

A-Engrossed
House Bill 3672

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

Sponsored by JOINT COMMITTEE ON TAX CREDITS

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.

[Requires joint legislative interim committee on revenue to study costs and benefits of Oregon's tax expenditures and make recommendations to Seventy-sixth Legislative Assembly.]

Adjusts sunsets for and modifies provisions relating to certain tax credits, including tax credits for energy facilities and devices.

Modifies provisions relating to credits for certified film production development contributions and requires auction of credits. Provides that, in lieu of allowing tax credit, Legislative Assembly annually may appropriate moneys for deposit in Oregon Production Investment Fund. Limits tax credits to \$6 million per fiscal year. Applies to certifications issued on or after June 30, 2012.

Reduces total amount of reimbursements to local filmmakers from Oregon Production Investment Fund to \$250,000 per fiscal year. Applies to fiscal years beginning after June 30, 2011, and before July 1, 2013.

Extends time during which certain less restrictive qualifications apply to counties in which businesses seek development income tax exemption. Requires business operations of firm to commence at least 24 months before application for annual certification. Applies to applications for preliminary certification under Oregon Investment Advantage Act filed on or after July 1, 2011.

Creates tax credit for renewable energy development contributions. Directs Department of Revenue, in cooperation with State Department of Energy, to conduct auction of tax credits. Establishes Renewable Energy Development Subaccount in Clean Energy Deployment Fund established in section 1, chapter _____, Oregon Laws 2011 (Enrolled House Bill 2960), and requires that auction proceeds be deposited in subaccount for purposes related to renewable energy development. Provides for grants to fund renewable energy production systems and for administration of grants by State Department of Energy. Provides that, in lieu of allowing tax credit, Legislative Assembly annually may appropriate moneys for deposit in Renewable Energy Development Subaccount. Limits amount of credits and corresponding grants to \$3 million for any biennium. Applies to tax years beginning on or after January 1, 2011, and before January 1, 2018, and to applications for grants submitted after July 1, 2011.

Creates tax credits for energy conservation projects and for transportation projects. Provides for certification and administration of tax credits by State Department of Energy. Limits total certified cost of energy conservation project to \$10 million. Limits total amount of potential tax credits for energy conservation projects per biennium to \$28 million and amount of potential tax credits for transportation projects per biennium to \$20 million. Limits amount of tax credits for third-party alternative energy device installations in any tax year to \$10 million.

Applies to applications for preliminary certification submitted after July 1, 2011, and to tax years beginning on or after January 1, 2011, and before January 1, 2016, except for purposes of alternative fuel vehicle infrastructure projects, before January 1, 2018.

Requires Oregon Film and Video Office, State Department of Energy, Public Utility Commission and Department of Revenue to report to Legislative Assembly on operation of provisions related to certain tax credits modified or created in Act.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax expenditures; creating new provisions; amending ORS 284.367, 285C.406, 285C.506,
3 314.752, 315.053, 315.141, 315.357, 315.514, 316.116, 317.115, 317.152, 317.154, 318.031, 469.160,
4 469.165, 469.170, 469.172, 469.790 and 496.303 and section 6, chapter 911, Oregon Laws 1989,

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 section 77, chapter 736, Oregon Laws 2003, section 1a, chapter 559, Oregon Laws 2005, section
2 3, chapter 595, Oregon Laws 2005, sections 5a and 8a, chapter 832, Oregon Laws 2005, section
3 6, chapter 739, Oregon Laws 2007, and sections 3, 11 and 20, chapter 913, Oregon Laws 2009;
4 repealing sections 2a, 2b and 15, chapter 625, Oregon Laws 2007; appropriating money; and
5 prescribing an effective date.

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

7
8 **MODIFICATION OF TAX CREDIT PROVISIONS**

9
10 **SECTION 1.** ORS 315.357, as amended by section 5, chapter 76, Oregon Laws 2010, is amended
11 to read:

12 315.357. (1) *[Except as provided in subsection (2) of this section,]* **For a facility other than a**
13 **renewable energy resource equipment manufacturing facility**, a taxpayer may not be allowed
14 a credit under ORS 315.354 unless the taxpayer:

15 **(a) Files an application for preliminary certification under ORS 469.205 on or before April**
16 **15, 2011;**

17 **(b) Receives preliminary certification under ORS 469.210 before July 1, 2011; and**

18 **(c) Receives final certification under ORS 469.215 before *[July 1, 2012]* January 1, 2013, or has**
19 **demonstrated, to the State Department of Energy, evidence of beginning construction before**
20 **April 15, 2011.**

21 (2) A taxpayer may not be allowed a credit under ORS 315.354 for a renewable energy resource
22 equipment manufacturing facility unless the taxpayer receives preliminary certification under ORS
23 469.210 before January 1, 2014.

24 **SECTION 2.** Section 6, chapter 739, Oregon Laws 2007, as amended by section 5, chapter 590,
25 Oregon Laws 2007, and section 18, chapter 913, Oregon Laws 2009, is amended to read:

26 **Sec. 6.** (1) ORS 315.141, 315.144 and 469.790 apply to tax credits for tax years beginning on or
27 after January 1, 2007, and before January 1, *[2012]* **2018.**

28 (2) Notwithstanding subsection (1) of this section, a tax credit is not allowed for wheat grain
29 (other than nongrain wheat material) *[before]* **for** tax years beginning *[on or after]* **before** January
30 1, 2009, or on or after January 1, *[2012]* **2018.**

31 **SECTION 2a.** ORS 315.141 is amended to read:

32 315.141. (1) As used in this section:

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

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

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

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

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

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

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

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

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

2 (C) Agricultural residues;

3 (D) Offal and tallow from animal rendering;

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

5 (F) [*Yard or*] Wood debris collected as provided under ORS chapter 459 or 459A;

6 (G) Wastewater solids; or

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

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

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

13 **(g) "Oilseed processor" means a person that receives agricultural oilseeds and separates**
14 **them into meal and oil by mechanical or chemical means.**

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

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

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

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

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

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

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

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

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

36 (b) The State Department of Energy may charge and collect a fee from taxpayers for certif-
37 ication of credits under this section. The fee may not exceed the cost to the department of deter-
38 mining the amount of certified cost.

39 (c) The State Department of Energy shall provide to the Department of Revenue a list, by tax
40 year, of taxpayers for which a credit is certified under this section, upon request of the Department
41 of Revenue.

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

44 (7) Each agricultural producer or biomass collector shall maintain the written documentation
45 of the amount certified for tax credit under this section in its records for a period of at least five

1 years after the tax year in which the credit is claimed and provide the written documentation to the
2 Department of Revenue upon request.

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

5 (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
6 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
7 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
8 forward and used in the second succeeding tax year, and likewise any credit not used in that second
9 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
10 credit not used in that third succeeding tax year may be carried forward and used in the fourth
11 succeeding tax year, but may not be carried forward for any tax year thereafter.

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

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

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

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

21 **SECTION 3.** ORS 469.790 is amended to read:

22 469.790. To be eligible for the tax credit under ORS 315.141, the biomass must be produced or
23 collected in Oregon as a feedstock for bioenergy or biofuel production in Oregon. The credit rates
24 for biomass are:

25 (1) For oilseed crops, \$0.05 per pound.

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

27 (3) For virgin oil or alcohol delivered for production in Oregon from Oregon-based feedstock,
28 \$0.10 per gallon.

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

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

31 (6) For woody biomass collected from nursery, orchard, agricultural, forest or rangeland prop-
32 erty in Oregon, including but not limited to prunings, thinning, plantation rotations, log landing or
33 slash resulting from harvest or forest health stewardship, \$10.00 per [green] **bone dry** ton.

34 (7) For grass, wheat, straw or other vegetative biomass from agricultural crops, \$10.00 per
35 [green] **bone dry** ton.

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

37 [(9)] (8) For animal manure or rendering offal, \$5.00 per wet ton.

38 **SECTION 4.** Section 20, chapter 913, Oregon Laws 2009, is amended to read:

39 **Sec. 20.** A credit may not be claimed under ORS 317.122 (1) for tax years beginning on or after
40 January 1, [2012] **2018**.

41 **SECTION 5.** Section 3, chapter 913, Oregon Laws 2009, is amended to read:

42 **Sec. 3.** Except as provided in ORS 315.507 (5), a credit may not be claimed under ORS 315.507
43 for tax years beginning on or after January 1, [2012] **2018**.

44 **SECTION 6.** ORS 285C.406 is amended to read:

45 285C.406. In order for a taxpayer to claim the property tax exemption under ORS 285C.409 or

1 a corporate excise or income tax credit under ORS 317.124:

2 (1) The written agreement between the business firm and the rural enterprise zone sponsor that
3 is required under ORS 285C.403 (3)(c) must be entered into prior to the termination of the enterprise
4 zone under ORS 285C.245; and

5 (2)(a) For the purpose of the property tax exemption, the business firm must obtain certification
6 under ORS 285C.403 on or before June 30, [2013] **2025**; or

7 (b) For the purpose of the corporate excise or income tax credit, the business firm must obtain
8 certification under ORS 285C.403 on or before June 30, [2012] **2018**.

9 **SECTION 7.** Section 6, chapter 911, Oregon Laws 1989, as amended by section 14, chapter 746,
10 Oregon Laws 1995, section 1, chapter 548, Oregon Laws 2001, section 15, chapter 739, Oregon Laws
11 2003, and section 86, chapter 94, Oregon Laws 2005, is amended to read:

12 **Sec. 6.** ORS 317.152 to 317.154 apply to amounts paid or incurred in tax years beginning on or
13 after January 1, 1989, and before January 1, [2012] **2018**.

14 **SECTION 8.** ORS 317.152 is amended to read:

15 317.152. (1) A credit against taxes otherwise due under this chapter shall be allowed to eligible
16 taxpayers for increases in qualified research expenses and basic research payments. The credit shall
17 be determined in accordance with section 41 of the Internal Revenue Code, except as follows:

18 (a) The applicable percentage specified in section 41(a) of the Internal Revenue Code shall be
19 five percent.

20 (b) “Qualified research” and “basic research” shall consist only of research conducted in
21 Oregon.

22 (c) The following do not apply to the credit allowable under this section:

23 (A) Section 41(c)(4) of the Internal Revenue Code (relating to the alternative incremental credit).

24 (B) Section 41(h) of the Internal Revenue Code (relating to termination of the federal credit).

25 (2) For purposes of this section, “eligible taxpayer” means a corporation, other than a corpo-
26 ration excluded under Internal Revenue Code section 41(e)(7)(E).

27 (3) The Income Tax Regulations as prescribed by the Secretary of the Treasury under authority
28 of section 41 of the Internal Revenue Code apply for purposes of this section, except as modified by
29 this section or as provided in rules adopted by the Department of Revenue.

30 (4) The maximum credit under this section may not exceed [\$2 million] **\$1 million**.

31 (5) Any tax credit that is otherwise allowable under this section and that is not used by the
32 taxpayer in that year may be carried forward and offset against the taxpayer’s tax liability for the
33 next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be
34 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
35 second succeeding tax year may be carried forward and used in the third succeeding tax year, and
36 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
37 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
38 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
39 thereafter.

40 **SECTION 8a.** ORS 317.152, as amended by section 8 of this 2011 Act, is amended to read:

41 317.152. (1) A credit against taxes otherwise due under this chapter shall be allowed to eligible
42 taxpayers for increases in qualified research expenses and basic research payments. The credit shall
43 be determined in accordance with section 41 of the Internal Revenue Code, except as follows:

44 (a) The applicable percentage specified in section 41(a) of the Internal Revenue Code shall be
45 five percent.

1 (b) “Qualified research” and “basic research” shall consist only of research conducted in
2 Oregon.

3 (c) The following do not apply to the credit allowable under this section:

4 (A) Section 41(c)(4) of the Internal Revenue Code (relating to the alternative incremental credit).

5 (B) Section 41(h) of the Internal Revenue Code (relating to termination of the federal credit).

6 (2) For purposes of this section, “eligible taxpayer” means a corporation, other than a corpo-
7 ration excluded under Internal Revenue Code section 41(e)(7)(E).

8 (3) The Income Tax Regulations as prescribed by the Secretary of the Treasury under authority
9 of section 41 of the Internal Revenue Code apply for purposes of this section, except as modified by
10 this section or as provided in rules adopted by the Department of Revenue.

11 (4) The maximum credit under this section may not exceed \$1 million.

12 **(5) A deduction may not be taken for the portion of expenses or payments, otherwise**
13 **allowable as a deduction, that is equal to the amount of the credit claimed under this section.**

14 [(5)] (6) Any tax credit that is otherwise allowable under this section and that is not used by
15 the taxpayer in that year may be carried forward and offset against the taxpayer’s tax liability for
16 the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may
17 be carried forward and used in the second succeeding tax year, and likewise any credit not used in
18 that second succeeding tax year may be carried forward and used in the third succeeding tax year,
19 and any credit not used in that third succeeding tax year may be carried forward and used in the
20 fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be car-
21 ried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax
22 year thereafter.

23 **SECTION 9.** ORS 317.154 is amended to read:

24 317.154. (1) A credit against taxes otherwise due under this chapter shall be allowed for quali-
25 fied research expenses that exceed 10 percent of Oregon sales.

26 (2) For purposes of this section:

27 (a) “Oregon sales” shall be computed using the laws and administrative rules for calculating the
28 numerator of the Oregon sales factor under ORS 314.665.

29 (b) “Qualified research” has the meaning given the term under section 41(d) of the Internal Re-
30 venue Code and shall consist only of research conducted in Oregon.

31 (3) The credit under this section is equal to five percent of the amount by which the qualified
32 research expenses exceed 10 percent of Oregon sales.

33 (4) The credit under this section shall not exceed \$10,000 times the number of percentage points
34 by which the qualifying research expenses exceed 10 percent of Oregon sales.

35 (5) The maximum credit under this section may not exceed [*\$2 million*] **\$1 million**.

36 (6) Any tax credit that is otherwise allowable under this section and that is not used by the
37 taxpayer in that year may be carried forward and offset against the taxpayer’s tax liability for the
38 next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be
39 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
40 second succeeding tax year may be carried forward and used in the third succeeding tax year, and
41 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
42 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
43 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
44 thereafter.

45 **SECTION 10.** (1) **The amendments to ORS 315.141, 317.152, 317.154 and 469.790 by sections**

1 **2a, 3, 8 and 9 of this 2011 Act apply to tax years beginning on or after January 1, 2012.**

2 **(2) The amendments to ORS 317.152 by section 8a of this 2011 Act apply to tax years be-**
3 **ginning on or after January 1, 2012, and to any tax year for which a return is subject to audit**
4 **or adjustment by the Department of Revenue on or after the effective date of this 2011 Act,**
5 **any tax year for which a return is the subject of an appeal on or after the effective date of**
6 **this 2011 Act and any tax year for which a claim for refund may be made on or after the**
7 **effective date of this 2011 Act.**

8 **SECTION 11.** ORS 315.514 is amended to read:

9 315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the
10 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film
11 production development contributions made by the taxpayer during the tax year to the Oregon
12 Production Investment Fund established under ORS 284.367.

13 (2)(a) *[The amount of the tax credit shall equal the amount certified for credit by the Oregon Film*
14 *and Video Office, except that a contribution must equal at least 90 percent of the tax credit.]* **The De-**
15 **partment of Revenue shall, in cooperation with the Oregon Film and Video Office, conduct**
16 **an auction of tax credits under this section. The department may conduct the auction in the**
17 **manner that it determines is best suited to maximize the return to the state on the sale of**
18 **tax credit certifications and shall announce a reserve bid prior to conducting the auction.**
19 **The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys**
20 **necessary to reimburse the department for the actual costs incurred by the department in**
21 **administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously**
22 **appropriated to the department. The department shall deposit net receipts from the auction**
23 **required under this section in the Oregon Production Investment Fund.**

24 (b) The Oregon Film and Video Office shall adopt rules *[for determining the amount of tax credit*
25 *to be certified by the office. The rules shall be adopted]* in order to achieve the following goals:

26 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of
27 *[\$7.5 million]* **\$6 million** are certified for each fiscal year;

28 (B) Maximize income and excise tax revenues that are retained by the State of Oregon for state
29 operations; and

30 (C) Provide the necessary financial incentives for taxpayers to make contributions, taking into
31 consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

32 *[(3) A taxpayer seeking a tax credit under this section shall apply for tax credit certification to the*
33 *Oregon Film and Video Office on a form supplied by the office. The taxpayer shall include payment*
34 *of the contribution at the time of application.]*

35 *[(4)]* **(3)** Contributions made under this section shall be deposited in the Oregon Production In-
36 vestment Fund.

37 *[(5)(a)]* **(4)(a)** Upon receipt of a contribution, the Oregon Film and Video Office shall, **except**
38 **as provided in section 13 of this 2011 Act**, issue to the taxpayer written certification of the
39 amount certified for tax credit under this section to the extent the amount certified for tax credit,
40 when added to all amounts previously certified for tax credit under this section, does not exceed
41 *[\$7.5 million]* **\$6 million** for the fiscal year in which certification is made.

42 (b) The Oregon Film and Video Office *[is]* **and the department are** not liable, and a refund of
43 a contributed amount need not be made, if a taxpayer who has received tax credit certification is
44 unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

45 *[(6)]* **(5)** To the extent the Oregon Film and Video Office does not certify contributed amounts

1 as eligible for a tax credit under this section, the taxpayer may request a refund of the amount the
2 taxpayer contributed, and the office shall refund that amount.

3 [(7)(a)] **(6)(a)** Except as provided in paragraph (b) of this subsection, a tax credit claimed under
4 this section may not exceed the tax liability of the taxpayer and may not be carried over to another
5 tax year.

6 (b) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
7 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
8 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
9 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
10 succeeding tax year may be carried forward and used in the third succeeding tax year but may not
11 be carried forward for any tax year thereafter.

12 (c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which
13 the credit would otherwise be allowed begins on or after January 1, [2012] **2018**.

14 [(8)] **(7)** If a tax credit is claimed under this section by a nonresident or part-year resident tax-
15 payer, the amount shall be allowed without proration under ORS 316.117.

16 [(9) *A taxpayer who has received a tax credit certificate under this section may sell the certificate
17 to another taxpayer. The sale is effective only if a notice of tax credit certificate sale is filed with the
18 Department of Revenue. The notice shall be filed on a form prescribed by the department on or before
19 the date on which the income or corporate excise tax return of the buyer for the first year for which
20 the credit could be claimed is filed or due, whichever is earlier. The notice form shall include the fol-
21 lowing information:*]

22 [(a) *The name and taxpayer identification number of the seller;*]

23 [(b) *The name and taxpayer identification number of the buyer;*]

24 [(c) *The amount of the tax credit certificate that is being sold to the buyer;*]

25 [(d) *The amount of the tax credit certificate that is being retained by the seller; and*]

26 [(e) *Any other information required by the department.*]

27 [(10) *If requested by the Department of Revenue, the Oregon Film and Video Office shall supply
28 a list of taxpayers that have obtained tax credit certification under this section, and for each listed
29 taxpayer disclose:*]

30 [(a) *The amount of contribution made by the taxpayer; and*]

31 [(b) *The amount certified for tax credit under this section.*]

32 [(11)] **(8)** If the amount of contribution for which a tax credit certification is made is allowed
33 as a deduction for federal tax purposes, the amount of the contribution shall be added to federal
34 taxable income for Oregon tax purposes.

35 **SECTION 12. The Oregon Film and Video Office and the Department of Revenue shall**
36 **report, not later than February 15, 2013, to the Legislative Assembly on the operation of the**
37 **auction process required in ORS 315.514.**

38 **SECTION 13. (1) In lieu of the issuance of certifications for tax credit under ORS 315.514**
39 **by the Oregon Film and Video Office, the Legislative Assembly may, no later than 30 days**
40 **prior to the end of each fiscal year, appropriate to the Oregon Business Development De-**
41 **partment for deposit into the Oregon Production Investment Fund an amount equal to the**
42 **total amount that would otherwise be certified for tax credits during the upcoming fiscal**
43 **year, based on the amount of contributions and accompanying applications for credit re-**
44 **ceived by the office during the fiscal year.**

45 **(2) If the Legislative Assembly makes the election allowed in subsection (1) of this sec-**

1 **tion:**

2 (a) Any contributions to the Oregon Production Investment Fund made for the upcoming
3 fiscal year and for which an application for a credit under ORS 315.514 is pending shall, at
4 the request of the taxpayer, be refunded by the Oregon Film and Video Office; and

5 (b) A credit under ORS 315.514 may not be claimed for any contribution made during the
6 current fiscal year.

7 **SECTION 14.** ORS 284.367 is amended to read:

8 284.367. (1) The Oregon Production Investment Fund is established in the State Treasury, sepa-
9 rate and distinct from the General Fund. Interest earned by the Oregon Production Investment Fund
10 shall be credited to the fund.

11 (2) Moneys in the Oregon Production Investment Fund shall consist of:

12 (a) Amounts donated to the fund;

13 (b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

14 (c) Other amounts deposited in the fund from any source; and

15 (d) Interest earned by the fund.

16 (3) Ninety-five percent of moneys in the fund are continuously appropriated to the Oregon
17 Business Development Department for the purposes of making:

18 (a) Reimbursements to filmmakers under ORS 284.368;

19 (b) Payments to a tax credit marketer for marketing services provided by the marketer as de-
20 scribed in ORS 284.369; and

21 (c) Refunds described in ORS 315.514 [(6)] (5).

22 (4) Five percent of moneys in the fund are continuously appropriated to the department for the
23 purpose of making reimbursements to local filmmakers under ORS 284.368 (3). **Total reimburse-**
24 **ments to local filmmakers may not exceed \$250,000 in a fiscal year.**

25 (5) Expenditures from the fund are not subject to ORS 291.232 to 291.260.

26 **SECTION 15.** ORS 284.367, as amended by section 14 of this 2011 Act, is amended to read:

27 284.367. (1) The Oregon Production Investment Fund is established in the State Treasury, sepa-
28 rate and distinct from the General Fund. Interest earned by the Oregon Production Investment Fund
29 shall be credited to the fund.

30 (2) Moneys in the Oregon Production Investment Fund shall consist of:

31 (a) Amounts donated to the fund;

32 (b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

33 (c) Other amounts deposited in the fund from any source; and

34 (d) Interest earned by the fund.

35 (3) Ninety-five percent of moneys in the fund are continuously appropriated to the Oregon
36 Business Development Department for the purposes of making:

37 (a) Reimbursements to filmmakers under ORS 284.368;

38 (b) Payments to a tax credit marketer for marketing services provided by the marketer as de-
39 scribed in ORS 284.369; and

40 (c) Refunds described in ORS 315.514 (5).

41 (4) Five percent of moneys in the fund are continuously appropriated to the department for the
42 purpose of making reimbursements to local filmmakers under ORS 284.368 (3). [*Total reimbursements*
43 *to local filmmakers may not exceed \$250,000 in a fiscal year.*]

44 (5) Expenditures from the fund are not subject to ORS 291.232 to 291.260.

45 **SECTION 16.** Section 1a, chapter 559, Oregon Laws 2005, is amended to read:

1 **Sec. 1a.** The Oregon Film and Video Office may not issue a qualifying film production labor
2 rebate certificate under section 1 [of this 2005 Act], **chapter 559, Oregon Laws 2005**, on or after
3 January 1, [2012] **2018**.

4 **SECTION 17.** Section 77, chapter 736, Oregon Laws 2003, as amended by section 1, chapter 913,
5 Oregon Laws 2009, is amended to read:

6 **Sec. 77.** ORS 315.514 applies to tax years beginning on or after January 1, 2005, and before
7 January 1, [2012] **2018**, and to tax credit certifications issued by the Oregon Film and Video Office
8 on or after July 1, 2005.

9 **SECTION 18.** (1) **The amendments to ORS 315.514 by section 11 of this 2011 Act apply to**
10 **tax credit certifications issued by the Oregon Film and Video Office on or after June 30, 2012.**

11 **(2) The amendments to ORS 284.367 by section 14 of this 2011 Act apply to fiscal years**
12 **beginning after June 30, 2011, and before July 1, 2013.**

13 **(3) The amendments to ORS 284.367 by section 15 of this 2011 Act apply to fiscal years**
14 **beginning after June 30, 2013.**

15 **SECTION 18a.** Section 11, chapter 913, Oregon Laws 2009, is amended to read:

16 **Sec. 11.** The State Department of Fish and Wildlife may not issue a preliminary certificate of
17 approval under ORS 315.138 after January 1, [2012] **2018**.

18 **SECTION 18b.** ORS 496.303, as amended by section 14, chapter 625, Oregon Laws 2007, is
19 amended to read:

20 496.303. (1) The Fish and Wildlife Account is established in the State Treasury, separate and
21 distinct from the General Fund. All moneys in the account are continuously appropriated to the
22 State Fish and Wildlife Commission. The Fish and Wildlife Account shall consist of the moneys in
23 its various subaccounts and any moneys transferred to the account by the Legislative Assembly.
24 Unless otherwise specified by law, interest earnings on moneys in the account shall be paid into the
25 State Treasury and credited to the State Wildlife Fund.

26 (2)(a) The Fish Screening Subaccount is established in the Fish and Wildlife Account. The sub-
27 account shall consist of:

28 (A) All penalties recovered under ORS 536.900 to 536.920.

29 (B) All moneys received pursuant to ORS 498.306.

30 (C) All gifts, grants and other moneys from whatever source that may be used to carry out the
31 provisions of ORS 498.306.

32 (D) All moneys received from the surcharge on angling licenses imposed by ORS 497.124.

33 (b) All moneys in the subaccount shall be used to carry out the provisions of ORS **315.138**,
34 498.306 and 509.620. However, moneys received from the surcharge on angling licenses imposed by
35 ORS 497.124 shall be expended only to carry out the provisions of law relating to the screening of
36 water diversions.

37 (3) The Fish Endowment Subaccount is established in the Fish and Wildlife Account. The sub-
38 account shall consist of transfers of moneys authorized by the Legislative Assembly from the State
39 Wildlife Fund and gifts and grants of moneys from whatever source for the purpose of paying the
40 expense of maintaining fish hatcheries operated by the department.

41 (4) The Migratory Waterfowl Subaccount is established in the Fish and Wildlife Account. All
42 moneys received by the commission from the sale of art works and prints related to the migratory
43 waterfowl stamp shall be deposited in the subaccount. Moneys in the subaccount may be expended
44 only for activities that promote the propagation, conservation and recreational uses of migratory
45 waterfowl and for activities related to the design, production, issuance and arrangements for sale

1 of the migratory waterfowl stamps and related art works and prints. Expenditures of moneys in the
2 subaccount may be made within this state, in other states or in foreign countries, in such amounts
3 as the commission determines appropriate. Expenditures in other states and foreign countries shall
4 be on such terms and conditions as the commission determines will benefit most directly the mi-
5 gratory waterfowl resources of this state.

6 (5) The Halibut Research Subaccount is established in the Fish and Wildlife Account. Based on
7 the annual number of recreational halibut anglers, a portion of the moneys derived from the sale
8 of the salmon, steelhead trout, sturgeon and halibut tag pursuant to ORS 497.121 shall be credited
9 to the subaccount. Moneys in the subaccount may be expended only for halibut population studies
10 and other research.

11 (6) The Upland Bird Subaccount is established in the Fish and Wildlife Account. All moneys
12 received by the State Fish and Wildlife Commission from the sale of upland bird stamps, from the
13 sale of any art works and prints related to the upland bird stamp and from private hunting preserve
14 permit fees shall be deposited in the subaccount. Moneys in the subaccount may be expended only
15 for promoting the propagation and conservation of upland birds and the acquisition, development,
16 management, enhancement, sale or exchange of upland bird habitat, and for activities related to the
17 design, production, issuance and arrangements for sale of the upland bird stamps and related art
18 works and prints. Expenditures of moneys in the subaccount shall be made for the benefit of pro-
19 grams within this state in such amounts and at such times as the commission determines appropriate
20 to most directly benefit the upland bird resources of the state.

21 (7)(a) The Fish and Wildlife Deferred Maintenance Subaccount is established in the Fish and
22 Wildlife Account. Interest earnings on moneys in the subaccount shall be credited to the subaccount.
23 The subaccount shall consist of moneys authorized by the Legislative Assembly from the State
24 Wildlife Fund and moneys obtained by gift, grant, bequest or donation from any other public or
25 private source.

26 (b) The principal in the subaccount may be utilized only as provided in paragraph (c) of this
27 subsection. Interest earnings on the moneys in the subaccount may be expended only for the main-
28 tenance of fish hatcheries and State Department of Fish and Wildlife facilities other than adminis-
29 trative facilities located in Salem.

30 (c) The department may borrow funds from the principal of the subaccount to maintain adequate
31 cash flow requirements. However, moneys borrowed from the principal must be repaid to the sub-
32 account:

33 (A) Within six months from the date on which the moneys were borrowed.

34 (B) With interest at the standard rate that the State Treasurer charges to state agencies for
35 other loans. Interest paid under this subparagraph shall be paid to the subaccount.

36 (d) For purposes of this subsection, "principal" means moneys authorized by the Legislative
37 Assembly for transfer to the subaccount from the State Wildlife Fund, including any assignment of
38 earnings on moneys in the fund and other moneys obtained by gift, grant, bequest or donation de-
39 posited into the subaccount.

40 (8) The Access and Habitat Board Subaccount is established in the Fish and Wildlife Account.
41 The subaccount shall consist of moneys transferred to the subaccount pursuant to ORS 496.242.
42 Moneys in the subaccount may be used for the purposes specified in ORS 496.242.

43 (9) The Marine Shellfish Subaccount is established in the Fish and Wildlife Account. Interest
44 earnings on moneys in the subaccount shall be credited to the subaccount. All moneys received by
45 the commission from the sale of resident and nonresident shellfish licenses pursuant to ORS 497.121

1 shall be deposited in the subaccount. Moneys in the subaccount shall be used for the protection and
 2 enhancement of shellfish for recreational purposes, including shellfish sanitation costs and the cost
 3 of enforcement of wildlife laws pertaining to the taking of shellfish. The State Fish and Wildlife
 4 Director, or a designee, the Director of Agriculture, or a designee, and the Superintendent of State
 5 Police, or a designee, shall jointly make a recommendation to the Governor for inclusion in the
 6 Governor's budget beginning July 1 of each odd-numbered year.

7 (10)(a) The Mountain Sheep Subaccount is established in the Fish and Wildlife Account, con-
 8 sisting of moneys collected under ORS 497.112 (2)(a) to (c).

9 (b) All moneys in the subaccount shall be used for the propagation and conservation of mountain
 10 sheep, for research, development, management, enhancement and sale or exchange of mountain
 11 sheep habitat and for programs within the state that in the discretion of the commission most di-
 12 rectly benefit mountain sheep resources of this state.

13 (11)(a) The Antelope Subaccount is established in the Fish and Wildlife Account, consisting of
 14 moneys collected under ORS 497.112 (2)(a) to (c).

15 (b) All moneys in the subaccount shall be used for the propagation and conservation of antelope,
 16 for research, development, management, enhancement and sale or exchange of antelope habitat and
 17 for programs within the state that in the discretion of the commission most directly benefit antelope
 18 resources of this state.

19 (12)(a) The Mountain Goat Subaccount is established in the Fish and Wildlife Account, consist-
 20 ing of moneys collected under ORS 497.112 (2)(a) to (c).

21 (b) All moneys in the subaccount shall be used for the propagation and conservation of mountain
 22 goats for research, development, management, enhancement and sale or exchange of mountain goat
 23 habitat and for programs within the state that in the discretion of the commission most directly
 24 benefit mountain goat resources of this state.

25 (13)(a) The commission shall keep a record of all moneys deposited in the Fish and Wildlife
 26 Account. The record shall indicate by separate cumulative accounts the sources from which the
 27 moneys are derived and the individual activity or programs against which each withdrawal is
 28 charged.

29 (b) Using the record created pursuant to paragraph (a) of this subsection, the commission shall
 30 report, in the budget documents submitted to the Legislative Assembly, on the application of in-
 31 vestment and interest earnings to the maintenance of fish hatcheries and other State Department
 32 of Fish and Wildlife facilities.

33 **SECTION 19.** ORS 314.752, as amended by section 26, chapter 76, Oregon Laws 2010, is
 34 amended to read:

35 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
 36 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
 37 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
 38 allowable to the shareholders of the S corporation.

39 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
 40 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
 41 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
 42 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
 43 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
 44 manner prescribed under section 1377(a) of the Internal Revenue Code.

45 (3) The character of any item included in a shareholder's pro rata share under subsection (2)

1 of this section shall be determined as if such item were realized directly from the source from which
 2 realized by the corporation, or incurred in the same manner as incurred by the corporation.

3 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 4 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 5 316.117, then that provision shall apply to the nonresident shareholder.

6 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
 7 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
 8 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
 9 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
 10 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
 11 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
 12 station and reforestation), ORS 315.134 (fish habitat improvement), ORS 315.138 (fish screening, by-
 13 pass devices, fishways), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (farmworker housing),
 14 ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (con-
 15 tributions for child care), ORS 315.304 (pollution control facility), ORS 315.324 (plastics recycling),
 16 ORS 315.354 and 469.207 (energy conservation facilities), ORS 315.507 (electronic commerce), ORS
 17 315.511 (advanced telecommunications facilities), ORS 315.604 (bone marrow transplant expenses),
 18 ORS 317.115 (fueling stations necessary to operate an alternative fuel vehicle) and ORS 315.141
 19 (biomass production for biofuel) **and section 23 of this 2011 Act (renewable energy development**
 20 **contributions), section 35 of this 2011 Act (energy conservation projects) and section 53 of**
 21 **this 2011 Act (transportation projects).**

22 **SECTION 20.** ORS 318.031 is amended to read:

23 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 24 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 25 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
 26 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.134, 315.141, 315.156,
 27 315.204, 315.208, 315.213, 315.304, 315.507, 315.511 and 315.604 **and sections 23, 35 and 53 of this**
 28 **2011 Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

29 **SECTION 21.** ORS 315.053 is amended to read:

30 315.053. An income tax credit allowed under ORS 315.141[,] **or** 315.354 [*or 315.514*] or section
 31 47, chapter 843, Oregon Laws 2007, or section 12, chapter 855, Oregon Laws 2007, **or section 35**
 32 **or 53 of this 2011 Act** may be transferred or sold only to one or more of the following:

- 33 (1) A C corporation.
- 34 (2) An S corporation.
- 35 (3) A personal income taxpayer.

36 **SECTION 21a.** Section 3, chapter 595, Oregon Laws 2005, as amended by section 79, chapter
 37 843, Oregon Laws 2007, is amended to read:

38 **Sec. 3.** Notwithstanding ORS 285C.500 (5), for purposes of preliminary certifications issued un-
 39 der ORS 285C.503 on or after January 1, 2006, [*and before January 1, 2011*] **based on applications**
 40 **for preliminary certification filed before July 1, 2016**, and annual certifications issued under ORS
 41 285C.506 that are associated with preliminary certifications issued under ORS 285C.503 on or after
 42 January 1, 2006, [*and before January 1, 2011:*] **based on applications for preliminary certification**
 43 **filed before July 1, 2016,**

44 [(1)] "qualified location" means any area that is:

- 45 [(a)] (1) Within the urban growth boundary of a city that has 15,000 or fewer residents or is land

1 zoned for industrial use; and

2 [(b)] (2) Located in a county that, during either of the two years preceding the date an appli-
3 cation for preliminary certification is filed under ORS 285C.503 and this section, had:

4 [(A)] (a) A county unemployment rate that was in the highest third of county unemployment
5 rates in this state; or

6 [(B)] (b) A county per capita personal income that was in the lowest third of county per capita
7 personal incomes in this state.

8 [(2) *The minimum annual compensation requirements of ORS 285C.503 (5)(d) do not apply.*]

9 [(3) *In lieu of the requirements of ORS 285C.506 (5), the Oregon Business Development Department*
10 *shall approve an application for annual certification if the business firm satisfies the requirements of*
11 *ORS 285C.506 (5)(a) and (6)(c) and the business firm satisfies the employment requirements of ORS*
12 *285C.503 (5)(c).*]

13 **SECTION 21b.** ORS 285C.506 is amended to read:

14 285C.506. (1) Following completion of the construction, reconstruction, modification, acquisition,
15 installation or lease of the facility, the hiring of employees to conduct business operations at the
16 facility and the commencement of operations at the facility, a business firm that obtained prelimi-
17 nary certification under ORS 285C.503 may apply for annual certification under this section.

18 (2) The application shall be filed with the Oregon Business Development Department on or be-
19 fore 30 days after the end of the income or corporate excise tax year of the business firm.

20 (3) The application shall contain the following information:

21 (a) A description of the business operations conducted at the facility;

22 (b) The date business operations commenced at the facility;

23 (c) The number of full-time, year-round employees employed by the business firm at the facility;

24 (d) A schedule of the annual compensation paid to the employees; and

25 (e) Any other information required by the department.

26 (4) An application filed under this section must be accompanied by a fee in an amount prescribed
27 by the department by rule. The fee required by the department may not exceed \$100.

28 (5) The department shall review a business firm's application and approve the application if:

29 (a) The business operations of the firm at the facility commenced **at least 24 months before**
30 **the date of application for annual certification but** within 10 years before the end of the tax year
31 preceding the date of application for annual certification; and

32 (b) The business firm has satisfied the employment and minimum compensation requirements
33 described in ORS 285C.503 (5)(c) and (d).

34 (6) In the case of the first application for annual certification filed by a business firm under this
35 section, the department may approve the application only if, in addition to the requirements of
36 subsection (5) of this section:

37 (a) Business operations commenced at the facility within a reasonable period of time, as deter-
38 mined by the department by rule, following the date of preliminary certification under ORS 285C.503;

39 (b) There has not been a significant interruption in construction, reconstruction, modification
40 or installation activity at the location, as determined by the department by rule, following the date
41 of preliminary certification under ORS 285C.503; and

42 (c) The facility and the business operations actually conducted at the facility are reasonably
43 similar to the proposed facility and proposed operations described in the application for preliminary
44 certification.

45 (7) After the first application for annual certification, the department may approve a subsequent

1 application or certification filed under this section only if:

2 (a) The business firm meets the requirements of subsection (5) of this section; and

3 (b) The facility and the business operations actually conducted at the facility retain similar
4 characteristics to the facility and the business operations actually conducted at the facility during
5 the period of prior certification. This paragraph does not preclude an applicant from changing the
6 location of the facility, the ownership or organization of the business firm or other aspects of the
7 facility or business firm that are within the intent of ORS 285C.500 to 285C.506 if the change is made
8 in accordance with rules adopted by the department.

9 (8) The department may consult with the city or county in determining whether to approve or
10 disapprove an application under this section.

11 (9) If the department approves an application, it shall issue an annual certification to the busi-
12 ness firm.

13 (10) If the department disapproves an application, the business firm or any owner of the business
14 firm may not be allowed the exemption described in ORS 316.778 or 317.391 for the tax year for
15 which the annual certification was sought or for any subsequent tax year.

16 (11) The decision of the department to disapprove an application under this section may be ap-
17 pealed in the manner of a contested case under ORS chapter 183.

18 (12) An annual certification may not be issued under this section for a tax year that is more
19 than nine consecutive tax years following the first tax year an exemption is allowed under ORS
20 316.778 or 317.391 with respect to the facility.

21 (13) The department must approve or disapprove an application under this section within 30
22 days of the date the application is filed.

23 **SECTION 21c. The amendments to ORS 285C.506 and section 3, chapter 595, Oregon Laws**
24 **2005, by sections 21a and 21b of this 2011 Act apply to applications for preliminary certif-**
25 **ication filed under ORS 285C.503 on or after July 1, 2011.**

26
27 **TAX CREDIT FOR RENEWABLE ENERGY**
28 **DEVELOPMENT CONTRIBUTIONS**
29

30 **SECTION 22. Sections 23 and 24 of this 2011 Act are added to and made a part of ORS**
31 **chapter 315.**

32 **SECTION 23. (1) A credit against the taxes that are otherwise due under ORS chapter**
33 **316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a tax-**
34 **payer for certified renewable energy development contributions made by the taxpayer during**
35 **the tax year to the Renewable Energy Development Subaccount, established in section 24a**
36 **of this 2011 Act, of the Clean Energy Deployment Fund established in section 1,**
37 **chapter____, Oregon Laws 2011 (Enrolled House Bill 2960).**

38 **(2)(a) The Department of Revenue shall, in cooperation with the State Department of**
39 **Energy, conduct an auction of tax credits under this section. The department may conduct**
40 **the auction in the manner that it determines is best suited to maximize the return to the**
41 **state on the sale of tax credit certifications and shall announce a reserve bid prior to con-**
42 **ducting the auction. The reserve amount shall be at least 95 percent of the total amount of**
43 **the tax credit. Moneys necessary to reimburse the Department of Revenue for the actual**
44 **costs incurred by the department in administering an auction, not to exceed 0.25 percent of**
45 **auction proceeds, are continuously appropriated to the department. The Department of Re-**

1 venue shall deposit net receipts from the auction required under this section in the
2 Renewable Energy Development Subaccount, established in section 24a of this 2011 Act, of
3 the Clean Energy Deployment Fund established in section 1, chapter____, Oregon Laws 2011
4 (Enrolled House Bill 2960). Net receipts from the auction required under this section shall
5 be used only for purposes related to renewable energy development.

6 (b) The State Department of Energy shall adopt rules in order to achieve the following
7 goals:

8 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax
9 credits of \$1.5 million are certified for each fiscal year;

10 (B) Maximize income and excise tax revenues that are retained by the State of Oregon
11 for state operations; and

12 (C) Provide the necessary financial incentives for taxpayers to make contributions, tak-
13 ing into consideration the impact of granting a credit upon a taxpayer's federal income tax
14 liability.

15 (3) Contributions made under this section shall be deposited in the Renewable Energy
16 Development Subaccount, established in section 24a of this 2011 Act, of the Clean Energy
17 Deployment Fund established in section 1, chapter _____, Oregon Laws 2011 (Enrolled House
18 Bill 2960).

19 (4)(a) Upon receipt of a contribution, the State Department of Energy shall, except as
20 provided in section 24 of this 2011 Act, issue to the taxpayer written certification of the
21 amount certified for tax credit under this section to the extent the amount certified for tax
22 credit, when added to all amounts previously certified for tax credit under this section, does
23 not exceed \$1.5 million for the fiscal year in which certification is made.

24 (b) The State Department of Energy and the Department of Revenue are not liable, and
25 a refund of a contributed amount need not be made, if a taxpayer who has received tax credit
26 certification is unable to use all or a portion of the tax credit to offset the tax liability of the
27 taxpayer.

28 (5) The tax credit allowed under this section for any one tax year may not exceed the tax
29 liability of the taxpayer.

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

36 (7) If a tax credit is claimed under this section by a nonresident or part-year resident
37 taxpayer, the amount shall be allowed without proration under ORS 316.117.

38 (8) If the amount of contribution for which a tax credit certification is made is allowed
39 as a deduction for federal tax purposes, the amount of the contribution shall be added to
40 federal taxable income for Oregon tax purposes.

41 **SECTION 24.** (1) In lieu of the issuance of certifications for tax credit under section 23
42 of this 2011 Act by the State Department of Energy, the Legislative Assembly may, no later
43 than 30 days prior to the end of each fiscal year, appropriate to the State Department of
44 Energy for deposit into the Renewable Energy Development Subaccount, established in sec-
45 tion 24a of this 2011 Act, of the Clean Energy Deployment Fund established in section 1,

1 chapter _____, Oregon Laws 2011 (Enrolled House Bill 2960), an amount equal to the total
2 amount that would otherwise be certified for tax credits during the current fiscal year, based
3 on the amount of contributions and accompanying applications for credit received by the
4 department during the fiscal year. Moneys deposited under this section are to be used only
5 for purposes related to renewable energy development.

6 (2) If the Legislative Assembly makes the election allowed in subsection (1) of this sec-
7 tion:

8 (a) Any contributions made pursuant to section 23 of this 2011 Act to the Renewable
9 Energy Development Subaccount during the current fiscal year and for which an application
10 for a credit under section 23 of this 2011 Act is pending shall, at the request of the taxpayer,
11 be refunded by the State Department of Energy; and

12 (b) A credit under section 23 of this 2011 Act may not be claimed for any contribution
13 made during the current fiscal year.

14 **SECTION 24a.** (1) The Renewable Energy Development Subaccount is established in the
15 Clean Energy Deployment Fund established in section 1, chapter _____, Oregon Laws 2011
16 (Enrolled House Bill 2960). Interest earned by the Renewable Energy Development Subac-
17 count shall be credited to the subaccount. Moneys in the fund are continuously appropriated
18 to the State Department of Energy for purposes related to renewable energy development.

19 (2) The department may accept grants, donations, contributions or gifts from any source
20 for deposit in the Renewable Energy Development Subaccount.

21 **SECTION 25.** A taxpayer may not be allowed a credit under section 23 of this 2011 Act
22 for any tax year that begins on or after January 1, 2018.

23 **SECTION 26.** Sections 27 to 33 of this 2011 Act are added to and made a part of ORS
24 chapter 469.

25 **SECTION 27.** As used in sections 27 to 33 of this 2011 Act:

26 (1) "Biomass" has the meaning given that term in ORS 315.141.

27 (2) "Cost" means the actual cost of the acquisition, construction and installation of the
28 renewable energy production system paid by the applicant for the system, before considering
29 utility incentives.

30 (3) "Renewable energy production system" means a system that uses biomass, solar,
31 geothermal, hydroelectric, wind, landfill gas, biogas or wave, tidal or ocean thermal energy
32 technology to produce energy.

33 (4) "Solar technology" means any system, mechanism or series of mechanisms, including
34 photovoltaic systems, that uses solar radiation to generate electrical energy.

35 **NOTE:** Section 28 was deleted by amendment. Subsequent sections were not renumbered.

36 **SECTION 29.** (1) Prior to the installation or construction of a renewable energy pro-
37 duction system, any person may apply to the State Department of Energy for a grant under
38 section 30 of this 2011 Act if:

39 (a) The applicant will be the owner, contract purchaser or lessee of the system at the
40 time of installation or construction of the proposed system;

41 (b) The system does not exceed 35 megawatts of nameplate capacity;

42 (c) The system is located in Oregon; and

43 (d) The system complies with the standards or rules adopted by the Director of the State
44 Department of Energy.

45 (2) An application for a grant under section 30 of this 2011 Act shall be made in writing

1 on a form prepared by the department and shall contain:

2 (a) A detailed description of the system and its operation and information showing that
3 the system will operate as represented in the application and remain in operation for at least
4 five years, unless the director by rule specifies another period of operation.

5 (b) The anticipated total system cost.

6 (c) Information on the number and type of jobs that will be created by the system, and
7 the number of jobs sustained throughout the construction, installation and operation of the
8 system.

9 (d) Information demonstrating that the system will comply with applicable state and local
10 laws and regulations and obtain required licenses and permits.

11 (e) Any other information the director considers necessary to determine whether the
12 system is in accordance with the provisions of sections 27 to 33 of this 2011 Act, and any
13 applicable rules or standards adopted by the director.

14 (3) An application for a grant shall be accompanied by a fee established under section 31
15 of this 2011 Act. The director may refund all or a portion of the fee if the application for a
16 grant is rejected.

17 (4) The director may allow an applicant to file the application for a grant after the start
18 of installation or construction of the system if the director finds that:

19 (a) Filing the application before the start of installation or construction is inappropriate
20 because special circumstances render filing earlier unreasonable; and

21 (b) The system would otherwise qualify for a grant under sections 27 to 33 of this 2011
22 Act.

23 **SECTION 30.** (1) The Director of the State Department of Energy may require an appli-
24 cant for a grant under this section for a renewable energy production system to submit
25 plans, specifications and contract terms, and after examination of the plans, specifications
26 and terms may request corrections and revisions.

27 (2) If the director determines that the system is technically feasible and should operate
28 in accordance with the representations made by the applicant, and is in accordance with the
29 provisions of sections 27 to 33 of this 2011 Act and any applicable rules or standards adopted
30 by the director, the director may enter into a performance agreement with the applicant in
31 anticipation of awarding a grant under this section. The grant provided for in the perform-
32 ance agreement may not exceed 35 percent of the cost of the project and may not exceed
33 \$250,000 per system. If construction does not begin within 12 months of an award under this
34 section, the performance agreement shall be void and the State Department of Energy may
35 not award the grant.

36 (3) The director may, in accordance with ORS chapter 183, deny a grant under this sec-
37 tion if the director determines that:

38 (a) The system does not comply with the provisions of sections 27 to 33 of this 2011 Act
39 and applicable rules and standards;

40 (b) The applicant was directly involved in an act for which the director has levied civil
41 penalties or revoked, canceled or suspended any certification under ORS 469.185 to 469.225
42 or section 23 of this 2011 Act, or any grant under sections 27 to 33 of this 2011 Act; or

43 (c) The applicant or the principal, director, officer, owner, majority shareholder or
44 member of the applicant, or the manager of the applicant if the applicant is a limited liability
45 company, is in arrears for payments owed to any government agency while in any capacity

1 with direct or indirect control over a business.

2 (4) The department shall reduce the amount of grant allowable to an applicant if, when
3 combined with other government incentives or grants available to the applicant, the amount
4 calculated under subsection (2) of this section exceeds 75 percent of the total system cost
5 calculated under this section.

6 (5) If the director determines that the applicant has complied with all provisions of the
7 performance agreement required under this section and with the provisions of sections 27
8 to 33 of this 2011 Act, the director shall award the grant provided in this section.

9 (6) Upon determination by the director that the applicant has violated the provisions of
10 the performance agreement or sections 27 to 33 of this 2011 Act, the applicant will be liable
11 to the department for all grant moneys disbursed to the applicant.

12 **SECTION 31.** By rule and after hearing, the Director of the State Department of Energy
13 may adopt a schedule of reasonable fees that the State Department of Energy may require
14 of applicants for a grant for a renewable energy production system under sections 27 to 33
15 of this 2011 Act or for tax credit certification under section 23 of this 2011 Act. Before the
16 adoption or revision of the fees, the department shall estimate the total cost of the program
17 to the department. The fees shall be used to recover the anticipated cost of administering
18 and enforcing the provisions of sections 27 to 33 of this 2011 Act, including filing, investi-
19 gating, granting and rejecting applications for grant or tax credit certification and ensuring
20 compliance with sections 23, 24 and 27 to 33 of this 2011 Act and shall be designed not to
21 exceed the total cost estimated by the department. Any excess fees shall be held by the de-
22 partment and shall be used by the department to reduce any future fee increases. The fee
23 may vary according to the size and complexity of the system. The fee is not considered part
24 of the cost of the system for which a grant is being sought.

25 **SECTION 32.** (1) The total amount of potential tax credits for certified renewable energy
26 development contributions in this state may not, at the time of certification under section
27 23 of this 2011 Act, exceed:

28 (a) \$3 million for any biennium; or

29 (b) \$750,000 for the six months beginning July 1, 2017, and ending December 31, 2017.

30 (2) In the event that the Director of the State Department of Energy receives applica-
31 tions for grants under section 30 of this 2011 Act in excess of the contributions received
32 pursuant to section 23 of this 2011 Act, the director shall allocate the issuance of grants
33 according to standards and criteria established by rule by the director.

34 **SECTION 32a.** The State Department of Energy and the Department of Revenue shall
35 report, not later than February 15, 2012, to the Legislative Assembly on the operation of the
36 auction process required in section 23 of this 2011 Act.

37 **SECTION 33.** The State Department of Energy shall by rule establish policies and proce-
38 dures for the administration and enforcement of the provisions of sections 23, 24 and 27 to
39 33 of this 2011 Act, including standards for what constitutes a single renewable energy pro-
40 duction system.

41 **SECTION 33a.** Sections 23, 24 and 27 to 33 of this 2011 Act apply to applications for grants
42 submitted under section 29 of this 2011 Act after July 1, 2011, and to tax years beginning on
43 or after January 1, 2011.

44
45

TAX CREDIT FOR ENERGY CONSERVATION PROJECTS

1 **SECTION 34.** Sections 35 and 36 are added to and made a part of ORS chapter 315.

2 **SECTION 35.** (1) A credit is allowed against the taxes otherwise due under ORS chapter
3 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for an energy con-
4 servation project that is certified under sections 38 to 50 of this 2011 Act. The credit is al-
5 lowed as follows:

6 (a) Except as provided in paragraph (b) of this subsection, the credit allowed in each of
7 the first two tax years in which the credit is claimed shall be 10 percent of the certified cost
8 of the facility, but may not exceed the tax liability of the taxpayer. The credit allowed in
9 each of the succeeding three years shall be five percent of the certified cost, but may not
10 exceed the tax liability of the taxpayer.

11 (b) If the certified cost of the facility does not exceed \$20,000, the total amount of the
12 credit allowable under subsection (3) of this section may be claimed in the first tax year for
13 which the credit may be claimed, but may not exceed the tax liability of the taxpayer.

14 (2) In order for a tax credit to be allowable under this section:

15 (a) The project must be located in Oregon.

16 (b) The project must have received final certification from the Director of the State De-
17 partment of Energy under sections 38 to 50 of this 2011 Act.

18 (c) If the project is a research and development project, it must receive, prior to certif-
19 ication under section 44 of this 2011 Act, a recommendation from a qualified third party se-
20 lected by the director.

21 (d) If the project is new construction or a total building retrofit, then the project must
22 achieve, at a minimum, the energy efficiency standards required for:

23 (A) LEED Platinum certification;

24 (B) A four globes rating from the Green Globes program;

25 (C) A nationally or regionally recognized and appropriate sustainable building program
26 whose performance standards are equivalent to the standards required for LEED Platinum
27 certification or a four globes rating from the Green Globes program, as determined by the
28 department; or

29 (D) Verification that the construction conformed to the standards of the Reach Code
30 adopted pursuant to ORS 455.500.

31 (3) The total amount of credit allowable to an eligible taxpayer under this section may
32 not exceed 35 percent of the certified cost of the project.

33 (4)(a) Upon any sale, termination of the lease or contract, exchange or other disposition
34 of the project, notice thereof shall be given to the director, who shall revoke the certificate
35 covering the project as of the date of such disposition.

36 (b) A new owner, or, upon re-leasing of the project, a new lessee, may apply for a new
37 certificate under section 45 of this 2011 Act. The new lessee or owner must meet the re-
38 quirements of sections 38 to 50 of this 2011 Act and may claim a tax credit under this section
39 only if all moneys owed by the new owner or lessee to the State of Oregon have been paid,
40 if the project continues to operate and if all conditions in the final certification are met. The
41 tax credit available to the new owner shall be limited to the amount of credit not claimed
42 by the former owner or, for a new lessee, the amount of credit not claimed by the lessee
43 under all previous leases. The State Department of Energy may waive the requirement that
44 a new owner or lessee apply for a new certificate under section 45 of this 2011 Act if the
45 remaining credit is less than \$20,000.

1 (c) The department may not revoke the certificate covering a project under paragraph
2 (a) of this subsection if the tax credit associated with the project has been transferred to a
3 taxpayer who is an eligible applicant under section 43 of this 2011 Act.

4 (5) The tax credit allowed under this section for any one tax year may not exceed the tax
5 liability of the taxpayer.

6 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer
7 in a particular year may be carried forward and offset against the taxpayer's tax liability for
8 the next succeeding tax year. Any credit remaining unused in that next succeeding tax year
9 may be carried forward and used in the second succeeding tax year, and likewise, any credit
10 not used in that second succeeding tax year may be carried forward and used in the third
11 succeeding tax year, and likewise, any credit not used in that third succeeding tax year may
12 be carried forward and used in the fourth succeeding tax year, and likewise, any credit not
13 used in that fourth succeeding tax year may be carried forward and used in the fifth suc-
14 ceeding tax year, but may not be carried forward for any tax year thereafter. Credits may
15 be carried forward to and used in a tax year beyond the years specified in subsection (1) of
16 this section only as provided in this subsection.

17 (7) The credit allowed under this section is not in lieu of any depreciation or amortization
18 deduction for the project to which the taxpayer otherwise may be entitled for purposes of
19 ORS chapter 316, 317 or 318 for such year.

20 (8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by
21 any tax credits allowed under this section.

22 (9) The definitions in section 38 of this 2011 Act apply to this section.

23 **SECTION 36.** (1) A taxpayer may not be allowed a credit under section 35 of this 2011
24 Act if the first tax year for which the credit would otherwise be allowed, with respect to an
25 energy conservation project certified under section 45 of this 2011 Act, begins on or after
26 January 1, 2018.

27 (2) A taxpayer may not be allowed a credit for an energy conservation project that is a
28 cogeneration facility as that term is defined in ORS 758.505 for a tax year that begins before
29 January 1, 2013.

30 **SECTION 37.** Sections 38 to 50 of this 2011 Act are added to and made a part of ORS
31 chapter 469.

32 **SECTION 38.** As used in sections 35 and 38 to 50 of this 2011 Act:

33 (1) "Cost" means the capital costs and expenses necessarily incurred in the acquisition,
34 erection, construction and installation of an energy conservation project.

35 (2) "Energy conservation project" means any capital investment for which the first year
36 energy savings yields a simple payback period of greater than three years. "Energy conser-
37 vation project" does not include:

38 (a) Recycling equipment, products and projects;

39 (b) Transportation projects;

40 (c) Energy recovery as that term is defined in ORS 459.005; or

41 (d) Alternative fuel vehicles.

42 (3) "Four globes" means the highest of four tiers of ratings for certification in the Green
43 Globes program rating system.

44 (4) "Green Globes program" means a building guidance and assessment program to ad-
45 vance overall environmental performance and sustainability of commercial buildings estab-

1 lished by the Green Building Initiative.

2 (5)(a) "LEED" means the Leadership in Energy and Environmental Design rating system
3 for certification of energy-efficient and environmentally sustainable buildings established by
4 the U.S. Green Building Council.

5 (b) "LEED Platinum" means the highest of four tiers of standards for certification in the
6 LEED rating system.

7 **SECTION 39.** (1) In determining the priority of any energy conservation project for tax
8 credits, preference shall be given to those projects that have the highest energy savings over
9 the five-year credit allowance period per tax credit dollar.

10 (2) In administering this section, the Director of the State Department of Energy shall
11 compare projects of similar technology types against each other, take into account the
12 amount of energy saved over the life of the equipment, market or industry sector, expected
13 lifespan of the project compared to the simple payback period, whether the energy savings
14 of the project benefit a party other than the owner and any other factors defined in State
15 Department of Energy rule. The department may certify less than the total cost of any
16 project based on this evaluation.

17 **SECTION 40.** (1) The owner of a project may transfer a tax credit for the project in ex-
18 change for a cash payment equal to the present value of the tax credit.

19 (2) The State Department of Energy shall establish by rule a formula to be employed in
20 the determination of prices of credits transferred under this section. In establishing the
21 formula the department shall incorporate inflation projections and market real rate of re-
22 turn.

23 (3) The department shall recalculate credit transfer prices quarterly, employing the for-
24 mula established under subsection (2) of this section.

25 **SECTION 41.** The State Department of Energy shall by rule establish the following
26 standards relating to energy conservation projects:

27 (1) In consultation with the Department of Consumer and Business Services Building
28 Codes Division, standards relating to energy savings in new construction.

29 (2) Standards relating to what constitutes a replacement of inefficient equipment.

30 (3) Standards for the determination of total project cost.

31 (4) Standards for the application of third party review of research and development
32 projects by a qualified third party selected by the Director of the State Department of En-
33 ergy, as required in section 43 of this 2011 Act.

34 **SECTION 42.** For an energy conservation project, the total amount that receives a pre-
35 liminary certification from the Director of the State Department of Energy may not exceed
36 \$10 million in certified cost.

37 **SECTION 43.** (1) Prior to the installation or construction of an energy conservation
38 project, any person may apply to the State Department of Energy for preliminary certif-
39 ication under section 44 of this 2011 Act if:

40 (a) The project complies with the standards adopted by the Director of the State De-
41 partment of Energy; and

42 (b) The applicant will be the owner, contract purchaser or lessee of the project at the
43 time of installation or construction of the project.

44 (2) An application for preliminary certification shall be made in writing on a form pre-
45 pared by the department and shall contain:

1 (a) A statement that the applicant plans to acquire, construct or install a project that
2 substantially reduces the consumption of purchased energy or uses energy more efficiently.

3 (b) A detailed description of the project and its operation and information showing that
4 the project will operate as represented in the application and remain in operation for at least
5 five years, unless the director by rule specifies another period of operation.

6 (c) Information on the amount by which consumption of purchased energy by the appli-
7 cant will be reduced, and, if applicable, information about the expected level of sustainable
8 building practices project performance.

9 (d) The anticipated total project cost.

10 (e) Information on the number and type of jobs that will be created by the project, the
11 number of jobs sustained throughout the construction, installation and operation of the
12 project and the benefits of the project with regard to overall economic activity in this state.

13 (f) Information demonstrating that the project will comply with applicable state and local
14 laws and regulations and obtain required licenses and permits.

15 (g) Information relating to the standards described in section 41 of this 2011 Act.

16 (h) A recommendation for a research and development project as demonstrative of in-
17 novation that has been made by a qualified third party selected by the director.

18 (i) Any other information the director considers necessary to determine whether the
19 project is in accordance with the provisions of sections 38 to 50 of this 2011 Act, and any
20 applicable rules or standards adopted by the director.

21 (3) An application for preliminary certification shall be accompanied by a fee established
22 under section 46 of this 2011 Act. The director may refund all or a portion of the fee if the
23 application for certification is rejected.

24 (4) The director may allow an applicant to file the application for preliminary certif-
25 ication after the start of installation or construction of the project if the director finds that:

26 (a) Filing the application before the start of installation or construction is inappropriate
27 because special circumstances render filing earlier unreasonable; and

28 (b) The project would otherwise qualify for certification under sections 38 to 50 of this
29 2011 Act.

30 (5) The director may, by rule, waive preliminary certification under section 44 of this 2011
31 Act, or may establish an informational filing system in place of preliminary certification, for
32 projects that:

33 (a) Have eligible costs of less than \$20,000;

34 (b) Consist of measures that the director determines to be eligible for waiver of prelimi-
35 nary certification; and

36 (c) Comply with any other requirements established by the director.

37 (6) Except as provided in subsection (7) of this section, a preliminary certification shall
38 remain valid for a period of three calendar years after the date on which the preliminary
39 certification is issued by the director, after which the certification becomes invalid even if:

40 (a) The applicant is awaiting identification of a pass-through partner; or

41 (b) The preliminary certification has been amended.

42 (7) Any preliminary certification for a facility consistent with an energy conservation
43 project, under ORS 469.210, that remains outstanding as of July 1, 2011, shall expire on July
44 1, 2014.

45 **SECTION 44.** (1) The Director of the State Department of Energy may require an appli-

1 cant for certification of an energy conservation project to submit plans, specifications and
2 contract terms, and after examination of the plans, specifications and terms may request
3 corrections and revisions.

4 (2) If the director determines that the project is technically feasible and should operate
5 in accordance with the representations made by the applicant, and is in accordance with the
6 provisions of sections 38 to 50 of this 2011 Act and any applicable rules or standards adopted
7 by the director, the director may issue a preliminary certificate approving the installation
8 or construction of the project. The certificate shall indicate the potential amount of tax
9 credit allowable and shall list any conditions for claiming the credit.

10 (3) In accordance with ORS chapter 183, the director may issue an order altering, con-
11 ditioning, suspending or denying preliminary certification if the director determines that:

12 (a) The project does not comply with the provisions of sections 38 to 50 of this 2011 Act
13 and applicable rules and standards;

14 (b) The applicant has previously received preliminary or final certification for the project;

15 (c) The applicant was directly involved in an act for which the director has levied civil
16 penalties or revoked, canceled or suspended any certification under ORS 469.185 to 469.225
17 or sections 38 to 50 of this 2011 Act; or

18 (d) The applicant or the principal, director, officer, owner, majority shareholder or
19 member of the applicant, or the manager of the applicant if the applicant is a limited liability
20 company, is in arrears for payments owed to any government agency while in any capacity
21 with direct or indirect control over a business.

22 **SECTION 45.** (1) The Director of the State Department of Energy may issue a final cer-
23 tification for an energy conservation project under this section only if:

24 (a) The project was installed or constructed under a preliminary certificate of approval
25 issued under section 44 of this 2011 Act, unless preliminary certification is waived under
26 section 43 (5) of this 2011 Act;

27 (b) The applicant demonstrates the ability to provide the information required by section
28 43 (2) of this 2011 Act and does not violate any condition that may be imposed as described
29 in subsection (4) of this section; and

30 (c) The project was installed or constructed in accordance with the applicable provisions
31 of sections 38 to 50 of this 2011 Act and any applicable rules or standards adopted by the di-
32 rector.

33 (2) Any person may apply to the State Department of Energy for final certification of a
34 project:

35 (a) If the person received preliminary certification for the project under section 44 of this
36 2011 Act; and

37 (b) After completion of the installation or construction of the project.

38 (3) An application for final certification shall be made in writing on a form prepared by
39 the department and shall contain:

40 (a) A statement that the conditions of the preliminary certification have been complied
41 with;

42 (b) The actual cost of the project attested to by a certified public accountant who is not
43 an employee of the applicant or, if the actual cost of the project is less than \$50,000, copies
44 of receipts for purchase and installation of the project;

45 (c) The amount of the credit under section 35 of this 2011 Act that is to be claimed;

1 (d) The number and type of jobs created by the operation and maintenance of the project
2 over the five-year period beginning with the year of preliminary certification under section
3 44 of this 2011 Act and information on the benefits of the project with regard to overall
4 economic activity in this state;

5 (e) Information sufficient to demonstrate that the project will remain in operation for
6 at least five years, unless the director by rule specifies another period of operation;

7 (f) Documentation of compliance with applicable state and local laws and regulations and
8 licensing and permitting requirements as defined by the director;

9 (g) Information, if applicable, pertaining to prior recommendation of the project by a
10 qualified third party selected by the director; and

11 (h) Any other information determined by the director to be necessary prior to issuance
12 of a final certificate, including inspection of the project by the department.

13 (4) After the filing of the application under this section, the director may issue the cer-
14 tificate together with any conditions that the director determines are appropriate to promote
15 the purposes of sections 35 and 38 to 50 of this 2011 Act. If the applicant is an entity subject
16 to regulation by the Public Utility Commission, the director may consult with the commis-
17 sion prior to issuance of the certificate. The action of the director shall include certification
18 of the actual cost of the project. However, the director may not certify an amount for tax
19 credit purposes that is more than the amount approved in the preliminary certificate issued
20 for the project.

21 (5) If the director rejects an application for final certification, or certifies a lesser
22 amount of credit than was claimed in the application, the director shall send to the applicant
23 written notice of the action, together with a statement of the findings and reasons for the
24 action, by certified mail, before the 60th day after the filing of the application. Failure of the
25 director to act constitutes rejection of the application.

26 (6) Upon approval of an application for final certification of a project, the director shall
27 certify the project. The final certification shall indicate the amount of projected energy
28 savings attributable to the project and the total project cost.

29 (7) The director may establish by rule timelines and intermediate deadlines for sub-
30 mission of application materials.

31 **SECTION 46.** By rule and after hearing, the Director of the State Department of Energy
32 may adopt a schedule of reasonable fees that the State Department of Energy may require
33 of applicants for preliminary or final certification of an energy conservation project under
34 sections 38 to 50 of this 2011 Act. Before the adoption or revision of the fees, the department
35 shall estimate the total cost of the program to the department. The fees shall be used to
36 recover the anticipated cost of administering and enforcing the provisions of sections 38 to
37 50 of this 2011 Act, including filing, investigating, granting and rejecting applications for
38 certification and ensuring compliance with sections 38 to 50 of this 2011 Act and shall be
39 designed not to exceed the total cost estimated by the department. Any excess fees shall be
40 held by the department and shall be used by the department to reduce any future fee in-
41 creases. The fee may vary according to the size and complexity of the project. The fee is not
42 considered part of the cost of the project to be certified.

43 **SECTION 47.** (1) A certificate issued under section 45 of this 2011 Act is required for
44 purposes of obtaining tax credits in accordance with section 35 of this 2011 Act. Such cer-
45 tification shall be granted for a period not to exceed five years. The five-year period shall

1 begin with the tax year of the applicant during which the completed application for final
2 certification of the project under section 45 of this 2011 Act is received by the State De-
3 partment of Energy.

4 (2) If the original owner of the certificate uses any portion of the credit, the certificate
5 becomes nontransferable.

6 (3) For a transferee holding a credit that has been transferred under section 40 of this
7 2011 Act, the five-year period shall begin with the tax year in which the transferee pays for
8 the credit.

9 **SECTION 48.** (1) Under the procedures for a contested case under ORS chapter 183, the
10 Director of the State Department of Energy may order the revocation of a certificate issued
11 under section 45 of this 2011 Act if the director finds that:

12 (a) The certification was obtained by fraud or misrepresentation;

13 (b) The holder of the certificate or the operator of the project has failed to construct or
14 operate the project in compliance with the plans, specifications and procedures in the cer-
15 tificate; or

16 (c) The project is no longer in operation.

17 (2) As soon as an order of revocation under this section becomes final, the director shall
18 notify the Department of Revenue and the project owner, contract purchaser or lessee of the
19 order of revocation. Upon notification, the Department of Revenue immediately shall proceed
20 to collect those taxes not paid by the certificate holder as a result of the tax credits provided
21 to the certificate holder under section 35 of this 2011 Act, from the certificate holder or a
22 successor in interest to the business interests of the certificate holder. All prior tax credits
23 provided to the holder of the certificate by virtue of the certificate shall be forfeited.

24 (3)(a) The Department of Revenue shall have the benefit of all laws of this state per-
25 taining to the collection of income and excise taxes and may proceed to collect the amounts
26 described in subsection (2) of this section from the person that obtained certification from
27 the State Department of Energy, or any successor in interest to the business interests of
28 that person. An assessment of tax is not necessary and a statute of limitation does not
29 preclude the collection of taxes described in this subsection.

30 (b) For purposes of this subsection, a lender, bankruptcy trustee or other person that
31 acquires an interest through bankruptcy or through foreclosure of a security interest is not
32 considered to be a successor in interest to the business interests of the person that obtained
33 certification.

34 (4) If the certificate is ordered revoked pursuant to subsection (1)(b) of this section, the
35 certificate holder shall be denied any further relief under section 35 of this 2011 Act in con-
36 nection with the project from and after the date that the order of revocation becomes final.

37 (5) Notwithstanding subsections (1) to (4) of this section, a certificate or portion of a
38 certificate held by a transferee under section 40 of this 2011 Act may not be considered re-
39 voked for purposes of the transferee, the tax credit allowable to the transferee under section
40 40 of this 2011 Act may not be reduced, and a transferee is not liable under subsections (2)
41 to (4) of this section.

42 **SECTION 49.** (1) The total amount of potential tax credits for all energy conservation
43 projects in this state may not, at the time of preliminary certification under section 44 of
44 this 2011 Act, exceed:

45 (a) \$28 million for any biennium; or

1 (b) \$7.5 million for the six months beginning July 1, 2017, and ending December 31, 2017.

2 (2) In the event that the Director of the State Department of Energy receives applica-
3 tions for preliminary certification with a total amount of certified costs for potential tax
4 credits in excess of the limitations in subsections (1) of this section, the director shall allo-
5 cate the issuance of preliminary certifications according to standards and criteria established
6 by rule by the director.

7 **SECTION 50.** The State Department of Energy shall by rule establish policies and proce-
8 dures for the administration and enforcement of the provisions of sections 35, 36 and 38 to
9 50 of this 2011 Act, including standards for what constitutes a single energy conservation
10 project.

11 **SECTION 51.** Sections 35, 36 and 38 to 50 of this 2011 Act apply to applications for pre-
12 liminary certification submitted under section 43 of this 2011 Act after July 1, 2011, and to
13 tax years beginning on or after January 1, 2011.

14
15 **TAX CREDIT FOR TRANSPORTATION PROJECTS**

16
17 **SECTION 52.** Sections 53 and 54 of this 2011 Act are added to and made a part of ORS
18 chapter 315.

19 **SECTION 53.** (1) A credit is allowed against the taxes otherwise due under ORS chapter
20 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for a transportation
21 project, based upon the certified cost of the project during the period for which the project
22 is certified under sections 56 to 65 of this 2011 Act.

23 (2) The credit allowed for a project other than an alternative fuel vehicle infrastructure
24 project shall be as follows:

25 (a) For tax years beginning on or after January 1, 2011, and before January 1, 2012, the
26 maximum allowed credit shall be:

27 (A) 35 percent of certified cost, if a preliminary certification is issued under section 59
28 of this 2011 Act prior to July 1, 2011; or

29 (B) 25 percent of certified cost, if a preliminary certification is issued under section 59
30 of this 2011 Act on or after July 1, 2011, and before January 1, 2012.

31 (b) For tax years beginning on or after January 1, 2012, and before January 1, 2013, the
32 maximum allowed credit shall be 25 percent of certified cost.

33 (c) For tax years beginning on or after January 1, 2013, and before January 1, 2014, the
34 maximum allowed credit shall be 20 percent of certified cost.

35 (d) For tax years beginning on or after January 1, 2014, and before January 1, 2015, the
36 maximum allowed credit shall be 15 percent of certified cost.

37 (e) For tax years beginning on or after January 1, 2015, and before January 1, 2016, the
38 maximum allowed credit shall be 10 percent of certified cost.

39 (3) The total amount of the credit allowable for an alternative fuel vehicle infrastructure
40 project under this section may not exceed 35 percent of the certified cost of the project.

41 (4) In order for a tax credit to be allowable under this section:

42 (a) The project must be located in Oregon.

43 (b) The project must have received final certification from the Director of the State De-
44 partment of Energy under sections 56 to 65 of this 2011 Act.

45 (5) The tax credit allowed under this section for any one tax year may not exceed the tax

1 liability of the taxpayer.

2 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer
3 in a particular year may be carried forward and offset against the taxpayer's tax liability for
4 the next succeeding tax year. Any credit remaining unused in that next succeeding tax year
5 may be carried forward and used in the second succeeding tax year, and likewise, any credit
6 not used in that second succeeding tax year may be carried forward and used in the third
7 succeeding tax year, and likewise, any credit not used in that third succeeding tax year may
8 be carried forward and used in the fourth succeeding tax year, and likewise, any credit not
9 used in that fourth succeeding tax year may be carried forward and used in the fifth suc-
10 ceeding tax year, but may not be carried forward for any tax year thereafter. Credits may
11 be carried forward to and used in a tax year beyond the years specified in subsection (2) of
12 this section only as provided in this subsection.

13 (7) The credit allowed under this section is not in lieu of any depreciation or amortization
14 deduction for the transportation project to which the taxpayer otherwise may be entitled for
15 purposes of ORS chapter 316, 317 or 318 for such year.

16 (8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by
17 any tax credits allowed under this section.

18 (9) The definitions in section 56 of this 2011 Act apply to this section.

19 **SECTION 54.** (1) A taxpayer may not be allowed a credit for a transportation project,
20 other than an alternative fuel vehicle infrastructure project, certified under section 60 of this
21 2011 Act if the first tax year for which the credit would otherwise be allowed begins on or
22 after January 1, 2016.

23 (2) A taxpayer may not be allowed a credit for an alternative fuel vehicle infrastructure
24 project certified under section 60 of this 2011 Act if the first tax year for which the credit
25 would otherwise be allowed begins on or after January 1, 2018.

26 **SECTION 55.** Sections 56 to 65 of this 2011 Act are added to and made a part of ORS
27 chapter 469.

28 **SECTION 56.** As used in sections 53 and 56 to 65 of this 2011 Act:

29 (1) "Alternative fuel vehicle infrastructure project" includes a facility for mixing, storing,
30 compressing or dispensing fuels for alternative fuel vehicles, and any other necessary and
31 reasonable equipment.

32 (2) "Cost" includes capital expenditures and core expenses such as vehicle repair, fuel,
33 personnel and administrative expenses.

34 (3) "Transportation project" means a public or nonprofit entity that provides transit
35 services to members of the public and that receives state or federal funding for those ser-
36 vices, or an alternative fuel vehicle infrastructure project.

37 **SECTION 57.** (1) The owner of a transportation project may transfer a tax credit for the
38 project in exchange for a cash payment equal to the present value of the tax credit.

39 (2) The State Department of Energy shall establish by rule a formula to be employed in
40 the determination of prices of credits transferred under this section. In establishing the
41 formula the department shall incorporate inflation projections and market real rate of re-
42 turn.

43 (3) The department shall recalculate credit transfer prices quarterly, employing the for-
44 mula established under subsection (2) of this section.

45 **SECTION 58.** (1) Prior to the acquisition or performance of a transportation project, a

1 person may apply to the State Department of Energy for preliminary certification for the
2 project under section 59 of this 2011 Act if:

3 (a) The project complies with the standards adopted by the Director of the State De-
4 partment of Energy; and

5 (b) The applicant will be the owner, contract purchaser or lessee of the project at the
6 time of acquisition or performance of the project.

7 (2) An application for preliminary certification shall be made in writing on a form pre-
8 pared by the department and shall contain:

9 (a) A statement that the applicant plans to acquire or perform a project that substan-
10 tially reduces the consumption of purchased energy.

11 (b) A detailed description of the project and its operation and information showing that
12 the project will operate as represented in the application and remain in operation for at least
13 five years, unless the director by rule specifies another period of operation.

14 (c) Information on the amount by which consumption of purchased energy by the appli-
15 cant will be reduced, and, if applicable, information about the expected level of project per-
16 formance.

17 (d) The anticipated total project cost.

18 (e) Information on the number and types of jobs that will be created by the project, the
19 number of jobs sustained throughout the acquisition and performance of the project.

20 (f) Information demonstrating that the project will comply with applicable state and local
21 laws and regulations and obtain required licenses and permits.

22 (g) Any other information the director considers necessary to determine whether the
23 project is in accordance with the provisions of sections 56 to 65 of this 2011 Act, and any
24 applicable rules or standards adopted by the director.

25 (3) An application for preliminary certification shall be accompanied by a fee established
26 under section 61 of this 2011 Act. The director may refund all or a portion of the fee if the
27 application for certification is rejected.

28 (4) The director may allow an applicant to file the application for preliminary certif-
29 ication after the start of acquisition or performance of the project if the director finds that:

30 (a) Filing the application before the start of acquisition or performance is inappropriate
31 because special circumstances render filing earlier unreasonable; and

32 (b) The project would otherwise qualify for certification under sections 56 to 65 of this
33 2011 Act.

34 (5) Except as provided in subsection (6) of this section, a preliminary certification shall
35 remain valid for a period of three calendar years after the date on which the preliminary
36 certification is issued by the director, after which the certification becomes invalid even if:

37 (a) The applicant is awaiting identification of a pass-through partner; or

38 (b) The preliminary certification has been amended.

39 (6) Any preliminary certification for a facility consistent with a transportation project,
40 under ORS 469.210, that remains outstanding as of July 1, 2011, shall expire on July 1, 2014.

41 **SECTION 59.** (1) The Director of the State Department of Energy may require an appli-
42 cant for certification of a transportation project to submit plans, specifications and contract
43 terms, and after examination of the plans, specifications and terms may request corrections
44 and revisions.

45 (2) If the director determines that the project is technically feasible and should operate

1 in accordance with the representations made by the applicant, and is in accordance with the
2 provisions of sections 56 to 65 of this 2011 Act and any applicable rules or standards adopted
3 by the director, the director may issue a preliminary certificate approving the acquisition
4 or performance of the project. The certificate shall indicate the potential amount of tax
5 credit allowable and shall list any conditions for claiming the credit.

6 (3) In accordance with ORS chapter 183, the director may issue an order altering, con-
7 ditioning, suspending or denying preliminary certification if the director determines that:

8 (a) The project does not comply with the provisions of sections 56 to 65 of this 2011 Act
9 and applicable rules and standards;

10 (b) The applicant has previously received preliminary or final certification for the project;

11 (c) The applicant was directly involved in an act for which the director has levied civil
12 penalties or revoked, canceled or suspended any certification under ORS 469.185 to 469.225
13 or sections 56 to 65 of this 2011 Act; or

14 (d) The applicant or the principal, director, officer, owner, majority shareholder or
15 member of the applicant, or the manager of the applicant if the applicant is a limited liability
16 company, is in arrears for payments owed to any government agency while in any capacity
17 with direct or indirect control over a business.

18 **SECTION 60.** (1) A final certification for a transportation project may not be issued by
19 the Director of the State Department of Energy under this section unless:

20 (a) The project was acquired or performed under a preliminary certificate of approval
21 issued under section 59 of this 2011 Act;

22 (b) The applicant demonstrates the ability to provide the information required by section
23 58 (2) of this 2011 Act and does not violate any condition that may be imposed as described
24 in subsection (4) of this section; and

25 (c) The project was acquired or performed in accordance with the applicable provisions
26 of sections 56 to 65 of this 2011 Act and any applicable rules or standards adopted by the di-
27 rector.

28 (2) A person may apply to the State Department of Energy for final certification of a
29 project:

30 (a) If the person received preliminary certification for the project under section 59 of this
31 2011 Act; and

32 (b) After completion of the acquisition or performance of the project.

33 (3) An application for final certification shall be made in writing on a form prepared by
34 the department and shall contain:

35 (a) A statement that the conditions of the preliminary certification have been complied
36 with;

37 (b) The actual cost of the project attested to by a certified public accountant who is not
38 an employee of the applicant or, if the actual cost of the project is less than \$50,000, copies
39 of receipts for acquisition and performance of the project;

40 (c) The amount of the credit under section 53 of this 2011 Act that is to be claimed;

41 (d) The number and types of jobs created by the acquisition and performance of the
42 project over the five-year period beginning on the date of issuance of the preliminary certif-
43 ication under section 59 of this 2011 Act;

44 (e) Information sufficient to demonstrate that the project will remain in operation for
45 at least five years, unless the director by rule specifies another period of operation;

1 (f) Documentation of compliance with applicable state and local laws and regulations and
2 licensing and permitting requirements as defined by the director; and

3 (g) Any other information determined by the director to be necessary prior to issuance
4 of a final certificate, including inspection of the project by the department.

5 (4) After the filing of the application under this section, the director may issue the cer-
6 tificate together with any conditions that the director determines are appropriate to promote
7 the purposes of sections 53 and 56 to 65 of this 2011 Act. If the applicant is an entity subject
8 to regulation by the Public Utility Commission, the director may consult with the commis-
9 sion prior to issuance of the certificate. The action of the director shall include certification
10 of the actual cost of the project. However, the director may not certify an amount for tax
11 credit purposes that is more than the amount of credit approved in the preliminary certif-
12 icate issued for the project.

13 (5) If the director rejects an application for final certification, or certifies a lesser
14 amount of credit than was claimed in the application, the director shall send to the applicant
15 written notice of the action, together with a statement of the findings and reasons for the
16 action, by certified mail, before the 60th day after the filing of the application. Failure of the
17 director to act constitutes rejection of the application.

18 (6) Upon approval of an application for final certification of a project, the director shall
19 certify the project. The final certification shall indicate the amount of projected energy
20 savings attributable to the project and the certified cost of the project.

21 (7) The director may establish by rule timelines and intermediate deadlines for sub-
22 mission of application materials.

23 **SECTION 61.** By rule and after hearing, the Director of the State Department of Energy
24 may adopt a schedule of reasonable fees that the State Department of Energy may require
25 of applicants for preliminary or final certification of a transportation project under sections
26 56 to 65 of this 2011 Act. Before the adoption or revision of the fees, the department shall
27 estimate the total cost of the program to the department. The fees shall be used to recover
28 the anticipated cost of administering and enforcing the provisions of sections 56 to 65 of this
29 2011 Act, including filing, investigating, granting and rejecting applications for certification
30 and ensuring compliance with sections 56 to 65 of this 2011 Act and shall be designed not to
31 exceed the total cost estimated by the department. Any excess fees shall be held by the de-
32 partment and shall be used by the department to reduce any future fee increases. The fee
33 may vary according to the size and complexity of the project. The fee is not considered part
34 of the cost of the project to be certified.

35 **SECTION 62.** (1) A certificate issued under section 60 of this 2011 Act is required for
36 purposes of obtaining tax credits in accordance with section 53 of this 2011 Act. Such cer-
37 tification shall be granted for a period not to exceed five years. The five-year period shall
38 begin with the tax year of the applicant during which the completed application for final
39 certification of the transportation project under section 60 of this 2011 Act is received by the
40 State Department of Energy.

41 (2) If the original owner of the certificate uses any portion of the credit, the certificate
42 becomes nontransferable.

43 (3) For a transferee holding a credit that has been transferred under section 57 of this
44 2011 Act, the five-year period shall begin with the tax year in which the transferee pays for
45 the credit.

1 **SECTION 63.** (1) Under the procedures for a contested case under ORS chapter 183, the
2 Director of the State Department of Energy may order the revocation of a certificate issued
3 under section 60 of this 2011 Act if the director finds that:

4 (a) The certification was obtained by fraud or misrepresentation;

5 (b) The holder of the certificate or the operator of the transportation project has failed
6 to acquire or perform the project in compliance with the plans, specifications and contract
7 terms in the certificate; or

8 (c) The project is no longer in operation.

9 (2) As soon as an order of revocation under this section becomes final, the director shall
10 notify the Department of Revenue and the project owner, contract purchaser or lessee of the
11 order of revocation. Upon notification, the Department of Revenue immediately shall proceed
12 to collect those taxes not paid by the certificate holder as a result of the tax credits provided
13 to the certificate holder under section 53 of this 2011 Act, from the certificate holder or a
14 successor in interest to the business interests of the certificate holder. All prior tax credits
15 provided to the holder of the certificate by virtue of the certificate shall be forfeited.

16 (3)(a) The Department of Revenue shall have the benefit of all laws of this state per-
17 taining to the collection of income and excise taxes and may proceed to collect the amounts
18 described in subsection (2) of this section from the person that obtained certification from
19 the State Department of Energy, or any successor in interest to the business interests of
20 that person. An assessment of tax is not necessary and a statute of limitation does not
21 preclude the collection of taxes described in subsection (2) of this section.

22 (b) For purposes of this subsection, a lender, bankruptcy trustee or other person that
23 acquires an interest through bankruptcy or through foreclosure of a security interest is not
24 considered to be a successor in interest to the business interests of the person that obtained
25 certification.

26 (4) If the certificate is ordered revoked pursuant to subsection (1)(b) of this section, the
27 certificate holder shall be denied any further relief under section 53 of this 2011 Act in con-
28 nection with the project from and after the date that the order of revocation becomes final.

29 (5) Notwithstanding subsections (1) to (4) of this section, a certificate or portion of a
30 certificate held by a transferee under section 57 of this 2011 Act may not be considered re-
31 voked for purposes of the transferee, the tax credit allowable to the transferee under section
32 57 of this 2011 Act may not be reduced, and a transferee is not liable under subsections (2)
33 to (4) of this section.

34 **SECTION 64.** The total amount of potential tax credits for all transportation projects in
35 this state may not, at the time of preliminary certification under section 59 of this 2011 Act,
36 exceed \$20 million for any biennium.

37 **SECTION 65.** The State Department of Energy shall by rule establish policies and proce-
38 dures for the administration and enforcement of the provisions of sections 53 and 56 to 65
39 of this 2011 Act, including standards for what constitutes a single transportation project.

40 **SECTION 66.** Sections 53 and 56 to 65 of this 2011 Act apply to applications for prelimi-
41 nary certification submitted under section 58 of this 2011 Act after July 1, 2011, and to tax
42 years beginning on or after January 1, 2011.

43
44 **TAX CREDIT FOR RESIDENTIAL ENERGY DEVICES**
45

1 **SECTION 67.** Section 5a, chapter 832, Oregon Laws 2005, as amended by section 35, chapter
2 843, Oregon Laws 2007, and section 12, chapter 913, Oregon Laws 2009, is amended to read:

3 **Sec. 5a. (1)** A taxpayer may not be allowed a credit under ORS 316.116 if the first tax year for
4 which the credit would otherwise be allowed with respect to an alternative energy device [*or alter-*
5 *native fuel vehicle or related equipment is*] **begins** on or after January 1, [2012] **2018.**

6 **(2) A taxpayer may not be allowed a credit under ORS 316.116 if the first tax year for**
7 **which the credit would otherwise be allowed with respect to an alternative fuel vehicle or**
8 **related equipment begins on or after January 1, 2012.**

9 **SECTION 68.** Section 8a, chapter 832, Oregon Laws 2005, as amended by section 13, chapter
10 913, Oregon Laws 2009, is amended to read:

11 **Sec. 8a. (1)** The State Department of Energy may not issue a contractor's certification
12 certificate[,] **or an** alternative energy device system certificate [*or alternative fuel vehicle or related*
13 *equipment certificate*] under ORS 469.170 after January 1, [2012] **2018.**

14 **(2) The State Department of Energy may not issue an alternative fuel vehicle or related**
15 **equipment certificate under ORS 469.170 for a tax year beginning on or after January 1, 2012.**

16 **SECTION 69.** ORS 316.116 is amended to read:

17 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due
18 under this chapter for costs paid or incurred for construction or installation of each of one or more
19 alternative energy devices in a dwelling.

20 (b) A resident individual shall be allowed a credit against the taxes otherwise due under this
21 chapter for costs paid or incurred to modify or purchase an alternative fuel vehicle or related
22 equipment.

23 **(c) A credit against the taxes otherwise due under this chapter is not allowed for an al-**
24 **ternative energy device that does not meet or exceed all applicable federal, state and local**
25 **requirements for energy efficiency, including equipment codes, the state building code, spe-**
26 **cialty codes and any other standards.**

27 (2)(a) In the case of a category one alternative energy device that is not an alternative fuel
28 device, the credit shall be based upon the first year energy yield of the alternative energy device
29 that qualifies under ORS 469.160 to 469.180. The amount of the credit shall be the same whether for
30 collective or noncollective investment.

31 (b) The credit allowed under this section for each category one alternative energy device for
32 each dwelling may not exceed the lesser of[:]

33 [(A) \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per
34 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
35 domestic water heating for tax years beginning on or after January 1, 1990, and before January 1,
36 1996.]

37 [(B) \$1,200 or the first year energy yield in kilowatt hours per year multiplied by 48 cents per
38 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
39 domestic water heating for tax years beginning on or after January 1, 1996, and before January 1,
40 1998.]

41 [(C)] \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per
42 dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or
43 domestic water heating for tax years beginning on or after January 1, 1998.

44 (c) For each category one alternative energy device used for swimming pool, spa or hot tub
45 heating, the credit allowed under this section shall be based upon 50 percent of the cost of the de-

1 vice or the first year's energy yield in kilowatt hours per year multiplied by 15 cents, whichever is
2 lower, up to:]

3 [(A) \$1,500 for tax years beginning on or after January 1, 1990, and before January 1, 1996.]

4 [(B) \$1,200 for tax years beginning on or after January 1, 1996, and before January 1, 1998.]

5 [(C) \$1,500 for tax years beginning on or after January 1, 1998.

6 (d) For each alternative fuel device, the credit allowed under this section is 25 percent of the
7 cost of the alternative fuel device but the total credit shall not exceed \$750 if the device is placed
8 in service on or after January 1, 1998.

9 (e)(A) For each category two alternative energy device that is a solar electric system or fuel
10 cell system, the credit allowed under this section [*shall equal*] **may not exceed the lesser of \$3 per**
11 **watt of installed output or \$6,000**, *but the installed output that is used to determine the amount of*
12 *credit under this paragraph may not exceed 2,000 watts*. **The State Department of Energy may**
13 **by rule provide for a lesser amount of incentive as market conditions warrant, taking into**
14 **consideration factors including the availability of bulk purchasing of alternative energy de-**
15 **vices.**

16 (B) For each category two alternative energy device that is a wind electric system, the credit
17 allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield in
18 kilowatt hours per year multiplied by \$2.

19 (C) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credits
20 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each al-
21 ternative energy device, whichever is less. Unused credit amounts may be carried forward as pro-
22 vided in subsection [(7)] (6) of this section, but may not be carried forward to a tax year that is more
23 than five tax years following the first tax year for which any credit was allowed with respect to the
24 category two alternative energy device that is the basis for the credit.

25 (D) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credit
26 for each device allowed under this paragraph may not exceed 50 percent of the total installed cost
27 of the category two alternative energy device.

28 [(3)(a) *In the case of a credit for a category one alternative energy device that is an energy efficient*
29 *appliance, the credit allowed for each appliance to a resident individual under this section shall*
30 *equal:*]

31 [(A) *48 cents per first year kilowatt hour saved, or the equivalent for other fuel saved, not to exceed*
32 *\$1,200 for each tax year beginning on or after January 1, 1998, and before January 1, 1999; and]*

33 [(B) *40 cents per kilowatt hour saved, or the equivalent for other fuel saved, not to exceed \$1,000*
34 *for each tax year beginning on or after January 1, 1999.*]

35 [(b) *Notwithstanding paragraph (a) of this subsection, the credit allowed for an energy efficient*
36 *appliance may not exceed 25 percent of the cost of the appliance.*]

37 [(4)] (3) To qualify for a credit under this section, all of the following are required:

38 (a) The alternative energy device must be purchased, constructed, installed and operated in ac-
39 cordance with ORS 469.160 to 469.180 and a certificate issued thereunder.

40 (b) [*Except for credits claimed for alternative fuel devices,*] The taxpayer who is allowed the credit
41 must be the owner or contract purchaser of the dwelling or dwellings served by the alternative en-
42 ergy device or the tenant of the owner or of the contract purchaser and must:

43 (A) Use the dwelling or dwellings served by the alternative energy device as a principal or
44 secondary residence; or

45 (B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant

1 who uses the dwelling or dwellings as a principal or secondary residence[, *unless the basis for the*
2 *credit is the installation of an energy efficient appliance. If the basis for the credit is the installation*
3 *of an energy efficient appliance, the credit shall be allowed only to the taxpayer who actually occupies*
4 *the dwelling as a principal or secondary residence*].

5 (c) In the case of an alternative fuel device, [*if the device is a fueling station necessary to operate*
6 *an alternative fuel vehicle,*] unless the verification form and certificate are transferred as authorized
7 under ORS 469.170 [(8)] (9), the taxpayer who is allowed the credit must be the contractor who
8 constructs the dwelling that incorporates the [*fueling station*] **alternative fuel device** into the
9 dwelling or installs the fueling station in the dwelling. [*If the category one alternative energy device*
10 *is an alternative fuel vehicle, the credit must be claimed by the owner as defined under ORS 801.375*
11 *or contract purchaser. If the category one alternative energy device is related equipment for an alter-*
12 *native fuel vehicle, the credit may be claimed by the owner or contract purchaser.*]

13 (d) The credit must be claimed for the tax year in which the alternative energy device was
14 purchased if the device is operational by April 1 of the next following tax year.

15 (e) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for electric
16 plug-in charging, it must be purchased before January 1, 2010.

17 [(5)] (4) The credit provided by this section does not affect the computation of basis under this
18 chapter.

19 [(6)] (5) The total credits allowed under this section in any one year may not exceed the tax
20 liability of the taxpayer.

21 [(7)] (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer
22 in a particular year may be carried forward and offset against the taxpayer's tax liability for the
23 next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be
24 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
25 second succeeding tax year may be carried forward and used in the third succeeding tax year, and
26 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
27 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
28 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
29 thereafter.

30 [(8)] (7) A nonresident shall be allowed the credit under this section in the proportion provided
31 in ORS 316.117.

32 [(9)] (8) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if
33 the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit
34 allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

35 [(10)] (9) If a change in the status of a taxpayer from resident to nonresident or from nonresi-
36 dent to resident occurs, the credit allowed by this section shall be determined in a manner consist-
37 ent with ORS 316.117.

38 [(11)] (10) A husband and wife who file separate returns for a taxable year may each claim a
39 share of the tax credit that would have been allowed on a joint return in proportion to the contri-
40 bution of each. However, a husband or wife living in a separate principal residence may claim the
41 tax credit in the same amount as permitted a single person.

42 [(12)] (11) As used in this section, unless the context requires otherwise:

43 (a) "Collective investment" means an investment by two or more taxpayers for the acquisition,
44 construction and installation of an alternative energy device for one or more dwellings.

45 (b) "Noncollective investment" means an investment by an individual taxpayer for the acquisi-

1 tion, construction and installation of an alternative energy device for one or more dwellings.

2 (c) "Taxpayer" includes a transferee of a verification form under ORS 469.170 [(8)] (9).

3 [(13)] (12) Notwithstanding any provision of subsection (1) or (2) of this section, the sum of the
4 credit allowed under subsection (1) of this section plus any similar credit allowed for federal income
5 tax purposes may not exceed the cost to the taxpayer for the acquisition, construction and instal-
6 lation of the alternative energy device.

7 **SECTION 70.** ORS 469.160 is amended to read:

8 469.160. As used in ORS 316.116, 317.115 and 469.160 to 469.180:

9 (1) "Alternative energy device" means a category one alternative energy device or a category
10 two alternative energy device.

11 (2) "Alternative fuel device" [*means any of the following:*]

12 [(a) *An alternative fuel vehicle;*]

13 [(b) *Related equipment; or*]

14 [(c) *A fueling station necessary to operate an alternative fuel vehicle.*] **includes a facility for**
15 **mixing, storing, compressing or dispensing fuels for alternative fuel vehicles, and any other**
16 **necessary and reasonable equipment.**

17 (3) "Alternative fuel vehicle" means a motor vehicle as defined in ORS 801.360 that is:

18 (a) Registered in this state; and

19 (b) Manufactured or modified to use an alternative fuel, including but not limited to electricity,
20 natural gas, ethanol, methanol, propane and any other fuel approved in rules adopted by the Direc-
21 tor of the State Department of Energy that produces less exhaust emissions than vehicles fueled by
22 gasoline or diesel. Determination that a vehicle is an alternative fuel vehicle shall be made without
23 regard to energy consumption savings.

24 (4) "Category one alternative energy device" means:

25 (a) Any system, mechanism or series of mechanisms that uses solar radiation for space heating
26 or cooling for one or more dwellings;

27 (b) Any system that uses solar radiation for:

28 (A) Domestic water heating; or

29 (B) Swimming pool, spa or hot tub heating and that meets the requirements set forth in ORS
30 316.116;

31 (c) A ground water heat pump and ground loop system;

32 (d) Any wind powered device used to offset or supplement the use of electricity by performing
33 a specific task such as pumping water;

34 (e) Equipment used in the production of alternative fuels;

35 (f) A generator powered by alternative fuels and used to produce electricity;

36 (g) An energy efficient appliance;

37 (h) An alternative fuel device; or

38 (i) A premium efficiency biomass combustion device that includes a dedicated outside com-
39 bustion air source and that meets minimum performance standards that are established by the State
40 Department of Energy.

41 (5) "Category two alternative energy device" means a fuel cell system, solar electric system or
42 wind electric system.

43 (6) "Coefficient of performance" means the ratio calculated by dividing the usable output energy
44 by the electrical input energy. Both energy values must be expressed in equivalent units.

45 (7) "Contractor" means a person whose trade or business consists of offering for sale an alter-

1 native energy device, construction service, installation service or design service.

2 (8)(a) "Cost" means the actual cost of the acquisition, construction and installation of the al-
3 ternative energy device *[paid by the taxpayer for the alternative energy device]*.

4 (b) For an alternative fuel vehicle, "cost" means the difference between the cost of the alter-
5 native fuel vehicle and the same vehicle or functionally similar vehicle manufactured to use con-
6 ventional gasoline or diesel fuel or, in the case of modification of an existing vehicle, the cost of the
7 modification. "Cost" does not include any amounts paid for remodification of the same vehicle.

8 (c) For a fueling station necessary to operate an alternative fuel vehicle, "cost" means the cost
9 to the contractor of constructing or installing the fueling station in a dwelling and of making the
10 fuel station operational in accordance with the specifications issued under ORS 469.160 to 469.180
11 and any rules adopted by the Director of the State Department of Energy.

12 (d) For related equipment, "cost" means the cost of the related equipment and any modifications
13 or additions to the related equipment necessary to prepare the related equipment for use in con-
14 verting a vehicle to alternative fuel use.

15 (9) "Domestic water heating" means the heating of water used in a dwelling for bathing, clothes
16 washing, dishwashing and other related functions.

17 (10) "Dwelling" means real or personal property ordinarily inhabited as a principal or secondary
18 residence and located within this state. "Dwelling" includes, but is not limited to, an individual unit
19 within multiple unit residential housing.

20 (11) "Energy efficient appliance" *[means a clothes washer, clothes dryer, water heater,*
21 *refrigerator, freezer, dishwasher, appliance designed to heat or cool a dwelling or other major house-*
22 *hold appliance that has been certified by the State Department of Energy to have premium energy ef-*
23 *iciency characteristics.]* **includes emerging technologies, such as high-efficiency heat-pump**
24 **water heaters for domestic hot water that meet the Northern Tier Specification established**
25 **by the Northwest Energy Efficiency Alliance for electricity or have 0.67 or greater energy**
26 **factor for gas water heaters, ductless heat pumps, high-efficiency furnaces that are at least**
27 **95 percent efficient, on-demand gas water heaters and heat-pumps, that exceed code.**

28 (12) "First year energy yield" of an alternative energy device is the usable energy produced
29 under average environmental conditions in one year.

30 (13) "Fuel cell system" means any system, mechanism or series of mechanisms that uses fuel
31 cells or fuel cell technology to generate electrical energy for a dwelling.

32 (14) "Fueling station" includes but is not limited to a compressed natural gas compressor fueling
33 system or an electric charging system for vehicle power battery charging.

34 (15) "Placed in service" means[:]

35 [(a)] the date an alternative energy device is ready and available to produce usable energy or
36 save energy.

37 [(b) For an alternative fuel vehicle:]

38 [(A) In the case of purchase, the date that the alternative fuel vehicle is first purchased as an al-
39 ternative fuel vehicle ready and available for use.]

40 [(B) In the case of modification, the date that the modification is completed and the vehicle is ready
41 and available for use as an alternative fuel vehicle.]

42 [(c) For a fueling station necessary to operate an alternative fuel vehicle, the date that the fueling
43 station is first operational.]

44 [(d) For related equipment, the date that the equipment is first operational.]

45 [(16) "Related equipment" means equipment necessary to convert a vehicle to use an alternative

1 *fuel.*]

2 [(17)] (16) “Solar electric system” means any system, mechanism or series of mechanisms, in-
3 cluding photovoltaic systems, that uses solar radiation to generate electrical energy for a dwelling.

4 (17) **“Third-party alternative energy device installation” means an alternative energy de-
5 vice that is installed in connection with residential property and owned by a person other
6 than the residential property owner in accordance with an agreement in effect for at least
7 10 years between the residential property owner and the alternative energy device owner.
8 The agreement must cover maintenance and either the use of or the power generated by the
9 alternative energy device.**

10 (18) “Wind electric system” means any system, mechanism or series of mechanisms that uses
11 wind to generate electrical energy for a dwelling.

12 **SECTION 70a.** ORS 469.165 is amended to read:

13 469.165. (1) For the purposes of carrying out ORS 469.160 to 469.180, the State Department of
14 Energy may adopt rules prescribing minimum performance criteria for alternative energy devices for
15 dwellings. **The department may, in prescribing criteria, rely on applicable federal, state and
16 local requirements for energy efficiency, including the state building code and any specialty
17 codes and any code adopted by the Building Codes Division of the Department of Consumer
18 and Business Services.**

19 **(2) The department shall take into consideration evolving market conditions in prescrib-
20 ing minimum performance criteria for alternative energy devices and in determining credit
21 amounts, consistent with ORS 316.116.**

22 [(2)] (3) The department, in adopting rules under this section for solar heating and cooling sys-
23 tems, shall take into consideration applicable standards of federal performance criteria prescribed
24 pursuant to the provisions of [*section 5506, title 42, United States Code*] (**the Solar Heating and
25 Cooling Demonstration Act of 1974**), **42 U.S.C. 5506.**

26 [(3)] (4) The Director of the State Department of Energy shall adopt rules governing the deter-
27 mination of eligibility, verification and certification of an alternative fuel device for purposes of the
28 tax credits granted under ORS 316.116 and 317.115, including but not limited to rules that further
29 define an alternative fuel vehicle, related equipment or fueling station necessary to operate an al-
30 ternative fuel vehicle, that govern the computation of costs eligible for credit and that require eq-
31 uitable allocation of the tax credit benefits between the lessor and the lessee of an alternative fuel
32 vehicle as a condition of tax credit eligibility.

33 **SECTION 71.** ORS 469.170 is amended to read:

34 469.170. (1) **Subject to the limitations in section 75 of this 2011 Act,** any person may claim
35 a tax credit under ORS 316.116 (or ORS 317.115, if the person is a corporation) if the person:

36 (a) Meets the requirements of ORS 316.116 (or ORS 317.115, if applicable);

37 (b) Meets the requirements of ORS 469.160 to 469.180; and

38 (c) Pays, subject to subsection [(9)] (10) of this section, all or a portion of the costs of an al-
39 ternative energy device.

40 (2) A credit under ORS 317.115 may be claimed only if the alternative energy device is a fueling
41 station necessary to operate an alternative fuel vehicle.

42 (3)(a) In order to be eligible for a tax credit under ORS 316.116 or 317.115, a person claiming a
43 tax credit for construction or installation of an alternative energy device (including a fueling sta-
44 tion) shall have the device certified by the State Department of Energy or constructed or installed
45 by a contractor certified by the department under subsection (5) of this section. This paragraph does

1 not apply to an alternative fuel vehicle or to related equipment.

2 (b) Certification of an alternative fuel vehicle or related equipment shall be accomplished under
3 rules that shall be adopted by the Director of the State Department of Energy.

4 (4) Verification of the purchase, construction or installation of an alternative energy device
5 shall be made in writing on a form provided by the Department of Revenue and, if applicable, shall
6 contain:

7 (a) The location of the alternative energy device;

8 (b) A description of the type of device;

9 (c) If the device was constructed or installed by a contractor, evidence that the contractor has
10 any license, bond, insurance and permit required to sell and construct or install the alternative en-
11 ergy device;

12 (d) If the device was constructed or installed by a contractor, a statement signed by the con-
13 tractor that the applicant has received:

14 (A) A statement of the reasonably expected energy savings of the device;

15 (B) A copy of consumer information published by the State Department of Energy;

16 (C) An operating manual for the alternative energy device; and

17 (D) A copy of the contractor's certification certificate or alternative energy device system cer-
18 tificate for the alternative energy device, as appropriate;

19 (e) If the device was not constructed or installed by a contractor, evidence that:

20 (A) The State Department of Energy has issued an alternative energy device system certificate
21 for the alternative energy device; and

22 (B) The taxpayer has obtained all building permits required for construction or installation of
23 the device;

24 (f) A statement, signed by both the taxpayer claiming the credit and the contractor if the device
25 was constructed or installed by a contractor, that the construction or installation meets all the re-
26 quirements of ORS 469.160 to 469.180 or, if the device is a fueling station and the taxpayer is the
27 contractor, a statement signed by the contractor that the construction or installation meets all of
28 the requirements of ORS 469.160 to 469.180;

29 (g) The date the alternative energy device was purchased;

30 (h) The date the alternative energy device was placed in service; and

31 (i) Any other information that the Director of the State Department of Energy or the Depart-
32 ment of Revenue determines is necessary.

33 (5)(a) When the State Department of Energy finds that an alternative energy device can meet
34 the standards adopted under ORS 469.165, the Director of the State Department of Energy may issue
35 a contractor system certification to the person selling and constructing or installing the alternative
36 energy device.

37 (b) Any person who sells or installs more than 12 alternative energy devices in one year shall
38 apply for a contractor system certification. An application for a contractor system certification shall
39 be made in writing on a form provided by the State Department of Energy and shall contain:

40 (A) A statement that the contractor has any license, bonding, insurance and permit that is re-
41 quired for the sale and construction or installation of the alternative energy device;

42 (B) A specific description of the alternative energy device, including, but not limited to, the
43 material, equipment and mechanism used in the device, operating procedure, sizing and siting
44 method and construction or installation procedure;

45 (C) The addresses of three installations of the device that are available for inspection by the

1 State Department of Energy;

2 (D) The range of installed costs to purchasers of the device;

3 (E) Any important construction, installation or operating instructions; and

4 (F) Any other information that the State Department of Energy determines is necessary.

5 (c) A new application for contractor system approval shall be filed when there is a change in
6 the information supplied under paragraph (b) of this subsection.

7 (d) The State Department of Energy may issue contractor system certificates to each contractor
8 who on October 3, 1989, has a valid dealer system certification, which shall authorize the sale and
9 installation of the same domestic water heating alternative energy devices authorized by the dealer
10 certification.

11 (e) If the State Department of Energy finds that an alternative energy device can meet the
12 standards adopted under ORS 469.165, the Director of the State Department of Energy may issue
13 an alternative energy device system certificate to the taxpayer constructing or installing or having
14 an alternative energy device constructed or installed.

15 (f) An application for an alternative energy device system certificate shall be made in writing
16 on a form provided by the State Department of Energy and shall contain:

17 (A) A specific description of the alternative energy device, including, but not limited to, the
18 material, equipment and mechanism used in the device, operating procedure, sizing, siting method
19 and construction or installation procedure;

20 (B) The constructed or installed cost of the device; and

21 (C) A statement that the taxpayer has all permits required for construction or installation of the
22 device.

23 **(6) An applicant seeking a credit for a third-party alternative energy device installation**
24 **must obtain certification from the State Department of Energy under subsection (5) of this**
25 **section prior to commencing installation of alternative energy devices. An applicant may**
26 **receive certifications for no more than 25 devices under this subsection in one application.**

27 [(6)] (7) To claim the tax credit, the verification form described in subsection (4) of this section
28 shall be submitted with the taxpayer's tax return for the year the alternative energy device is placed
29 in service or the immediately succeeding tax year. A copy of the contractor's certification certifi-
30 cate, alternative energy device system certificate or alternative fuel vehicle or related equipment
31 certificate also shall be submitted.

32 [(7)] (8) The verification form and contractor's certificate, alternative energy device system
33 certificate or alternative fuel vehicle or related equipment certificate described under this section
34 shall be effective for purposes of tax relief allowed under ORS 316.116 or 317.115.

35 [(8)] (9) The verification form and contractor's certificate described under this section may be
36 transferred to the first purchaser of a dwelling or, in the case of construction or installation of a
37 fueling station in an existing dwelling, the current owner, who intends to use or is using the
38 dwelling as a principal or secondary residence.

39 [(9)] (10) Any person that pays the present value of the tax credit for an alternative energy
40 device provided under ORS 316.116 or 317.115 and 469.160 to 469.180 to the person who constructs
41 or installs the alternative energy device shall be entitled to claim the credit in the manner and
42 subject to rules adopted by the Department of Revenue to carry out the purposes of this subsection.
43 The State Department of Energy may establish by rule uniform discount rates to be used in calcu-
44 lating the present value of a tax credit under this subsection.

45 **SECTION 72.** ORS 469.172 is amended to read:

1 469.172. The following devices are not eligible for the tax credit under ORS 316.116:

2 (1) Standard efficiency furnaces;

3 **(2) Air conditioning systems;**

4 **(3) Boilers;**

5 [(2)] **(4)** Standard back-up heating systems;

6 [(3)] **(5)** Woodstoves or wood furnaces, or any part of a heating system that burns wood, unless
7 the woodstove, furnace or system constitutes a premium efficiency biomass combustion device de-
8 scribed in ORS 469.160 (4)(i);

9 [(4)] **(6)** Heat pump water heaters that are part of a geothermal heat pump space heating system;

10 [(5)] **(7)** Structures that cover or enclose a swimming pool;

11 [(6)] **(8)** Swimming pools, hot tubs or spas used to store heat;

12 [(7)] **(9)** Above ground, uninsulated swimming pools, hot tubs or spas;

13 [(8)] **(10)** Photovoltaic systems installed on recreational vehicles;

14 [(9)] **(11)** Conversion of an existing alternative energy device to another type of alternative en-
15 ergy device;

16 [(10)] **(12)** Repair or replacement of an existing alternative energy device;

17 [(11)] **(13)** A category two alternative energy device, if the equipment or other property that
18 comprises the category two alternative energy device is the basis for an allowed credit for a cate-
19 gory one alternative energy device under ORS 316.116;

20 [(12)] **(14)** A category one alternative energy device, if the equipment or other property that
21 comprises the category one alternative energy device is also the basis for an allowed credit for a
22 category two alternative energy device under ORS 316.116; or

23 [(13)] **(15)** Any other device identified by the State Department of Energy. The department may
24 adopt rules defining standards for eligible and ineligible devices under this section.

25 **SECTION 73.** ORS 317.115 is amended to read:

26 317.115. (1) A business tax credit is allowed against the taxes otherwise due under this chapter
27 based upon costs paid or incurred for construction or installation in a dwelling of a fueling station
28 necessary to operate an alternative fuel vehicle. The credit is allowed to the contractor who con-
29 structs the dwelling in which the fueling station is incorporated or installs the fueling station in the
30 dwelling but may be taken by any person under the circumstances described in ORS 469.170 [(9)] **(10)**
31 and the rules adopted thereunder.

32 (2) The credit is 25 percent of the cost of the fueling station but the total credit shall not exceed
33 \$750 if the fueling station is placed in service on or after January 1, 1998.

34 (3) To qualify for a credit under this section, all of the following are required:

35 (a) The fueling station must be constructed, installed and operated in accordance with ORS
36 469.160 to 469.180 and a certificate issued thereunder.

37 (b) The contractor must present with the claim for credit a verification form signed not only by
38 the contractor but by the owner, contract purchaser or tenant authorizing the contractor to claim
39 the credit and indicating that the owner, contract purchaser or tenant will not claim a credit based
40 upon the cost of the same fueling station under ORS 316.116 or this section.

41 (c) The credit must be claimed for the tax year in which the fueling station that has been cer-
42 tified under ORS 469.160 to 469.180 first is placed in service or the immediately succeeding tax year.

43 (4) The credit allowed under this section shall not affect the computation of basis for purposes
44 of this chapter, nor shall the credit affect the computation or be in lieu of any depreciation de-
45 duction for the fueling station.

1 (5) The credit allowed under this section in any one year shall not exceed the tax liability of
2 the taxpayer for that year.

3 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
4 particular year may be carried forward and offset against the taxpayer's tax liability for the next
5 succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried
6 forward and used in the second succeeding tax year, and likewise any credit not used in that second
7 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
8 credit not used in that third succeeding tax year may be carried forward and used in the fourth
9 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
10 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
11 thereafter.

12 (7) The certificate and verification form described under ORS 469.170 may be transferred by the
13 contractor to the first purchaser of the dwelling that incorporates the fueling station if the pur-
14 chaser intends to use the dwelling as a principal or secondary residence or, in the case of con-
15 struction or installation of a fueling station in an existing dwelling, the current owner, if the current
16 owner intends to use, or uses, the dwelling as a principal or secondary residence. A certificate and
17 verification form so transferred may be used by the purchaser to claim a credit under ORS 316.116.

18 **SECTION 74. The amendments to ORS 316.116, 469.160, 469.165, 469.170 and 469.172 by**
19 **sections 69 to 72 of this 2011 Act apply to alternative energy devices certified by the State**
20 **Department of Energy on or after January 1, 2012, and to tax years beginning on or after**
21 **January 1, 2012.**

22 **SECTION 75. The State Department of Energy may not issue certifications for more than**
23 **\$10 million in potential tax credits for third-party alternative energy device installations in**
24 **any tax year.**

25 **SECTION 76. The Public Utility Commission shall report to the Legislative Assembly**
26 **prior to February 15, 2012, on the effectiveness of incentives provided by the Energy Trust**
27 **of Oregon and shall provide recommendations as to whether operation of these incentives**
28 **could replace, in whole or in part, the allowance of tax credits under ORS 316.116 and**
29 **sections 23, 35 and 53 of this 2011 Act.**

30 **SECTION 77. (1) Sections 2a and 2b, chapter 625, Oregon Laws 2007, are repealed.**

31 **(2) Section 15, chapter 625, Oregon Laws 2007, as amended by section 35, chapter 33,**
32 **Oregon Laws 2009, is repealed.**

33
34 **CAPTIONS AND EFFECTIVE DATE**
35

36 **SECTION 78. The unit captions used in this 2011 Act are provided only for the conven-**
37 **ience of the reader and do not become part of the statutory law of this state or express any**
38 **legislative intent in the enactment of this 2011 Act.**

39 **SECTION 79. This 2011 Act takes effect on the 91st day after the date on which the 2011**
40 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**