitiveness of Oregon traded sector industries **and Oregon**
38 **emerging businesses**; and

39 (f) Identifying workforce issues for occupations critical to the competitiveness of Oregon traded
40 sector industries **and Oregon emerging businesses**, including but not limited to scientific, engi-
41 neering, information technology, [*and*] business management **and innovation-based economic de-**
42 **velopment** occupations.

43 (2) The Oregon Innovation Council shall advise the Engineering and Technology Industry
44 Council established in ORS 351.663 on how to coordinate the Engineering and Technology Industry
45 Council's goals and policies with the state plan developed under ORS 284.715.

1 (3) The council, the Oregon Business Development Commission, the State Board of Higher Edu-
 2 cation and the office of the State Treasurer shall coordinate policies and programs related to the
 3 duties of the council.

4 (4) *[Based on the state plan developed under ORS 284.715, the council may distribute moneys in*
 5 *the Oregon Innovation Fund by grant or pursuant to contracts with public and private post-secondary*
 6 *institutions, state agencies and private sector entities.]* **The council may:**

7 (a) **Enter into contracts as necessary or appropriate to carry out the duties, functions**
 8 **and powers of the council.**

9 (b) **Accept gifts of money or other property from any public or private entity or person**
 10 **made for the purpose of assisting the council to carry out any of the powers, duties and**
 11 **functions of the council. Moneys received in accordance with this paragraph must be:**

12 (A) **Paid into the Oregon Innovation Fund established under ORS 284.720; and**

13 (B) **Used for the purposes for which that money or property is given.**

14 (c) **Apply for and receive moneys from a public entity and disburse or supervise the dis-**
 15 **bursement of moneys from the public entity for the purposes for which that money is pro-**
 16 **vided, and may also disburse or supervise the disbursement of funds provided by the State**
 17 **of Oregon for expenditure as a condition of receiving the moneys from the public entity un-**
 18 **der this paragraph.**

19 (d) **Assess and charge fees for making grants or loans or providing gap funding or seed**
 20 **capital under section 10 of this 2011 Act from any of its funds or accounts.**

21 **SECTION 4.** ORS 284.715 is amended to read:

22 284.715. (1) The Oregon Innovation Council shall develop a state plan for innovation and eco-
 23 nomic competitiveness. The plan shall include policy and program recommendations to:

24 (a) Identify and expand the state's industry and core research strengths related to Oregon
 25 traded sector industries **and Oregon emerging businesses;**

26 (b) Promote agreements between *[public and private post-secondary educational]* **research** insti-
 27 tutions and private industry that increase technology transfer and the commercialization of re-
 28 search;

29 (c) Promote investment in specialized research facilities and signature research centers where
 30 Oregon has a distinct or emerging advantage for *[creating new products and businesses]*
 31 **innovation-based economic development;** and

32 (d) Stimulate seed and start-up capital investment and entrepreneurial capacity that will pro-
 33 mote *[economic growth]* **innovation-based economic development** in Oregon traded sector indus-
 34 tries **and Oregon emerging businesses.**

35 (2) The state plan shall also include an identification of workforce issues and trends related to
 36 the development of workers in trade sector industries and **Oregon emerging businesses and make**
 37 recommendations to the State Workforce Investment Board and the State Board of Education on
 38 training and education enhancements based on the identified workforce issues and trends.

39 (3) The council shall update the plan every biennium.

40 (4) Each year, the council shall report to the Governor and the Legislative Assembly about the
 41 plan.

42 **SECTION 5.** ORS 284.720 is amended to read:

43 284.720. (1) There is created within the State Treasury, separate and distinct from the General
 44 Fund, the Oregon Innovation Fund. Interest earned by the Oregon Innovation Fund shall be credited
 45 to the fund.

1 **(2) Moneys in the Oregon Innovation Fund shall consist of:**

2 **(a) Amounts donated to the fund;**

3 **(b) Amounts appropriated or otherwise transferred to the fund by the Legislative As-**
 4 **sembly;**

5 **(c) Investment earnings received on moneys in the fund; and**

6 **(d) Other amounts deposited in the fund from any source.**

7 **(3) Moneys in the fund are continuously appropriated to the Oregon Innovation Council for the**
 8 **[purpose] purposes of making grants and loans and providing gap funding and seed capital under**
 9 **section 10 of this 2011 Act and [entering into contracts] to carry out the recommendations included**
 10 **in the state plan developed under ORS 284.715.**

11 **(4) At least 15 percent of the moneys in the fund that are used to make grants or loans**
 12 **or to provide gap funding or seed capital under section 10 of this 2011 Act must be designated**
 13 **for the purposes of enhancing and supporting the education of undergraduate and graduate**
 14 **students who are studying innovation-based economic development and for hiring and re-**
 15 **tainment of faculty who are instructing or conducting research in the area of innovation-based**
 16 **economic development.**

17 **(5) The council may use a portion of the fund to pay for the administrative costs asso-**
 18 **ciated with administering the fund and making grants, loans and other distributions of**
 19 **moneys from the fund.**

20 **SECTION 6.** ORS 284.725 is amended to read:

21 284.725. **(1) There is created within the State Treasury, separate and distinct from the General**
 22 **Fund, the Oregon Commercialized Research Fund. Interest earned by the Oregon Commercialized**
 23 **Research Fund shall be credited to the fund.**

24 **(2) Moneys in the fund are continuously appropriated to the Oregon Innovation Council for the**
 25 **purpose of making grants and loans under ORS 284.735.**

26 **(3) The council may accept moneys from any source for deposit in the fund.**

27 **(4) The council may use a portion of the fund to pay for the administrative costs asso-**
 28 **ciated with administering the fund and making grants, loans and other distributions of**
 29 **moneys from the fund.**

30 **SECTION 7.** ORS 284.735 is amended to read:

31 284.735. **(1) The Oregon Innovation Council may make grants and loans from the Oregon**
 32 **Commercialized Research Fund to Oregon emerging businesses.**

33 **(2) To qualify for a grant or loan under this section, an Oregon emerging business must enter**
 34 **into an agreement with one or more research institutions to carry out proof of concept activities**
 35 **to:**

36 **(a) Establish the commercial potential of research; and**

37 **(b) Develop a business concept that can attract early stage private investment, including angel**
 38 **capital and venture capital.**

39 **(3) Proof of concept activities for which an Oregon emerging business may receive a grant or**
 40 **loan under this section include:**

41 **(a) The development of intellectual property;**

42 **(b) The payment of salaries and related expenses for commercialized research;**

43 **(c) The acquisition of equipment and supplies required for the proof of concept activities; [and]**

44 **(d) Further innovation-based economic development; and**

45 **[(d)] (e) Other activities as defined by rule of the council.**

1 (4) To receive a grant or loan, the Oregon emerging business or a research institution that has
 2 entered into an agreement with the business must agree to provide a cash match equivalent to:

3 (a) 30 percent of the amount of the grant or loan for businesses with fewer than 20 employees.

4 (b) 50 percent of the amount of the grant or loan for businesses with 20 or more but fewer than
 5 50 employees.

6 (c) 75 percent of the amount of the grant or loan for businesses with 50 or more but fewer than
 7 100 employees.

8 (5)(a) The council shall award grant or loan moneys to an Oregon emerging business in a two-
 9 phase contract. Each phase of the contract shall have clearly defined performance measures in-
 10 cluded in the contract between the business and the council.

11 (b) Under phase I of the contract, a business may be granted or loaned an initial investment not
 12 to exceed \$75,000. Phase I shall also include an agreement that upon successful completion of the
 13 performance measures for phase I, the business shall be eligible for funding under phase II. The
 14 amount of grant or loan moneys available to a business under both phases may not exceed \$200,000.

15 (6) The council shall require any Oregon emerging business that receives a grant or loan under
 16 this section and that moves more than 50 percent of the employees of the business out of the state
 17 within two years after receiving grant or loan moneys to repay the total amount of the grant or loan
 18 moneys.

19 (7) The council shall require an Oregon emerging business that receives a loan under this sec-
 20 tion to repay the loan within five years after receiving the loan. The council shall deposit any loan
 21 moneys received under this subsection in the Oregon Commercialized Research Fund.

22 (8) The council may award up to 15 percent of the amount of moneys available in the fund for
 23 grants or loans:

24 (a) To the Oregon University System for education of faculty on issues related to developing
 25 effective technology transfer and commercialized research processes; and

26 (b) For other activities as defined by rule of the council.

27 (9) The council may adopt rules to administer this section. The council shall follow the advice
 28 of the Oregon Commercialized Research Fund Advisory Council when adopting rules to administer
 29 this section.

30 **SECTION 8.** ORS 284.740 is amended to read:

31 284.740. (1) The Oregon Innovation Council [*shall*] **may** establish [*a*] **one or more** signature
 32 research [*center*] **centers** to maximize collaborative ventures among research institutions, [*the fed-*
 33 *eral government and private industry*] **public entities and Oregon emerging businesses** that will
 34 capitalize on opportunities to obtain private and federal funding for [*the*] research and development
 35 of:

36 (a) Nanoscience and microscience products, technology and multiscale materials.

37 (b) **Solar energy, green building products and services, biofuels, biomass energy, bio-**
 38 **based products and other renewable and sustainable energy technologies.**

39 (c) **Innovation-based economic development.**

40 (2) The council may contract with [*a private, not-for-profit corporation*] **a nonprofit entity** for
 41 the administration of the [*center*] **centers.**

42 (3) **Signature research centers, Oregon emerging businesses and research institutions**
 43 **contracting to engage in innovation-based economic development, to conduct research within**
 44 **a signature research center or to engage in other business endeavors as defined by the**
 45 **Oregon Innovation Council by rule, may receive grants and loans from moneys in the Oregon**

1 Innovation Fund created under ORS 284.720 or the Oregon Commercialized Research Fund
 2 created under ORS 284.725.

3 **SECTION 9.** Sections 10 to 15 of this 2011 Act are added to and made a part of ORS
 4 284.701 to 284.740.

5 **SECTION 10.** (1) The Oregon Innovation Council may make grants and loans and provide
 6 gap funding and seed capital from the Oregon Innovation Fund created under ORS 284.720
 7 to fund proposals that have as their principal objectives:

8 (a) The establishment of partnerships between and collaborations with research insti-
 9 tutions and Oregon emerging businesses for innovation-based economic development;

10 (b) The education and training of undergraduate and graduate students, and the hiring
 11 and retention of faculty, in the area of innovation-based economic development;

12 (c) The transfer of innovation-based economic development technology to the private
 13 sector or the commercialization of innovation-based economic development research and
 14 development in Oregon;

15 (d) To provide gap funding or seed capital to an Oregon emerging business for a business
 16 endeavor that seeks to market innovation-based economic development concepts, to transfer
 17 innovation-based economic development technology to the private sector or to commercialize
 18 innovation-based economic development research and development in Oregon; or

19 (e) To provide monetary awards to winners of competitive contests designed to attract
 20 innovative and entrepreneurial solutions and opportunities for innovation-based economic
 21 development in this state.

22 (2)(a) To qualify for a grant, loan, gap funding or seed capital under subsection (1) of this
 23 section, a proposal must be submitted to the Oregon Innovation Council in the manner and
 24 with a fee as may be prescribed by the council by rule.

25 (b) All proposals for funding under subsection (1) of this section must establish return
 26 on investment criteria and performance measures as prescribed by the council by rule.

27 (c) Proposals for funding under subsection (1)(e) of this section must contain a verified
 28 statement that, if the applicant receives a monetary award as a winner of a competitive
 29 contest, the applicant has established, or intends to establish, an Oregon emerging business:

30 (A) That has its principal place of business and principal business operations located in
 31 this state for a minimum of five years from the date of the award; and

32 (B) That spends at least 50 percent of its payroll on employees who are residents of this
 33 state.

34 (3) The Oregon Innovation Council shall adopt rules to administer subsections (1) and (2)
 35 of this section.

36 **SECTION 11.** As used in sections 11 to 15 of this 2011 Act, “bond-related costs” means:

37 (1) The costs and expenses of issuing and administering bonds under sections 11 to 15 of
 38 this 2011 Act, including but not limited to:

39 (a) Paying or redeeming the bonds, including principal, interest and premium, if any;

40 (b) Paying amounts due in connection with credit enhancement devices or reserve in-
 41 struments;

42 (c) Paying the administrative costs and expenses of the State Treasurer, the Oregon
 43 Business Development Department and the Oregon Innovation Council, including the cost
 44 of consultants, attorneys and advisers retained by the State Treasurer, the department or
 45 the council for the bonds; and

1 (d) Any other costs or expenses that the State Treasurer, the department or the council
2 determines are necessary or desirable in connection with issuing or administering the bonds;

3 (2) The cost of funding bond reserves;

4 (3) Capitalized interest for the bonds; and

5 (4) Rebates or penalties due to the United States in connection with the bonds.

6 **SECTION 12.** (1)(a) The Oregon Innovation Council, in consultation with the Oregon
7 Business Development Department, shall determine eligibility for revenue bond financing of
8 proposals for funding under section 10 of this 2011 Act pursuant to rules adopted by the
9 council in consultation with the department.

10 (b) After determining that a proposal, grant or loan is eligible for revenue bond financing
11 under paragraph (a) of this subsection, the department shall forward a request for the issu-
12 ance of revenue bonds to the State Treasurer who shall determine whether to issue revenue
13 bonds.

14 (2) The State Treasurer may issue revenue bonds in an amount not to exceed net pro-
15 ceeds of \$16 million for the purpose of financing or refinancing, in whole or part, grants and
16 loans made under section 10 of this 2011 Act, plus an additional amount to be estimated by
17 the State Treasurer for payment of bond-related costs.

18 (3) Net proceeds of the revenue bonds issued pursuant to this section must be deposited
19 in the Oregon Innovation Bond Fund established under section 13 of this 2011 Act in an
20 amount sufficient to provide \$16 million in net proceeds and interest earnings for disburse-
21 ment to the Oregon Innovation Council to finance the making of grants and loans and the
22 provision of gap funding and seed capital under section 10 of this 2011 Act.

23 (4) Bond-related costs must be paid from the gross proceeds of the revenue bonds issued
24 under this section and from moneys deposited in the Oregon Innovation Fund created under
25 ORS 284.720.

26 (5) The State Treasurer, with the approval of the Oregon Business Development Depart-
27 ment and the Oregon Innovation Council, may irrevocably pledge and assign all or a portion
28 of the moneys deposited in the Oregon Innovation Fund to secure revenue bonds or credit
29 enhancements.

30 (6) Revenue bonds issued under this section:

31 (a) Are payable from the moneys deposited in the Oregon Innovation Fund.

32 (b) Do not constitute a debt or general obligation of this state, the Legislative Assembly
33 or a political subdivision of this state but are secured solely by the moneys deposited in the
34 Oregon Innovation Fund, by amounts in a debt service reserve account established with re-
35 spect to revenue bonds issued under this section or by a credit enhancement obtained for the
36 revenue bonds issued under this section.

37 (7) The State Treasurer, the Oregon Business Development Department and the Oregon
38 Innovation Council have no obligation to pay bond-related costs except as provided in this
39 section. A holder of revenue bonds or other similar obligations issued under this section does
40 not have the right to compel the exercise of the taxing power of the state to pay bond-related
41 costs.

42 (8) The holders of revenue bonds issued under this section, upon the issuance of the re-
43 venue bonds, have a perfected lien on the moneys deposited in the Oregon Innovation Fund
44 that are pledged and assigned to the payment of the revenue bonds. The lien and pledge are
45 valid and binding from the date of issuance of the revenue bonds and are automatically per-

1 fected without physical delivery, filing or other act. The lien and pledge are superior to sub-
 2 sequent claims or liens on the moneys deposited in the Oregon Innovation Fund.

3 (9) As long as any revenue bonds issued under this section are outstanding, the pro-
 4 visions of this section and the provisions of a security document related to the revenue bonds
 5 are deemed to be contracts between the state and holders of the revenue bonds. The state:

6 (a) May not create a lien, encumbrance or any other obligation that is superior to the
 7 liens authorized by subsection (8) of this section on the moneys in the Oregon Innovation
 8 Fund that are pledged and assigned to the payment of the revenue bonds; and

9 (b) May not give force or effect to a statute or initiative or referendum measure ap-
 10 proved by the electors of this state, if doing so would unconstitutionally impair existing
 11 covenants made with the holders of existing revenue bonds or would unconstitutionally im-
 12 pair other obligations or agreements regarding the security of revenue bonds to which the
 13 moneys deposited in the Oregon Innovation Fund are pledged and assigned.

14 (10) The Oregon Innovation Council is authorized to establish separate accounts within
 15 the Oregon Innovation Fund for separate bond issues.

16 (11) The Oregon Innovation Council may:

17 (a) Make all contracts, execute all instruments and do all things necessary or convenient
 18 in the exercise of the powers granted by this section, or in the performance of its covenants
 19 or duties, or in order to secure the payment of revenue bonds issued under this section; and

20 (b) Enter into covenants for the benefit of bond owners regarding the use and expendi-
 21 ture of moneys in the Oregon Innovation Fund.

22 (12) The State Treasurer, the Oregon Innovation Council or the Oregon Business Devel-
 23 opment Department may appoint bond counsel as prescribed in ORS 286A.130.

24 **SECTION 13.** (1) The Oregon Innovation Bond Fund is established in the State Treasury,
 25 separate and distinct from the General Fund. The net proceeds from the sale of revenue
 26 bonds issued under section 12 of this 2011 Act must be credited to the Oregon Innovation
 27 Bond Fund. Investment earnings received on moneys in the fund must be credited to the
 28 fund.

29 (2) Moneys in the fund are continuously appropriated to the Oregon Innovation Council
 30 for the purpose of making grants and loans and providing gap funding and seed capital under
 31 section 10 of this 2011 Act.

32 **SECTION 14.** (1) The Oregon Innovation Debt Service Fund is established in the State
 33 Treasury, separate and distinct from the General Fund. The Oregon Innovation Debt Service
 34 Fund consists of:

35 (a) An amount from the moneys deposited in the Oregon Innovation Fund credited to the
 36 Oregon Innovation Debt Service Fund by the State Treasurer that is necessary in a fiscal
 37 year, as determined by the Oregon Innovation Council, in consultation with the Oregon
 38 Business Development Department and the State Treasurer, to pay the bond-related costs
 39 scheduled to be paid in that fiscal year on the revenue bonds issued under section 12 of this
 40 2011 Act;

41 (b) Any funds appropriated or allocated to the Oregon Innovation Debt Service Fund; and

42 (c) Investment earnings received on moneys in the Oregon Innovation Debt Service Fund.

43 (2) Moneys in the Oregon Innovation Debt Service Fund are continuously appropriated
 44 to the Oregon Innovation Council to pay, when due, the bond-related costs on outstanding
 45 revenue bonds, to fund revenue bond reserves and to pay amounts due in connection with

1 credit enhancements.

2 (3) The Oregon Innovation Council, in consultation with the Oregon Business Develop-
3 ment Department and the State Treasurer, shall use amounts in the Oregon Innovation Debt
4 Service Fund to pay, when due, the bond-related costs on outstanding revenue bonds, to fund
5 revenue bond reserves and to pay amounts due in connection with credit enhancements.

6 (4) If the moneys deposited in the Oregon Innovation Fund are not sufficient to pay the
7 bond-related costs due to be paid in a fiscal year, the Oregon Innovation Council, in consul-
8 tation with the Oregon Business Development Department and the State Treasurer, shall
9 make payments in that fiscal year according to the relative priority of revenue bonds secured
10 by the moneys deposited in the Oregon Innovation Fund.

11 **SECTION 15.** (1) The Oregon Innovation Bond Administration Fund is established in the
12 State Treasury, separate and distinct from the General Fund. The Oregon Innovation Bond
13 Administration Fund consists of:

14 (a) The amount of revenue bond proceeds remaining after depositing the net proceeds in
15 the Oregon Innovation Bond Fund pursuant to section 13 of this 2011 Act;

16 (b) The proceeds of revenue bonds issued to pay bond-related costs;

17 (c) Any funds appropriated or allocated to the Oregon Innovation Bond Administration
18 Fund; and

19 (d) Investment earnings received on moneys in the Oregon Innovation Bond Adminis-
20 tration Fund.

21 (2) Moneys in the Oregon Innovation Bond Administration Fund are continuously appro-
22 priated to the Oregon Innovation Council for paying bond-related costs during the term of
23 revenue bonds issued under section 12 of this 2011 Act.

24 (3) The Oregon Innovation Council, in consultation with the Oregon Business Develop-
25 ment Department and the State Treasurer, may use amounts in the Oregon Innovation Bond
26 Administration Fund to pay bond-related costs during the term of revenue bonds issued un-
27 der section 12 of this 2011 Act. Amounts in the bond administration fund must be disbursed
28 upon the written request of the Oregon Innovation Council in consultation with the Oregon
29 Business Development Department.

30 **SECTION 16.** Section 17 of this 2011 Act is added to and made a part of ORS chapter 757.

31 **SECTION 17.** (1) As used in this section:

32 (a) "Clean energy" has the meaning given that term in ORS 284.701.

33 (b) "Public utility" has the meaning given that term in ORS 757.005. "Public utility" also
34 includes a consumer-owned utility as defined in ORS 757.270.

35 (2)(a) A public utility shall collect funds for clean energy economic development in an
36 amount determined under paragraph (b) of this subsection.

37 (b)(A) The Public Utility Commission shall establish the amount to be collected by each
38 public utility in calendar year 2012 from public utility consumers, and the rates to be charged
39 to the consumers served by the public utility, so that the total anticipated collection for
40 clean energy economic development under this section in calendar year 2012 is \$16 million.
41 In calendar year 2013 and subsequent calendar years, the commission may not change the
42 rates established for public utility consumers, but the total amount collected in a calendar
43 year for clean energy economic development under this section may vary based on utility
44 usage by public utility consumers and changes in the number of public utility consumers in
45 this state.

(B) Notwithstanding subparagraph (A) of this paragraph:

(i) A public utility consumer may not be required to pay more than \$_____ per month for a clean energy economic development charge under this paragraph.

(ii) An industrial or commercial utility consumer may not be required to pay more than \$_____ per month for a clean energy economic development charge under this paragraph.

(c) Funds collected by a public utility for clean energy economic development under this subsection shall be paid to the Oregon Innovation Council for the Oregon Innovation Fund established under ORS 284.720 to be used for making loans and grants or providing gap funding and seed capital for innovation-based economic development that involves clean energy. The council’s cost of administering this section shall be paid out of funds collected for the clean energy economic development charge under this section.

SECTION 18. 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.

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