

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3671**

1 In line 2 of the printed bill, after the semicolon insert “; creating new  
2 provisions; amending ORS 285C.255, 285C.406, 315.357, 315.514, 316.116,  
3 317.152, 317.154, 469.160, 469.170, 469.172 and 469.790 and section 6, chapter  
4 911, Oregon Laws 1989, section 77, chapter 736, Oregon Laws 2003, section  
5 1a, chapter 559, Oregon Laws 2005, sections 5a and 8a, chapter 832, Oregon  
6 Laws 2005, section 6, chapter 739, Oregon Laws 2007, and sections 3 and 20,  
7 chapter 913, Oregon Laws 2009; and prescribing an effective date.”.

8 Delete lines 4 through 10 and insert:  
9

10 **“MODIFICATION OF TAX CREDIT PROVISIONS**  
11

12 **“SECTION 1.** ORS 315.357, as amended by section 5, chapter 76, Oregon  
13 Laws 2010, is amended to read:

14 “315.357. (1) Except as provided in subsection (2) of this section, a tax-  
15 payer may not be allowed a credit under ORS 315.354 unless:

16 **“(a)** The taxpayer receives final certification under ORS 469.215 before  
17 July 1, 2012; **and**

18 **“(b)** If the application is for an energy conservation facility, the  
19 taxpayer files an application for preliminary certification on or before  
20 May 12, 2011.

21 “(2) A taxpayer may not be allowed a credit under ORS 315.354 for a  
22 renewable energy resource equipment manufacturing facility unless the tax-

1 payer receives preliminary certification under ORS 469.210 before January  
2 1, 2014.

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

6 **“Sec. 6.** (1) ORS 315.141, 315.144 and 469.790 apply to tax credits for tax  
7 years beginning on or after January 1, 2007, and before January 1, [2012]  
8 **2018.**

9 **“(2)** Notwithstanding subsection (1) of this section, a tax credit is not  
10 allowed for wheat grain (other than nongrain wheat material) [*before*] **for** tax  
11 years beginning [*on or after*] **before** January 1, 2009, or on or after January  
12 1, [2012] **2018.**

13 **“SECTION 3.** ORS 469.790 is amended to read:

14 **“469.790.** To be eligible for the tax credit under ORS 315.141, the biomass  
15 must be produced or collected in Oregon as a feedstock for bioenergy or  
16 biofuel production in Oregon. The credit rates for biomass are:

17 **“(1)** For oil seed crops, \$0.05 per pound.

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

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

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

23 **“(5)** For wastewater biosolids, \$10.00 per wet ton.

24 **“(6)** For woody biomass collected from nursery, orchard, agricultural,  
25 forest or rangeland property in Oregon, including but not limited to  
26 prunings, thinning, plantation rotations, log landing or slash resulting from  
27 harvest or forest health stewardship, \$10.00 per [*green*] **bone dry** ton.

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

30 **“(8)** For yard debris and municipally generated food waste, \$5.00 per wet

1 ton.

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

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

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

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

9 **“Sec. 3.** Except as provided in ORS 315.507 (5), a credit may not be  
10 claimed under ORS 315.507 for tax years beginning on or after January 1,  
11 [2012] **2018.**

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

13 “285C.406. In order for a taxpayer to claim the property tax exemption  
14 under ORS 285C.409 or a corporate excise or income tax credit under ORS  
15 317.124:

16 “(1) The written agreement between the business firm and the rural en-  
17 terprise zone sponsor that is required under ORS 285C.403 (3)(c) must be  
18 entered into prior to the termination of the enterprise zone under ORS  
19 285C.245; and

20 “(2)(a) For the purpose of the property tax exemption, the business firm  
21 must obtain certification under ORS 285C.403 on or before June 30, 2013; or

22 “(b) For the purpose of the corporate excise or income tax credit, the  
23 business firm must obtain certification under ORS 285C.403 on or before June  
24 30, [2012] **2018.**

25 **“SECTION 7.** ORS 285C.255, as amended by section 22, chapter 76,  
26 Oregon Laws 2010, is amended to read:

27 “285C.255. (1) Notwithstanding any other provision of ORS 285C.050 to  
28 285C.250:

29 “(a) An area may not be designated as an enterprise zone after June 30,  
30 [2013] **2018;**

1 “(b) A business firm may not obtain authorization under ORS 285C.140  
2 after June 30, [2013] **2018**; and

3 “(c) An enterprise zone, except for a reservation enterprise zone or a  
4 reservation partnership zone, that is in existence on June 29, [2013] **2018**, is  
5 terminated on June 30, [2013] **2018**.

6 “(2) Notwithstanding subsection (1) of this section:

7 “(a) A reservation enterprise zone may be designated, and a reservation  
8 partnership zone may be cosponsored, under ORS 285C.306 after June 30,  
9 [2013] **2018**; and

10 “(b) A business firm may obtain authorization under ORS 285C.140 after  
11 June 30, [2013] **2018**:

12 “(A) If located in a reservation enterprise zone or a reservation partner-  
13 ship zone; or

14 “(B) As allowed under ORS 285C.245 (1)(b).

15 “**SECTION 8.** Section 6, chapter 911, Oregon Laws 1989, as amended by  
16 section 14, chapter 746, Oregon Laws 1995, section 1, chapter 548, Oregon  
17 Laws 2001, section 15, chapter 739, Oregon Laws 2003, and section 86, chapter  
18 94, Oregon Laws 2005, is amended to read:

19 “**Sec. 6.** ORS 317.152 to 317.154 apply to amounts paid or incurred in tax  
20 years beginning on or after January 1, 1989, and before January 1, [2012]  
21 **2018**.

22 “**SECTION 9.** ORS 317.152 is amended to read:

23 “317.152. (1) A credit against taxes otherwise due under this chapter shall  
24 be allowed to eligible taxpayers for increases in qualified research expenses  
25 and basic research payments. The credit shall be determined in accordance  
26 with section 41 of the Internal Revenue Code, except as follows:

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

29 “(b) ‘Qualified research’ and ‘basic research’ shall consist only of research  
30 conducted in Oregon.

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

2 “(A) Section 41(c)(4) of the Internal Revenue Code (relating to the alter-  
3 native incremental credit).

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

6 “(2) For purposes of this section, ‘eligible taxpayer’ means a corporation,  
7 other than a corporation excluded under Internal Revenue Code section  
8 41(e)(7)(E).

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

13 “(4) The maximum credit under this section may not exceed [*\$2 million*]  
14 **\$1 million.**

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

26 **“SECTION 10.** ORS 317.154 is amended to read:

27 “317.154. (1) A credit against taxes otherwise due under this chapter shall  
28 be allowed for qualified research expenses that exceed 10 percent of Oregon  
29 sales.

30 “(2) For purposes of this section:

1       “(a) ‘Oregon sales’ shall be computed using the laws and administrative  
2 rules for calculating the numerator of the Oregon sales factor under ORS  
3 314.665.

4       “(b) ‘Qualified research’ has the meaning given the term under section  
5 41(d) of the Internal Revenue Code and shall consist only of research con-  
6 ducted in Oregon.

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

9       “(4) The credit under this section shall not exceed \$10,000 times the  
10 number of percentage points by which the qualifying research expenses ex-  
11 ceed 10 percent of Oregon sales.

12       “(5) The maximum credit under this section may not exceed [*\$2 million*]  
13 **\$1 million.**

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

25       **“SECTION 11.** ORS 315.514 is amended to read:

26       “315.514. (1) A credit against the taxes that are otherwise due under ORS  
27 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or  
28 318, is allowed to a taxpayer for certified film production development con-  
29 tributions made by the taxpayer during the tax year to the Oregon Pro-  
30 duction Investment Fund established under ORS 284.367.

1 “(2)(a) The amount of the tax credit shall equal the amount certified for  
2 credit by the Oregon Film and Video Office, except that a contribution must  
3 equal at least 90 percent of the tax credit.

4 “(b) The Oregon Film and Video Office shall adopt rules for determining  
5 the amount of tax credit to be certified by the office. The rules shall be  
6 adopted in order to achieve the following goals:

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

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

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

15 “(3) A taxpayer seeking a tax credit under this section shall apply for tax  
16 credit certification to the Oregon Film and Video Office on a form supplied  
17 by the office. The taxpayer shall include payment of the contribution at the  
18 time of application.

19 “(4) Contributions made under this section shall be deposited in the  
20 Oregon Production Investment Fund.

21 “(5)(a) Upon receipt of a contribution, the Oregon Film and Video Office  
22 shall issue to the taxpayer written certification of the amount certified for  
23 tax credit under this section to the extent the amount certified for tax credit,  
24 when added to all amounts previously certified for tax credit under this  
25 section, does not exceed [*\$7.5 million*] **\$6 million** for the fiscal year in which  
26 certification is made.

27 “(b) The Oregon Film and Video Office is not liable, and a refund of a  
28 contributed amount need not be made, if a taxpayer who has received tax  
29 credit certification is unable to use all or a portion of the tax credit to offset  
30 the tax liability of the taxpayer.

1 “(6) To the extent the Oregon Film and Video Office does not certify  
2 contributed amounts as eligible for a tax credit under this section, the tax-  
3 payer may request a refund of the amount the taxpayer contributed, and the  
4 office shall refund that amount.

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

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

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

19 “(8) If a tax credit is claimed under this section by a nonresident or  
20 part-year resident taxpayer, the amount shall be allowed without proration  
21 under ORS 316.117.

22 “(9) A taxpayer who has received a tax credit certificate under this sec-  
23 tion may sell the certificate to another taxpayer. The sale is effective only  
24 if a notice of tax credit certificate sale is filed with the Department of Rev-  
25 enue. The notice shall be filed on a form prescribed by the department on  
26 or before the date on which the income or corporate excise tax return of the  
27 buyer for the first year for which the credit could be claimed is filed or due,  
28 whichever is earlier. The notice form shall include the following information:

29 “(a) The name and taxpayer identification number of the seller;

30 “(b) The name and taxpayer identification number of the buyer;



1 “(c) The amount of the tax credit certificate that is being sold to the  
2 buyer;

3 “(d) The amount of the tax credit certificate that is being retained by the  
4 seller; and

5 “(e) Any other information required by the department.

6 “(10) If requested by the Department of Revenue, the Oregon Film and  
7 Video Office shall supply a list of taxpayers that have obtained tax credit  
8 certification under this section, and for each listed taxpayer disclose:

9 “(a) The amount of contribution made by the taxpayer; and

10 “(b) The amount certified for tax credit under this section.

11 “(11) If the amount of contribution for which a tax credit certification is  
12 made is allowed as a deduction for federal tax purposes, the amount of the  
13 contribution shall be added to federal taxable income for Oregon tax pur-  
14 poses.

15 “**SECTION 12.** Section 1a, chapter 559, Oregon Laws 2005, is amended to  
16 read:

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

20 **SECTION 13.** Section 77, chapter 736, Oregon Laws 2003, as amended by  
21 section 1, chapter 913, Oregon Laws 2009, is amended to read:

22 “**Sec. 77.** ORS 315.514 applies to tax years beginning on or after January  
23 1, 2005, and before January 1, *[2012]* **2018**, and to tax credit certifications  
24 issued by the Oregon Film and Video Office on or after July 1, 2005.

25 “**SECTION 14.** **The amendments to ORS 315.514 by section 11 of this**  
26 **2011 Act apply to tax credit certifications issued by the Oregon Film**  
27 **and Video Office on or after the effective date of this 2011 Act.**

28

29 “**TAX CREDIT FOR RENEWABLE ENERGY DEVELOPMENT CON-**  
30 **TRIBUTIONS**

1       **“SECTION 15. Sections 16 and 17 of this 2011 Act are added to and**  
2 **made a part of ORS chapter 315.**

3       **“SECTION 16. (1) A credit against the taxes that are otherwise due**  
4 **under ORS chapter 316 or, if the taxpayer is a corporation, under ORS**  
5 **chapter 317 or 318, is allowed to a taxpayer for certified renewable en-**  
6 **ergy development contributions made by the taxpayer during the tax**  
7 **year to the Oregon Renewable Energy Contribution Fund established**  
8 **under section 21 of this 2011 Act.**

9       **“(2)(a) The amount of the tax credit shall equal the amount certi-**  
10 **fied for credit by the State Department of Energy except that a credit**  
11 **may not exceed 110 percent of a taxpayer’s contribution.**

12       **“(b) The department shall adopt rules for determining the amount**  
13 **of tax credit to be certified by the department. The rules shall be**  
14 **adopted in order to achieve the following goals:**

15       **“(A) Subject to paragraph (a) of this subsection, generate contri-**  
16 **butions for which tax credits of \$1.5 million are certified for each fiscal**  
17 **year;**

18       **“(B) Maximize income and excise tax revenues that are retained by**  
19 **the State of Oregon for state operations; and**

20       **“(C) Provide the necessary financial incentives for taxpayers to**  
21 **make contributions, taking into consideration the impact of granting**  
22 **a credit upon a taxpayer’s federal income tax liability.**

23       **“(3) A taxpayer seeking a tax credit under this section shall apply**  
24 **for tax credit certification to the department on a form supplied by the**  
25 **department. The taxpayer shall include payment of the contribution**  
26 **at the time of application.**

27       **“(4) Contributions made under this section shall be deposited in the**  
28 **Oregon Renewable Energy Fund.**

29       **“(5)(a) Upon receipt of a contribution, the department shall, except**  
30 **as provided in section 17 of this 2011 Act, issue to the taxpayer written**

1 certification of the amount certified for tax credit under this section  
2 to the extent the amount certified for tax credit, when added to all  
3 amounts previously certified for tax credit under this section, does not  
4 exceed \$1.5 million for the fiscal year in which certification is made.

5 “(b) The department is not liable, and a refund of a contributed  
6 amount need not be made, if a taxpayer who has received tax credit  
7 certification is unable to use all or a portion of the tax credit to offset  
8 the tax liability of the taxpayer.

9 “(6) To the extent the department does not certify contributed  
10 amounts as eligible for a tax credit under this section, the taxpayer  
11 may request a refund of the amount the taxpayer contributed, and the  
12 department shall refund that amount.

13 “(7)(a) Except as provided in paragraph (b) of this subsection, a tax  
14 credit claimed under this section may not exceed the tax liability of  
15 the taxpayer and may not be carried over to another tax year.

16 “(b) Any tax credit otherwise allowable under this section that is  
17 not used by the taxpayer in a particular tax year may be carried for-  
18 ward and offset against the taxpayer’s tax liability for the next suc-  
19 ceeding tax year. Any credit remaining unused in the next succeeding  
20 tax year may be carried forward and used in the second succeeding tax  
21 year, and likewise, any credit not used in that second succeeding tax  
22 year may be carried forward and used in the third succeeding tax year  
23 but may not be carried forward for any tax year thereafter.

24 “(c) A taxpayer is not eligible for a tax credit under this section if  
25 the first tax year for which the credit would otherwise be allowed be-  
26 gins on or after January 1, 2018.

27 “(8) If a tax credit is claimed under this section by a nonresident  
28 or part-year resident taxpayer, the amount shall be allowed without  
29 proration under ORS 316.117.

30 “(9) A taxpayer who has received a tax credit certificate under this

1 section may sell the certificate to another taxpayer. The sale is ef-  
2 fective only if a notice of tax credit certificate sale is filed with the  
3 Department of Revenue. The notice shall be filed on a form prescribed  
4 by the department on or before the date on which the income or cor-  
5 porate excise tax return of the buyer for the first year for which the  
6 credit could be claimed is filed or due, whichever is earlier. The notice  
7 form shall include the following information:

8 “(a) The name and taxpayer identification number of the seller;

9 “(b) The name and taxpayer identification number of the buyer;

10 “(c) The amount of the tax credit certificate that is being sold to  
11 the buyer;

12 “(d) The amount of the tax credit certificate that is being retained  
13 by the seller; and

14 “(e) Any other information required by the department.

15 “(10) If requested by the Department of Revenue, the department  
16 shall supply a list of taxpayers that have obtained tax credit certif-  
17 ication under this section, and for each listed taxpayer disclose:

18 “(a) The amount of contribution made by the taxpayer; and

19 “(b) The amount certified for tax credit under this section.

20 “(11) If the amount of contribution for which a tax credit certif-  
21 ication is made is allowed as a deduction for federal tax purposes, the  
22 amount of the contribution shall be added to federal taxable income  
23 for Oregon tax purposes.

24 “SECTION 17. (1) In lieu of the issuance of certifications for tax  
25 credit under section 16 of this 2011 Act by the State Department of  
26 Energy, the Legislative Assembly may, no less than 30 days prior to  
27 the end of each fiscal year, appropriate to the Oregon Development  
28 Department for deposit into the Oregon Renewable Energy Contribu-  
29 tion Fund an amount equal to the total amount, less the discount rate  
30 provided under subsection (2)(a) of section 16 of this 2011 Act, that

1 would otherwise be certified for tax credits during the current fiscal  
2 year, based on the amount of contributions and accompanying appli-  
3 cations for credit received by the office during the fiscal year.

4 “(2) If the Legislative Assembly makes the election allowed in sub-  
5 section (1) of this section:

6 “(a) Any contributions to the Oregon Renewable Energy Contribu-  
7 tion Fund made during the current fiscal year and for which an ap-  
8 plication for a credit under section 16 of this 2011 Act is pending shall,  
9 at the request of the taxpayer, be refunded by the State Department  
10 of Energy; and

11 “(b) A credit under section 16 of this 2011 Act may not be claimed  
12 for any contribution made during the current fiscal year.

13 **“SECTION 18.** A taxpayer may not be allowed a credit under section  
14 16 of this 2011 Act if the first tax year for which the credit would  
15 otherwise be allowed begins on or after January 1, 2018.

16 **“SECTION 19.** Sections 20 to 28 of this 2011 Act are added to and  
17 made a part of ORS chapter 469.

18 **“SECTION 20.** As used in sections 20 to 28 of this 2011 Act:

19 “(1) ‘Alternative fuel vehicle’ means a vehicle as defined by the  
20 Director of the State Department of Energy by rule that is:

21 “(a) Used primarily in connection with the conduct of a trade or  
22 business;

23 “(b) Registered under ORS chapter 803 as a commercial motor ve-  
24 hicle; and

25 “(c) Manufactured or modified to use an alternative fuel, including  
26 but not limited to electricity, ethanol, methanol, gasohol and propane  
27 or natural gas, regardless of energy consumption savings.

28 “(2) ‘Biomass’ has the meaning given that term in ORS 315.141.

29 “(3)(a) ‘Cost’ means the actual cost of the acquisition, construction  
30 and installation of the renewable energy production system paid by the

1 taxpayer for the system.

2 “(b) For an alternative fuel vehicle, ‘cost’ means the difference be-  
3 tween the cost of the alternative fuel vehicle and the same vehicle or  
4 functionally similar vehicle manufactured to use conventional gasoline  
5 or diesel fuel or, in the case of modification of an existing vehicle, the  
6 cost of the modification. ‘Cost’ does not include any amounts paid for  
7 remodification of the same vehicle.

8 “(4) ‘First year energy yield’ of an renewable energy production  
9 system is the usable energy produced under average environmental  
10 conditions in one year.

11 “(5) ‘Placed in service’ means:

12 “(a) The date an renewable energy production system is ready and  
13 available to produce usable energy.

14 “(b) For an alternative fuel vehicle:

15 “(A) In the case of purchase, the date that the alternative fuel ve-  
16 hicle is first purchased as an alternative fuel vehicle ready and avail-  
17 able for use.

18 “(B) In the case of modification, the date that the modification is  
19 completed and the vehicle is ready and available for use as an alter-  
20 native fuel vehicle.

21 “(c) For a fueling station necessary to operate an alternative fuel  
22 vehicle, the date that the fueling station is first operational.

23 “(d) For related equipment, the date that the equipment is first  
24 operational.

25 “(6) ‘Related equipment’ means equipment necessary to convert a  
26 vehicle to use an alternative fuel.

27 “(7) ‘Renewable energy production system’ means a system that  
28 uses biomass, solar, geothermal, hydroelectric or wave, tidal or ocean  
29 thermal energy technology to produce energy.

30 “(8) ‘Solar technology’ means any system, mechanism or series of

1 mechanisms, including photovoltaic systems, that uses solar radiation  
2 to generate electrical energy.

3 **SECTION 21.** (1) The Oregon Renewable Energy Contribution Fund  
4 is established in the State Treasury, separate and distinct from the  
5 General Fund. Interest earned by the Oregon Renewable Energy Con-  
6 tribution Fund shall be credited to the fund.

7 “(2) Moneys in the Oregon Renewable Energy Contribution Fund  
8 shall consist of:

9 “(a) Amounts donated to the fund;

10 “(b) Amounts appropriated or otherwise transferred to the fund by  
11 the Legislative Assembly;

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

13 “(d) Interest earned by the fund.

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

17 “(a) Grants to applicants under section 25 of this 2011 Act; and

18 “(b) Refunds described in section 16 (6) of this 2011 Act.

19 “(4) Expenditures from the fund are not subject to ORS 291.232 to  
20 291.260.

21 **SECTION 22.** (1) In determining the eligibility of any renewable  
22 energy production system for grants under section 25 of this 2011 Act,  
23 preference shall be given to those systems that provide long-term en-  
24 ergy savings from the use of renewable energy resources.

25 “(2) The Director of the State Department of Energy shall establish  
26 by rule a tiered priority system to be used in evaluating applicants for  
27 certification of systems. The tier system shall be based upon the cer-  
28 tified system cost of systems and shall require consideration of diverse  
29 technologies as well as net-metered systems. The State Department  
30 of Energy shall rely on the criteria established under section 23 of this

1 2011 Act in determining the eligibility for grants and in allocating the  
2 available certified cost pursuant to section 27 of this 2011 Act among  
3 systems.

4 **“SECTION 23.** The State Department of Energy shall by rule es-  
5 tablish the following standards relating to renewable energy pro-  
6 duction systems:

7 **“(1) Minimum performance and efficiency standards.**

8 **“(2) Standards for the determination of total system cost.**

9 **“SECTION 24. (1) Prior to the installation or construction of a**  
10 **renewable energy production system, any person may apply to the**  
11 **State Department of Energy for a grant under section 25 of this 2011**  
12 **Act if:**

13 **“(a) The system does not exceed 35 megawatts;**

14 **“(b) The system complies with the standards or rules adopted by the**  
15 **Director of the State Department of Energy; and**

16 **“(c) The applicant will be the owner, contract purchaser or lessee**  
17 **of the system at the time of installation or construction of the pro-**  
18 **posed system.**

19 **“(2) An application for a grant under section 25 of this 2011 Act shall**  
20 **be made in writing on a form prepared by the department and shall**  
21 **contain:**

22 **“(a) A statement that the applicant plans to acquire, construct or**  
23 **install a system that substantially reduces the consumption of pur-**  
24 **chased energy.**

25 **“(b) A detailed description of the system and its operation and in-**  
26 **formation showing that the system will operate as represented in the**  
27 **application and remain in operation for at least five years, unless the**  
28 **director by rule specifies a shorter period of operation.**

29 **“(c) The anticipated total system cost.**

30 **“(d) Information on the number and type of jobs that will be cre-**



1 ated by the system, the number of jobs sustained throughout the  
2 construction, installation and operation of the system and the benefits  
3 of the system with regard to overall economic activity in this state.

4 “(e) Information demonstrating that the system will comply with  
5 applicable state and local laws and regulations and obtain required li-  
6 censes and permits.

7 “(f) Information relating to the standards described in section 23  
8 of this 2011 Act.

9 “(g) A recommendation for a system that demonstrates innovation,  
10 if applicable, that has been made by the Oregon Innovation Council.

11 “(h) Any other information the director considers necessary to de-  
12 termine whether the system is in accordance with the provisions of  
13 sections 20 to 28 of this 2011 Act, and any applicable rules or standards  
14 adopted by the director.

15 “(3) An application for a grant shall be accompanied by a fee es-  
16 tablished under section 26 of this 2011 Act. The director may refund  
17 all or a portion of the fee if the application for certification is rejected.

18 “(4) The director may allow an applicant to file the application for  
19 preliminary certification after the start of installation or construction  
20 of the system if the director finds that:

21 “(a) Filing the application before the start of installation or con-  
22 struction is inappropriate because special circumstances render filing  
23 earlier unreasonable; and

24 “(b) The system would otherwise qualify for a grant under sections  
25 6 to 17 of this 2011 Act.

26 “SECTION 25. (1) The Director of the State Department of Energy  
27 may require an applicant for a grant under this section for a  
28 renewable energy production system to submit plans, specifications  
29 and contract terms, and after examination of the plans, specifications  
30 and terms, may request corrections and revisions.

1       “(2) If the director determines that the system is technically feasi-  
2 ble and should operate in accordance with the representations made  
3 by the applicant, and is in accordance with the provisions of sections  
4 20 to 28 of this 2011 Act and any applicable rules or standards adopted  
5 by the director, the director shall issue a grant to the applicant. The  
6 grant may not exceed 35 percent of the certified cost of the project.

7       “(3) The director may deny a grant under this section if the director  
8 determines that:

9       “(a) The system does not comply with the provisions of sections 20  
10 to 29 of this 2011 Act and applicable rules and standards;

11       “(b) The applicant was directly involved in an act for which the di-  
12 rector has levied civil penalties or revoked, canceled or suspended any  
13 certification under sections 20 to 28 of this 2011 Act; or

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

19       “SECTION 26. By rule and after hearing, the Director of the State  
20 Department of Energy may adopt a schedule of reasonable fees that  
21 the State Department of Energy may require of applicants for prelim-  
22 inary or final certification of a renewable energy production system  
23 under sections 20 to 29 of this 2011 Act. Before the adoption or revision  
24 of the fees, the department shall estimate the total cost of the pro-  
25 gram to the department. The fees shall be used to recover the antic-  
26 ipated cost of filing, investigating, granting and rejecting applications  
27 for certification and shall be designed not to exceed the total cost es-  
28 timated by the department. Any excess fees shall be held by the de-  
29 partment and shall be used by the department to reduce any future fee  
30 increases. The fee may vary according to the size and complexity of

1 the system. The fee is not considered part of the cost of the system  
2 to be certified.

3 **“SECTION 27. (1) The total amount of potential tax credits for**  
4 **certified renewable energy development contributions in this state**  
5 **may not, at the time of certification under section 16 of this 2011 Act,**  
6 **exceed:**

7 **“(a) \$3 million for any biennium; or**

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

10 **“(2) In the event that the Director of the State Department of En-**  
11 **ergy receives applications for grants under section 25 of this 2011 Act**  
12 **in excess of the contributions to the fund established in section 21 of**  
13 **this 2011 Act, the director shall allocate the issuance of preliminary**  
14 **certifications according to the standards required by section 23 of this**  
15 **2011 Act.**

16 **“SECTION 28. The State Department of Energy shall by rule es-**  
17 **tablish procedures for the administration of sections 16 and 17 and 20**  
18 **to 28 of this 2011 Act.**

19

20 **“TAX CREDIT FOR ENERGY CONSERVATION PROJECTS**

21

22 **“SECTION 29. Sections 30 and 31 are added to and made a part of**  
23 **ORS chapter 315.**

24 **“SECTION 30. (1) A credit is allowed against the taxes otherwise**  
25 **due under ORS chapter 316 (or, if the taxpayer is a corporation, under**  
26 **ORS chapter 317 or 318) for an energy conservation project that is**  
27 **certified under sections 33 to 44 of this 2011 Act. The credit is allowed**  
28 **as follows:**

29 **“(a) Except as provided in paragraph (b) or (c) of this subsection,**  
30 **the credit allowed in each of the first two tax years in which the credit**

1 is claimed shall be 10 percent of the certified cost of the facility, but  
2 may not exceed the tax liability of the taxpayer. The credit allowed in  
3 each of the succeeding three years shall be five percent of the certified  
4 cost, but may not exceed the tax liability of the taxpayer.

5 “(b) If the certified cost of the facility does not exceed \$20,000, the  
6 total amount of the credit allowable under subsection (4) of this sec-  
7 tion may be claimed in the first tax year for which the credit may be  
8 claimed, but may not exceed the tax liability of the taxpayer.

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

10 “(a) The project must be located in Oregon.

11 “(b) The project must have received final certification from the  
12 Director of the State Department of Energy under sections 33 to 44 of  
13 this 2011 Act.

14 “(c) If the project is a research and development project, it must  
15 receive third-party verification prior to certification under section 38  
16 of this 2011 Act.

17 “(d) If the project is the construction, improvement, remodel,  
18 equipment, maintenance or repair of a building, the building that is  
19 constructed, improved, remodeled, equipped, maintained or repaired  
20 must qualify for, at a minimum:

21 “(A) LEED Platinum certification;

22 “(B) A four globes rating from the Green Globes program; or

23 “(C) An equivalent numeric rating from a nationally recognized,  
24 accepted and appropriate sustainable development rating system as  
25 determined by the department.

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

29 “(4)(a) Upon any sale, termination of the lease or contract, ex-  
30 change or other disposition of the project, notice thereof shall be given

1 to the director, who shall revoke the certificate covering the project  
2 as of the date of such disposition.

3 “(b) A new owner, or upon re-leasing of the project, a new lessor,  
4 may apply for a new certificate under section 39 of this 2011 Act. The  
5 new lessor or owner must meet the requirements of sections 33 to 44  
6 of this 2011 Act and may claim a tax credit under this section only if  
7 all moneys owed to the State of Oregon have been paid, if the project  
8 continues to operate, unless continued operation is waived by the de-  
9 partment, and if all conditions in the final certification are met. The  
10 tax credit available to the new owner shall be limited to the amount  
11 of credit not claimed by the former owner or, for a new lessor, the  
12 amount of credit not claimed by the lessor under all previous leases.

13 “(c) The State Department of Energy may not revoke the certificate  
14 covering a project under paragraph (a) of this subsection if the tax  
15 credit associated with the project has been transferred to a taxpayer  
16 who is an eligible applicant under section 37 of this 2011 Act.

17 “(d) A transferee holding a credit that has been transferred may  
18 not claim the tax credit under this section for any tax year prior to  
19 the tax year in which the transferee obtained the credit.

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

1 may not be carried forward for any tax year thereafter. Credits may  
2 be carried forward to and used in a tax year beyond the years specified  
3 in subsection (1) of this section only as provided in this subsection.

4 “(10) The credit allowed under this section is not in lieu of any de-  
5preciation or amortization deduction for the project to which the tax-  
6payer otherwise may be entitled for purposes of ORS chapter 316, 317  
7or 318 for such year.

8 “(11) The taxpayer’s adjusted basis for determining gain or loss may  
9not be decreased by any tax credits allowed under this section.

10 “(12) The definitions in section 20 of this 2011 Act apply to this  
11section.

12 **“SECTION 31.** A taxpayer may not be allowed a credit under section  
1332 of this 2011 Act if the first tax year for which the credit would  
14otherwise be allowed, with respect to an energy conservation project  
15certified under section 39 of this 2011 Act, begins on or after January  
161, 2018.

17 **“SECTION 32.** Sections 33 to 44 of this 2011 Act are added to and  
18made a part of ORS chapter 469.

19 **“SECTION 33.** As used in sections 33 to 44 of this 2011 Act:

20 “(1) ‘Cost’ means the capital costs and expenses necessarily in-  
21curred in the acquisition, erection, construction and installation of an  
22energy conservation project.

23 “(2) ‘Energy conservation project’ means any capital investment for  
24which the first year energy savings yields a simple payback period of  
25greater than two years. ‘Energy conservation project’ does not include:

26 “(a) Cogeneration facilities as that term is defined in ORS 758.505;

27 “(b) Lighting modification projects;

28 “(c) Recycling equipment;

29 “(d) Transportation projects;

30 “(e) Energy recovery as that term is defined in ORS 459.005; or

1       “(f) Alternative fuel vehicles that are gasoline-electric hybrid vehi-  
2 cles not designed for electric plug-in charging.

3       “(3)(a) ‘LEED’ means the Leadership in Energy and Environmental  
4 Design rating system for certification of energy-efficient and environ-  
5 mentally sustainable buildings established by the U.S. Green Building  
6 Council.

7       “(b) ‘LEED Platinum’ means the highest of four tiers of standards  
8 for certification in the LEED rating system.

9       “SECTION 34. (1) In determining the eligibility of any energy con-  
10 servation project for tax credits, preference shall be given to those  
11 projects that provide long-term energy savings from the conservation  
12 of energy resources.

13       “(2) The Director of the State Department of Energy shall establish  
14 by rule a tiered priority system to be used in evaluating applicants for  
15 certification of projects. The State Department of Energy shall rely  
16 on the criteria established under section 35 of this 2011 Act in deter-  
17 mining the eligibility for tax credits and in allocating the available  
18 certified cost pursuant to section 43 of this 2011 Act among projects.

19       “(3) In implementing the system, the director shall compare  
20 projects of similar costs and technology type against each other, take  
21 into account the amount of energy saved over the life of the equip-  
22 ment, market or industry sector, expected lifespan of the facility  
23 compared to the simple payback period, and any other factors defined  
24 in department rule. The department may certify less than the total  
25 cost of any facility based on this evaluation.

26       “SECTION 35. The State Department of Energy shall by rule es-  
27 tablish the following standards relating to energy conservation  
28 projects:

29       “(1) Standards relating to energy savings in new construction.

30       “(2) Standards relating to what constitutes a replacement of ineffi-

1 **cient functional equipment based on remaining service life, for**  
2 **projects that are a retrofit of existing construction.**

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

4 **“(4) Standards for the application of third party review of research**  
5 **and development projects, as required in section 32 of this 2011 Act.**

6 **“SECTION 36. For an energy conservation project, the total amount**  
7 **of credit that receives a preliminary certification from the Director**  
8 **of the State Department of Energy may not exceed \$10 million.**

9 **“SECTION 37. (1) Prior to the installation or construction of an**  
10 **energy conservation project, any person may apply to the State De-**  
11 **partment of Energy for preliminary certification under section 38 of**  
12 **this 2011 Act if:**

13 **“(a) The project complies with the standards adopted by the Direc-**  
14 **tor of the State Department of Energy; and**

15 **“(b) The applicant will be the owner, contract purchaser or lessee**  
16 **of the project at the time of installation or construction of the project.**

17 **“(2) An application for preliminary certification shall be made in**  
18 **writing on a form prepared by the department and shall contain:**

19 **“(a) A statement that the applicant plans to acquire, construct or**  
20 **install a project that substantially reduces the consumption of pur-**  
21 **chased energy.**

22 **“(b) A detailed description of the project and its operation and in-**  
23 **formation showing that the project will operate as represented in the**  
24 **application and remain in operation for at least five years, unless the**  
25 **director by rule specifies a shorter period of operation.**

26 **“(c) Information on the amount by which consumption of purchased**  
27 **energy by the applicant will be reduced, and, if applicable, information**  
28 **about the expected level of sustainable building practices project per-**  
29 **formance.**

30 **“(d) The anticipated total project cost.**



1       “(e) Information on the number and type of jobs that will be created  
2 by the project, the number of jobs sustained throughout the con-  
3 struction, installation and operation of the project and the benefits of  
4 the project with regard to overall economic activity in this state.

5       “(f) Information demonstrating that the project will comply with  
6 applicable state and local laws and regulations and obtain required li-  
7 censes and permits.

8       “(g) Information relating to the standards described in section 35  
9 of this 2011 Act.

10       “(h) A recommendation for a project that demonstrates innovation,  
11 if applicable, that has been made by the Oregon Innovation Council.

12       “(i) Any other information the director considers necessary to de-  
13 termine whether the project is in accordance with the provisions of  
14 sections 33 to 44 of this 2011 Act, and any applicable rules or standards  
15 adopted by the director.

16       “(3) An application for preliminary certification shall be accompa-  
17 nied by a fee established under section 40 of this 2011 Act. The director  
18 may refund all or a portion of the fee if the application for certifi-  
19 cation is rejected.

20       “(4) The director may allow an applicant to file the application for  
21 preliminary certification after the start of installation or construction  
22 of the project if the director finds that:

23       “(a) Filing the application before the start of installation or con-  
24 struction is inappropriate because special circumstances render filing  
25 earlier unreasonable; and

26       “(b) The project would otherwise qualify for certification under  
27 sections 33 to 44 of this 2011 Act.

28       “(5) A preliminary certification shall remain valid for a period of  
29 five calendar years after the date on which the preliminary certifi-  
30 cation is issued by the director.

1       **“SECTION 38. (1) The Director of the State Department of Energy**  
2 **may require an applicant for certification of an energy conservation**  
3 **project to submit plans, specifications and contract terms, and after**  
4 **examination of the plans, specifications and terms, may request cor-**  
5 **rections and revisions.**

6       **“(2) If the director determines that the project is technically feasi-**  
7 **ble and should operate in accordance with the representations made**  
8 **by the applicant, and is in accordance with the provisions of sections**  
9 **33 to 44 of this 2011 Act and any applicable rules or standards adopted**  
10 **by the director, the director shall issue a preliminary certificate ap-**  
11 **proving the installation or construction of the project. The certificate**  
12 **shall indicate the potential amount of tax credit allowable and shall**  
13 **list any conditions for claiming the credit.**

14       **“(3) The director may issue an order altering, conditioning, sus-**  
15 **pending or denying preliminary certification if the director determines**  
16 **that:**

17       **“(a) The project does not comply with the provisions of sections 33**  
18 **to 44 of this 2011 Act and applicable rules and standards;**

19       **“(b) The applicant has previously received preliminary or final cer-**  
20 **tification for the project;**

21       **“(c) The applicant is unable to demonstrate that the project would**  
22 **be economically viable without the allowance of a credit under section**  
23 **30 of this 2011 Act;**

24       **“(d) The applicant was directly involved in an act for which the di-**  
25 **rector has levied civil penalties or revoked, canceled or suspended any**  
26 **certification under sections 33 to 44 of this 2011 Act; or**

27       **“(e) The applicant or the principal, director, officer, owner, major-**  
28 **ity shareholder or member of the applicant, or the manager of the**  
29 **applicant if the applicant is a limited liability company, is in arrears**  
30 **for payments owed to any government agency while in any capacity**

1 with direct or indirect control over a business.

2 **“SECTION 39. (1) A final certification for an energy conservation**  
3 **project may not be issued by the Director of the State Department of**  
4 **Energy under this section unless:**

5 **“(a) The project was installed or constructed under a preliminary**  
6 **certificate of approval issued under section 38 of this 2011 Act;**

7 **“(b) The applicant demonstrates the ability to provide the informa-**  
8 **tion required by section 37 (2) of this 2011 Act and does not violate any**  
9 **condition that may be imposed as described in subsection (3) of this**  
10 **section; and**

11 **“(c) The project was installed or constructed in accordance with the**  
12 **applicable provisions of sections 33 to 44 of this 2011 Act and any ap-**  
13 **plicable rules or standards adopted by the director.**

14 **“(2) Any person may apply to the State Department of Energy for**  
15 **final certification of a project:**

16 **“(a) If the person received preliminary certification for the project**  
17 **under section 11 of this 2011 Act; and**

18 **“(b) After completion of the installation or construction of the**  
19 **project.**

20 **“(3) An application for final certification shall be made in writing**  
21 **on a form prepared by the department and shall contain:**

22 **“(a) A statement that the conditions of the preliminary certification**  
23 **have been complied with;**

24 **“(b) The actual cost of the project certified to by a certified public**  
25 **accountant who is not an employee of the applicant or, if the actual**  
26 **cost of the project is less than \$50,000, copies of receipts for purchase**  
27 **and installation of the project;**

28 **“(c) The amount of the credit under section 2 of this 2011 Act that**  
29 **is to be claimed;**

30 **“(d) The number and type of jobs created by the operation and**

1 maintenance of the project over the five-year period beginning with  
2 the year of preliminary certification under section 11 of this 2011 Act  
3 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 re-  
6 main in operation for at least five years, unless the director by rule  
7 specifies a shorter period of operation;

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

11 “(g) Information, if applicable, pertaining to prior recommendation  
12 of the project by the Oregon Innovation Council; and

13 “(h) Any other information determined by the director to be nec-  
14 essary prior to issuance of a final certificate, including inspection of  
15 the project by the department.

16 “(4) The director shall act on an application for final certification  
17 before the 60th day after the filing of the application under this sec-  
18 tion. The director may issue the certificate together with such condi-  
19 tions as the director determines are appropriate to promote the  
20 purposes of sections 2 and 33 to 44 of this 2011 Act. If the applicant is  
21 an entity subject to regulation by the Public Utility Commission, the  
22 director may consult with the commission prior to issuance of the  
23 certificate. The action of the director shall include certification of the  
24 actual cost of the project. However, the director may not certify an  
25 amount for tax credit purposes that is more than the amount approved  
26 in the preliminary certificate issued for the project.

27 “(5) If the director rejects an application for final certification, or  
28 certifies a lesser amount of credit than was claimed in the application,  
29 the director shall send to the applicant written notice of the action,  
30 together with a statement of the findings and reasons for the action,

1 by certified mail, before the 60th day after the filing of the application.  
2 Failure of the director to act constitutes rejection of the application.

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

7 “(7) The director may establish by rule timelines and intermediate  
8 deadlines for submission of application materials.

9 **“SECTION 40.** By rule and after hearing, the Director of the State  
10 Department of Energy may adopt a schedule of reasonable fees that  
11 the State Department of Energy may require of applicants for prelim-  
12 inary or final certification of an energy conservation project under  
13 sections 33 to 44 of this 2011 Act. Before the adoption or revision of the  
14 fees, the department shall estimate the total cost of the program to  
15 the department. The fees shall be used to recover the anticipated cost  
16 of filing, investigating, granting and rejecting applications for certifi-  
17 cation and shall be designed not to exceed the total cost estimated  
18 by the department. Any excess fees shall be held by the department  
19 and shall be used by the department to reduce any future fee in-  
20 creases. The fee may vary according to the size and complexity of the  
21 project. The fee is not considered part of the cost of the project to be  
22 certified.

23 **“SECTION 41.** A certificate issued under section 39 of this 2011 Act  
24 is required for purposes of obtaining tax credits in accordance with  
25 section 2 of this 2011 Act. Such certification shall be granted for a  
26 period not to exceed five years. The five-year period shall begin with  
27 the tax year of the applicant during which the completed application  
28 for final certification of the project under section 12 of this 2011 Act  
29 is received by the State Department of Energy.

30 **“SECTION 42.** (1) Under the procedures for a contested case under

1 **ORS chapter 183, the Director of the State Department of Energy may**  
2 **order the suspension or revocation of a certificate issued under section**  
3 **12 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 project has**  
6 **failed to construct or operate the project in compliance with the plans,**  
7 **specifications and procedures 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**  
10 **final, the director shall notify the Department of Revenue and the**  
11 **project owner, contract purchaser or lessee of the order of revocation.**  
12 **Upon notification, the Department of Revenue immediately shall pro-**  
13 **ceed to collect those taxes not paid by the certificate holder as a result**  
14 **of the tax credits provided to the certificate holder under section 2 of**  
15 **this 2011 Act, from the certificate holder or a successor in interest to**  
16 **the business interests of the certificate holder. All prior tax credits**  
17 **provided to the holder of the certificate by virtue of the certificate**  
18 **shall be forfeited.**

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

27 **“(b) For purposes of this subsection, a lender, bankruptcy trustee**  
28 **or other person that acquires an interest through bankruptcy or**  
29 **through foreclosure of a security interest is not considered to be a**  
30 **successor in interest to the business interests of the person that ob-**

1 **tained certification.**

2 **“SECTION 43. (1) The total amount of potential tax credits for all**  
3 **energy conservation projects in this state may not, at the time of**  
4 **preliminary certification under section 11 of this 2011 Act, exceed \$40**  
5 **million for the biennium beginning July 1, 2011.**

6 **“(2) In the event that the Director of the State Department of En-**  
7 **ergy receives applications for preliminary certification with a total**  
8 **amount of potential tax credits in excess of the limitations in sub-**  
9 **sections (1) of this section, the director shall allocate the issuance of**  
10 **preliminary certifications according to the standards required by sec-**  
11 **tion 8 of this 2011 Act.**

12 **“SECTION 44. The State Department of Energy shall by rule es-**  
13 **tablish procedures for the administration of sections 2 to 4 and 33 to**  
14 **44 of this 2011 Act.**

15 **“SECTION 45. Sections 30 and 33 to 44 of this 2011 Act apply to ap-**  
16 **plications for preliminary certification submitted under section 10 of**  
17 **this 2011 Act after July 1, 2011, and to tax years beginning on or after**  
18 **January 1, 2011.**

19  
20 **“TAX CREDIT FOR TRANSPORTATION PROJECTS**

21  
22 **“SECTION 46. Sections 47 and 48 of this 2011 Act are added to and**  
23 **made a part of ORS chapter 315.**

24 **“SECTION 47. (1) A credit is allowed against the taxes otherwise**  
25 **due under ORS chapter 316 (or, if the taxpayer is a corporation, under**  
26 **ORS chapter 317 or 318) for a transportation project, based upon the**  
27 **certified cost of the project, during the period for which the project is**  
28 **certified under sections 50 to 58 of this 2011 Act. The credit is allowed**  
29 **as follows:**

30 **“(a) For tax years beginning on or after January 1, 2011, and before**

1 **January 1, 2013, the maximum allowed credit shall be 25 percent of**  
2 **certified cost.**

3 **“(b) For tax years beginning on or after January 1, 2013, and before**  
4 **January 1, 2014, the maximum allowed credit shall be 20 percent of**  
5 **certified cost.**

6 **“(c) For tax years beginning on or after January 1, 2014, and before**  
7 **January 1, 2015, the maximum allowed credit shall be 15 percent of**  
8 **certified cost.**

9 **“(d) For tax years beginning on or after January 1, 2015, and before**  
10 **January 1, 2016, the maximum allowed credit shall be 10 percent of**  
11 **certified cost.**

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

13 **“(a) The project must be located in Oregon.**

14 **“(b) The project must have received final certification from the**  
15 **Director of the State Department of Energy under sections 50 to 58 of**  
16 **this 2011 Act.**

17 **“(3) The total amount of the credit allowable to an eligible taxpayer**  
18 **under this section may not exceed 35 percent of the certified cost of**  
19 **the project.**

20 **“(4) The State Department of Energy shall reduce the amount of**  
21 **credit allowable to a taxpayer if, when combined with other govern-**  
22 **ment incentives, loans or grants available to the taxpayer, the total**  
23 **amount of tax credits and government incentives, loans and grants**  
24 **exceeds 75 percent of the total cost of the transportation project cer-**  
25 **tified under section 27 of this 2011 Act.**

26 **“(5) Any tax credit otherwise allowable under this section that is**  
27 **not used by the taxpayer in a particular year may be carried forward**  
28 **and offset against the taxpayer’s tax liability for the next succeeding**  
29 **tax year. Any credit remaining unused in that next succeeding tax**  
30 **year may be carried forward and used in the second succeeding tax**



1 year, and likewise, any credit not used in that second succeeding tax  
2 year may be carried forward and used in the third succeeding tax year,  
3 and likewise, any credit not used in that third succeeding tax year  
4 may be carried forward and used in the fourth succeeding tax year,  
5 and likewise, any credit not used in that fourth succeeding tax year  
6 may be carried forward and used in the fifth succeeding tax year, but  
7 may not be carried forward for any tax year thereafter. Credits may  
8 be carried forward to and used in a tax year beyond the years specified  
9 in subsection (1) of this section only as provided in this subsection.

10 “(6) The credit allowed under this section is not in lieu of any de-  
11 preciation or amortization deduction for the transportation project to  
12 which the taxpayer otherwise may be entitled for purposes of ORS  
13 chapter 316, 317 or 318 for such year.

14 “(7) The taxpayer’s adjusted basis for determining gain or loss may  
15 not be decreased by any tax credits allowed under this section.

16 “(8) The definitions in section 50 of this 2011 Act apply to this sec-  
17 tion.

18 **“SECTION 48.** (1) A taxpayer may not be allowed a credit under  
19 section 47 of this 2011 Act for transportation facility expenses in a  
20 fiscal year beginning after July 1, 2015.

21 “(2) A taxpayer may not be allowed a credit for an alternative fuel  
22 vehicle refueling station if the first tax year for which the credit would  
23 otherwise be allowed, with respect to a transportation project certified  
24 under section 55 of this 2011 Act, begins on or after January 1, 2018.

25 **“SECTION 49.** Sections 50 to 58 of this 2011 Act are added to and  
26 made a part of ORS chapter 469.

27 **“SECTION 50.** As used in sections 50 to 58 of this 2011 Act:

28 “(1) ‘Cost’ means the capital costs and expenses necessarily in-  
29 curred in the acquisition and performance of a transportation project.

30 “(2) ‘Transportation project’ means a transportation services con-

1 tract or an alternative fuel vehicle fueling station.

2 “(3) ‘Transportation provider’ means a public, private or nonprofit  
3 entity that provides transportation services to members of the public.

4 “(4) ‘Transportation services contract’ means a contract entered  
5 into by a transportation provider that is related to a transportation  
6 project, and may be further defined by the department by rule.

7 **“SECTION 51. (1) Prior to the acquisition or performance of a  
8 transportation project, a person may apply to the State Department  
9 of Energy for preliminary certification for the project under section  
10 51 of this 2011 Act if:**

11 **“(a) The project complies with the standards adopted by the Direc-  
12 tor of the State Department of Energy; and**

13 **“(b) The applicant will be the owner, contract purchaser or lessor  
14 of the project at the time of acquisition or performance of the project.**

15 **“(2) An application for preliminary certification shall be made in  
16 writing on a form prepared by the department and shall contain:**

17 **“(a) A statement that the applicant plans to acquire or perform a  
18 project that substantially reduces the consumption of purchased en-  
19 ergy.**

20 **“(b) A detailed description of the project and its operation and in-  
21 formation showing that the project will operate as represented in the  
22 application and remain in operation for at least five years, unless the  
23 director by rule specifies a shorter period of operation.**

24 **“(c) Information on the amount by which consumption of purchased  
25 energy by the applicant will be reduced, and, if applicable, information  
26 about the expected level of project performance.**

27 **“(d) The anticipated total project cost.**

28 **“(e) Information on the number and types of jobs that will be cre-  
29 ated by the project, the number of jobs sustained throughout the ac-  
30 quisition and performance of the project and the benefits of the project**

1 with regard to overall economic activity in this state.

2 “(f) Information demonstrating that the project will comply with  
3 applicable state and local laws and regulations and obtain required li-  
4 censes and permits.

5 “(g) Any other information the director considers necessary to de-  
6 termine whether the project is in accordance with the provisions of  
7 sections 50 to 58 of this 2011 Act, and any applicable rules or standards  
8 adopted by the director.

9 “(3) An application for preliminary certification shall be accompa-  
10 nied by a fee established under section 54 of this 2011 Act. The director  
11 may refund all or a portion of the fee if the application for certif-  
12 ication is rejected.

13 “(4) The director may allow an applicant to file the application for  
14 preliminary certification after the start of acquisition or performance  
15 of the project if the director finds that:

16 “(a) Filing the application before the start of acquisition or per-  
17 formance is inappropriate because special circumstances render filing  
18 earlier unreasonable; and

19 “(b) The project would otherwise qualify for certification under  
20 sections 50 to 58 of this 2011 Act.

21 “(5) A preliminary certification shall remain valid for a period of  
22 five calendar years after the date on which the preliminary certif-  
23 ication is issued by the director.

24 “SECTION 52. (1) The Director of the State Department of Energy  
25 may require an applicant for certification of a transportation project  
26 to submit plans, specifications and contract terms, and after exam-  
27 ination of the plans, specifications and terms, may request corrections  
28 and revisions.

29 “(2) If the director determines that the project is technically feasi-  
30 ble and should operate in accordance with the representations made

1 by the applicant, and is in accordance with the provisions of sections  
2 50 to 58 of this 2011 Act and any applicable rules or standards adopted  
3 by the director, the director shall issue a preliminary certificate ap-  
4 proving the acquisition or performance of the project. The certificate  
5 shall indicate the potential amount of tax credit allowable and shall  
6 list any conditions for claiming the credit.

7 “(3) The director may issue an order altering, conditioning, sus-  
8 pending or denying preliminary certification if the director determines  
9 that:

10 “(a) The project does not comply with the provisions of sections 50  
11 to 58 of this 2011 Act and applicable rules and standards;

12 “(b) The applicant has previously received preliminary or final cer-  
13 tification for the project;

14 “(c) The applicant is unable to demonstrate that the project would  
15 be economically viable without the allowance of a credit under section  
16 47 of this 2011 Act;

17 “(d) The applicant was directly involved in an act for which the di-  
18 rector has levied civil penalties or revoked, canceled or suspended any  
19 certification under sections 50 to 58 of this 2011 Act; or

20 “(e) The applicant or the principal, director, officer, owner, major-  
21 ity shareholder or member of the applicant, or the manager of the  
22 applicant if the applicant is a limited liability company, is in arrears  
23 for payments owed to any government agency while in any capacity  
24 with direct or indirect control over a business.

25 **“SECTION 53. (1) A final certification for a transportation project**  
26 **may not be issued by the Director of the State Department of Energy**  
27 **under this section unless:**

28 “(a) The project was acquired or performed under a preliminary  
29 certificate of approval issued under section 51 of this 2011 Act;

30 “(b) The applicant demonstrates the ability to provide the informa-

1 tion required by section 52 (2) of this 2011 Act and does not violate any  
2 condition that may be imposed as described in subsection (4) of this  
3 section; and

4 “(c) The project was acquired or performed in accordance with the  
5 applicable provisions of sections 50 to 58 of this 2011 Act and any ap-  
6 plicable rules or standards adopted by the director.

7 “(2) A person may apply to the State Department of Energy for final  
8 certification of a project:

9 “(a) If the person received preliminary certification for the project  
10 under section 51 of this 2011 Act; and

11 “(b) After completion of the acquisition or performance of the  
12 project.

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

15 “(a) A statement that the conditions of the preliminary certification  
16 have been complied with;

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

21 “(c) The amount of the credit under section 47 of this 2011 Act that  
22 is to be claimed;

23 “(d) The number and types of jobs created by the acquisition and  
24 performance of the project over the five-year period beginning on the  
25 date of issuance of the preliminary certification under section 51 of  
26 this 2011 Act and information on the benefits of the project with re-  
27 gard to overall economic activity in this state;

28 “(e) Information sufficient to demonstrate that the project will re-  
29 main in operation for at least five years, unless the director by rule  
30 specifies a shorter period of operation;

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

4       “(h) Any other information determined by the director to be nec-  
5 essary prior to issuance of a final certificate, including inspection of  
6 the project by the department.

7       “(4) The director shall act on an application for final certification  
8 before the 60th day after the filing of the application under this sec-  
9 tion. The director may issue the certificate together with such condi-  
10 tions as the director determines are appropriate to promote the  
11 purposes of sections 47 and 50 to 58 of this 2011 Act. If the applicant  
12 is an entity subject to regulation by the Public Utility Commission, the  
13 director may consult with the commission prior to issuance of the  
14 certificate. The action of the director shall include certification of the  
15 actual cost of the project. However, the director may not certify an  
16 amount for tax credit purposes that is more than the amount of credit  
17 approved in the preliminary certificate issued for the project.

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

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

28       “(7) The director may establish by rule timelines and intermediate  
29 deadlines for submission of application materials.

30       “SECTION 54. By rule and after hearing, the Director of the State

1 Department of Energy may adopt a schedule of reasonable fees that  
2 the State Department of Energy may require of applicants for prelim-  
3 inary or final certification of a transportation project under sections  
4 50 to 58 of this 2011 Act. Before the adoption or revision of the fees,  
5 the department shall estimate the total cost of the program to the  
6 department. The fees shall be used to recover the anticipated cost of  
7 filing, investigating, granting and rejecting applications for certif-  
8 ication and shall be designed not to exceed the total cost estimated  
9 by the department. Any excess fees shall be held by the department  
10 and shall be used by the department to reduce any future fee in-  
11 creases. The fee may vary according to the size and complexity of the  
12 project. The fee is not considered part of the cost of the project to be  
13 certified.

14 **“SECTION 55.** A certificate issued under section 53 of this 2011 Act  
15 is required for purposes of obtaining tax credits in accordance with  
16 section 21 of this 2011 Act. Such certification shall be granted for a  
17 period not to exceed five years. The five-year period shall begin with  
18 the tax year of the applicant during which the completed application  
19 for final certification of the transportation project under section 53 of  
20 this 2011 Act is received by the State Department of Energy.

21 **“SECTION 56. (1)** Under the procedures for a contested case under  
22 ORS chapter 183, the Director of the State Department of Energy may  
23 order the suspension or revocation of a certificate issued under section  
24 53 of this 2011 Act if the director finds that:

25 **“(a)** The certification was obtained by fraud or misrepresentation;

26 **“(b)** The holder of the certificate or the operator of the transpor-  
27 tation project has failed to acquire or perform the project in compli-  
28 ance with the plans, specifications and contract terms in the  
29 certificate; or

30 **“(c)** The project is no longer in operation.

1       “(2) As soon as an order of revocation under this section becomes  
2 final, the director shall notify the Department of Revenue and the  
3 project owner, contract purchaser or lessee of the order of revocation.  
4 Upon notification, the Department of Revenue immediately shall pro-  
5 ceed to collect those taxes not paid by the certificate holder as a result  
6 of the tax credits provided to the certificate holder under section 55  
7 of this 2011 Act, from the certificate holder or a successor in interest  
8 to the business interests of the certificate holder. All prior tax credits  
9 provided to the holder of the certificate by virtue of the certificate  
10 shall be forfeited.

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

19       “(b) For purposes of this subsection, a lender, bankruptcy trustee  
20 or other person that acquires an interest through bankruptcy or  
21 through foreclosure of a security interest is not considered to be a  
22 successor in interest to the business interests of the person that ob-  
23 tained certification.

24       “SECTION 57. The total amount of potential tax credits for all  
25 transportation projects in this state may not, at the time of prelimi-  
26 nary certification under section 51 of this 2011 Act, exceed \$20 million  
27 for any biennium.

28       “SECTION 58. The State Department of Energy shall by rule es-  
29 tablish procedures for the administration of sections 47, 48 and 50 to  
30 58 of this 2011 Act.



1       **“SECTION 59.** Sections 47, 48 and 50 to 58 of this 2011 Act apply to  
2 applications for preliminary certification submitted under section 25  
3 of this 2011 Act after July 1, 2011, and to tax years beginning on or  
4 after January 1, 2011.

5  
6               **“TAX CREDIT FOR RESIDENTIAL ENERGY DEVICES**

7  
8       **“SECTION 60.** Section 5a, chapter 832, Oregon Laws 2005, as amended  
9 by section 35, chapter 843, Oregon Laws 2007, and section 12, chapter 913,  
10 Oregon Laws 2009, is amended to read:

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

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

19       **“SECTION 61.** Section 8a, chapter 832, Oregon Laws 2005, as amended  
20 by section 13, chapter 913, Oregon Laws 2009, is amended to read:

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

25       **“(2)** The State Department of Energy may not issue an alternative  
26 fuel vehicle or related equipment certificate under ORS 469.170 after  
27 January 1, 2012.

28       **“SECTION 62.** ORS 316.116 is amended to read:

29       **“316.116. (1)(a)** A resident individual shall be allowed a credit against the  
30 taxes otherwise due under this chapter for costs paid or incurred for con-

1 construction or installation of each of one or more alternative energy devices  
2 in a dwelling.

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

6 “(2)(a) In the case of a category one alternative energy device that is not  
7 an alternative fuel device, the credit shall be based upon the first year en-  
8 ergy yield of the alternative energy device that qualifies under ORS 469.160  
9 to 469.180. The amount of the credit shall be the same whether for collective  
10 or noncollective investment.

11 “(b) The credit allowed under this section for each category one alterna-  
12 tive energy device for each dwelling may not exceed the lesser of:

13 “(A) \$1,500 or the first year energy yield in kilowatt hours per year  
14 multiplied by 60 cents per dwelling utilizing the alternative energy device  
15 used for space heating, cooling, electrical energy or domestic water heating  
16 for tax years beginning on or after January 1, 1990, and before January 1,  
17 1996.

18 “(B) \$1,200 or the first year energy yield in kilowatt hours per year  
19 multiplied by 48 cents per dwelling utilizing the alternative energy device  
20 used for space heating, cooling, electrical energy or domestic water heating  
21 for tax years beginning on or after January 1, 1996, and before January 1,  
22 1998.

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

27 “(c) For each category one alternative energy device used for swimming  
28 pool, spa or hot tub heating, the credit allowed under this section shall be  
29 based upon 50 percent of the cost of the device or the first year’s energy  
30 yield in kilowatt hours per year multiplied by 15 cents, whichever is lower,

1 up to:

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

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

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

7 “(d) For each alternative fuel device, the credit allowed under this section  
8 is 25 percent of the cost of the alternative fuel device but the total credit  
9 shall not exceed \$750 if the device is placed in service on or after January  
10 1, 1998.

11 “(e)(A) For each category two alternative energy device that is a solar  
12 electric system or fuel cell system, the credit allowed under this section shall  
13 equal \$3 per watt of installed output, but the installed output that is used  
14 to determine the amount of credit under this paragraph may not exceed 2,000  
15 watts.

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

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

28 “(D) Notwithstanding subparagraph (A) or (B) of this paragraph, the total  
29 amount of the credit for each device allowed under this paragraph may not  
30 exceed 50 percent of the total installed cost of the category two alternative

1 energy device.

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

5 “[(A) *48 cents per first year kilowatt hour saved, or the equivalent for other*  
6 *fuel saved, not to exceed \$1,200 for each tax year beginning on or after January*  
7 *1, 1998, and before January 1, 1999; and]*

8 “[(B) *40 cents per kilowatt hour saved, or the equivalent for other fuel*  
9 *saved, not to exceed \$1,000 for each tax year beginning on or after January 1,*  
10 *1999.]*

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

14 “[(4)] **(3)** To qualify for a credit under this section, all of the following  
15 are required:

16 “(a) The alternative energy device must be purchased, constructed, in-  
17 stalled and operated in accordance with ORS 469.160 to 469.180 and a certifi-  
18 cate issued thereunder.

19 “(b) Except for credits claimed for alternative fuel devices, the taxpayer  
20 who is allowed the credit must be the owner or contract purchaser of the  
21 dwelling or dwellings served by the alternative energy device or the tenant  
22 of the owner or of the contract purchaser and must:

23 “(A) Use the dwelling or dwellings served by the alternative energy device  
24 as a principal or secondary residence; or

25 “(B) Rent or lease, under a residential rental agreement, the dwelling or  
26 dwellings to a tenant who uses the dwelling or dwellings as a principal or  
27 secondary residence, unless the basis for the credit is the installation of an  
28 energy efficient appliance. If the basis for the credit is the installation of  
29 an energy efficient appliance, the credit shall be allowed only to the taxpayer  
30 who actually occupies the dwelling as a principal or secondary residence.

1 “(c) In the case of an alternative fuel device, if the device is a fueling  
2 station necessary to operate an alternative fuel vehicle, unless the verifica-  
3 tion form and certificate are transferred as authorized under ORS 469.170 (8),  
4 the taxpayer who is allowed the credit must be the contractor who constructs  
5 the dwelling that incorporates the fueling station into the dwelling or in-  
6 stalls the fueling station in the dwelling. If the category one alternative  
7 energy device is an alternative fuel vehicle, the credit must be claimed by  
8 the owner as defined under ORS 801.375 or contract purchaser. If the cate-  
9 gory one alternative energy device is related equipment for an alternative  
10 fuel vehicle, the credit may be claimed by the owner or contract purchaser.

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

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

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

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

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

1 carried forward for any tax year thereafter.

2 “[8] (7) A nonresident shall be allowed the credit under this section in  
3 the proportion provided in ORS 316.117.

4 “[9] (8) If a change in the taxable year of a taxpayer occurs as described  
5 in ORS 314.085, or if the Department of Revenue terminates the taxpayer’s  
6 taxable year under ORS 314.440, the credit allowed by this section shall be  
7 prorated or computed in a manner consistent with ORS 314.085.

8 “[10] (9) If a change in the status of a taxpayer from resident to non-  
9 resident or from nonresident to resident occurs, the credit allowed by this  
10 section shall be determined in a manner consistent with ORS 316.117.

11 “[11] (10) A husband and wife who file separate returns for a taxable  
12 year may each claim a share of the tax credit that would have been allowed  
13 on a joint return in proportion to the contribution of each. However, a hus-  
14 band or wife living in a separate principal residence may claim the tax credit  
15 in the same amount as permitted a single person.

16 “[12] (11) As used in this section, unless the context requires otherwise:

17 “(a) ‘Collective investment’ means an investment by two or more taxpay-  
18 ers for the acquisition, construction and installation of an alternative energy  
19 device for one or more dwellings.

20 “(b) ‘Noncollective investment’ means an investment by an individual  
21 taxpayer for the acquisition, construction and installation of an alternative  
22 energy device for one or more dwellings.

23 “(c) ‘Taxpayer’ includes a transferee of a verification form under ORS  
24 469.170 (8).

25 “[13] (12) Notwithstanding any provision of subsection (1) or (2) of this  
26 section, the sum of the credit allowed under subsection (1) of this section  
27 plus any similar credit allowed for federal income tax purposes may not ex-  
28 ceed the cost to the taxpayer for the acquisition, construction and installa-  
29 tion of the alternative energy device.

30 **“SECTION 63.** ORS 469.160 is amended to read:

1 “469.160. As used in ORS 316.116, 317.115 and 469.160 to 469.180:

2 “(1) ‘Alternative energy device’ means a category one alternative energy  
3 device or a category two alternative energy device.

4 “(2) ‘Alternative fuel device’ means any of the following:

5 “(a) An alternative fuel vehicle;

6 “(b) Related equipment; or

7 “(c) A fueling station necessary to operate an alternative fuel vehicle.

8 “(3) ‘Alternative fuel vehicle’ means a motor vehicle as defined in ORS  
9 801.360 that is:

10 “(a) Registered in this state; and

11 “(b) Manufactured or modified to use an alternative fuel, including but  
12 not limited to electricity, natural gas, ethanol, methanol, propane and any  
13 other fuel approved in rules adopted by the Director of the State Department  
14 of Energy that produces less exhaust emissions than vehicles fueled by gas-  
15 oline or diesel. Determination that a vehicle is an alternative fuel vehicle  
16 shall be made without regard to energy consumption savings.

17 “(4) ‘Category one alternative energy device’ means:

18 “(a) Any system, mechanism or series of mechanisms that uses solar ra-  
19 diation for space heating or cooling for one or more dwellings;

20 “(b) Any system that uses solar radiation for:

21 “(A) Domestic water heating; or

22 “(B) Swimming pool, spa or hot tub heating and that meets the require-  
23 ments set forth in ORS 316.116;

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

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

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

28 “(f) A generator powered by alternative fuels and used to produce elec-  
29 tricity;

30 “[g] *An energy efficient appliance;*]

1       “[(h)] (g) An alternative fuel device; or

2       “[(i)] (h) A premium efficiency biomass combustion device that includes  
3 a dedicated outside combustion air source and that meets minimum per-  
4 formance standards that are established by the State Department of Energy.

5       “(5) ‘Category two alternative energy device’ means a fuel cell system,  
6 solar electric system or wind electric system.

7       “(6) ‘Coefficient of performance’ means the ratio calculated by dividing  
8 the usable output energy by the electrical input energy. Both energy values  
9 must be expressed in equivalent units.

10       “(7) ‘Contractor’ means a person whose trade or business consists of of-  
11 fering for sale an alternative energy device, construction service, installation  
12 service or design service.

13       “(8)(a) ‘Cost’ means the actual cost of the acquisition, construction and  
14 installation of the alternative energy device paid by the taxpayer for the  
15 alternative energy device.

16       “(b) For an alternative fuel vehicle, ‘cost’ means the difference between  
17 the cost of the alternative fuel vehicle and the same vehicle or functionally  
18 similar vehicle manufactured to use conventional gasoline or diesel fuel or,  
19 in the case of modification of an existing vehicle, the cost of the modifica-  
20 tion. ‘Cost’ does not include any amounts paid for remodification of the  
21 same vehicle.

22       “(c) For a fueling station necessary to operate an alternative fuel vehicle,  
23 ‘cost’ means the cost to the contractor of constructing or installing the fu-  
24 eling station in a dwelling and of making the fuel station operational in  
25 accordance with the specifications issued under ORS 469.160 to 469.180 and  
26 any rules adopted by the Director of the State Department of Energy.

27       “(d) For related equipment, ‘cost’ means the cost of the related equipment  
28 and any modifications or additions to the related equipment necessary to  
29 prepare the related equipment for use in converting a vehicle to alternative  
30 fuel use.



1 “(9) ‘Domestic water heating’ means the heating of water used in a  
2 dwelling for bathing, clothes washing, dishwashing and other related func-  
3 tions.

4 “(10) ‘Dwelling’ means real or personal property ordinarily inhabited as  
5 a principal or secondary residence and located within this state. ‘Dwelling’  
6 includes, but is not limited to, an individual unit within multiple unit resi-  
7 dential housing.

8 “[~~(11)~~ *‘Energy efficient appliance’ means a clothes washer, clothes dryer,*  
9 *water heater, refrigerator, freezer, dishwasher, appliance designed to heat or*  
10 *cool a dwelling or other major household appliance that has been certified by*  
11 *the State Department of Energy to have premium energy efficiency character-*  
12 *istics.*]

13 “[~~(12)~~] **(11)** ‘First year energy yield’ of an alternative energy device is the  
14 usable energy produced under average environmental conditions in one year.

15 “[~~(13)~~] **(12)** ‘Fuel cell system’ means any system, mechanism or series of  
16 mechanisms that uses fuel cells or fuel cell technology to generate electrical  
17 energy for a dwelling.

18 “[~~(14)~~] **(13)** ‘Fueling station’ includes but is not limited to a compressed  
19 natural gas compressor fueling system or an electric charging system for  
20 vehicle power battery charging.

21 “[~~(15)~~] **(14)** ‘Placed in service’ means:

22 “(a) The date an alternative energy device is ready and available to  
23 produce usable energy or save energy.

24 “(b) For an alternative fuel vehicle:

25 “(A) In the case of purchase, the date that the alternative fuel vehicle is  
26 first purchased as an alternative fuel vehicle ready and available for use.

27 “(B) In the case of modification, the date that the modification is com-  
28 pleted and the vehicle is ready and available for use as an alternative fuel  
29 vehicle.

30 “(c) For a fueling station necessary to operate an alternative fuel vehicle,

1 the date that the fueling station is first operational.

2 “(d) For related equipment, the date that the equipment is first opera-  
3 tional.

4 “[~~(16)~~] **(15)** ‘Related equipment’ means equipment necessary to convert a  
5 vehicle to use an alternative fuel.

6 “[~~(17)~~] **(16)** ‘Solar electric system’ means any system, mechanism or series  
7 of mechanisms, including photovoltaic systems, that uses solar radiation to  
8 generate electrical energy for a dwelling.

9 **“(17) ‘Third-party alternative energy device installation’ means the**  
10 **installation of alternative energy devices that are obtained in bulk for**  
11 **the purpose of installing in multiple locations at a discounted rate to**  
12 **consumers.**

13 “[~~(18)~~] **(18)** ‘Wind electric system’ means any system, mechanism or series  
14 of mechanisms that uses wind to generate electrical energy for a dwelling.

15 **“SECTION 64.** ORS 469.170 is amended to read:

16 “469.170. (1) Any person may claim a tax credit under ORS 316.116 (or  
17 ORS 317.115, if the person is a corporation) if the person:

18 “(a) Meets the requirements of ORS 316.116 (or ORS 317.115, if applica-  
19 ble);

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

21 “(c) Pays, subject to subsection (9) of this section, all or a portion of the  
22 costs of an alternative energy device.

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

26 “(3)(a) In order to be eligible for a tax credit under ORS 316.116 or  
27 317.115, a person claiming a tax credit for construction or installation of an  
28 alternative energy device (including a fueling station) shall have the device  
29 certified by the State Department of Energy or constructed or installed by  
30 a contractor certified by the department under subsection (5) of this section.

1 This paragraph does not apply to an alternative fuel vehicle or to related  
2 equipment.

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

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

9 “(a) The location of the alternative energy device;

10 “(b) A description of the type of device;

11 “(c) If the device was constructed or installed by a contractor, evidence  
12 that the contractor has any license, bond, insurance and permit required to  
13 sell and construct or install the alternative energy device;

14 “(d) If the device was constructed or installed by a contractor, a state-  
15 ment signed by the contractor that the applicant has received:

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

17 “(B) A copy of consumer information published by the State Department  
18 of Energy;

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

20 “(D) A copy of the contractor’s certification certificate or alternative en-  
21 ergy device system certificate for the alternative energy device, as appropri-  
22 ate;

23 “(e) If the device was not constructed or installed by a contractor, evi-  
24 dence that:

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

27 “(B) The taxpayer has obtained all building permits required for con-  
28 struction or installation of the device;

29 “(f) A statement, signed by both the taxpayer claiming the credit and the  
30 contractor if the device was constructed or installed by a contractor, that

1 the construction or installation meets all the requirements of ORS 469.160  
2 to 469.180 or, if the device is a fueling station and the taxpayer is the con-  
3 tractor, a statement signed by the contractor that the construction or in-  
4 stallation meets all of the requirements of ORS 469.160 to 469.180;

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

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

7 “(i) Any other information that the Director of the State Department of  
8 Energy or the Department of Revenue determines is necessary.

9 “(5)(a) When the State Department of Energy finds that an alternative  
10 energy device can meet the standards adopted under ORS 469.165, the Di-  
11 rector of the State Department of Energy may issue a contractor system  
12 certification to the person selling and constructing or installing the alter-  
13 native energy device.

14 “(b) Any person who sells or installs more than 12 alternative energy  
15 devices in one year shall apply for a contractor system certification. **A**  
16 **person may not claim a credits in a tax year for more than 25 third-**  
17 **party alternative energy device installations.** An application for a con-  
18 tractor system certification shall be made in writing on a form provided by  
19 the State Department of Energy and shall contain:

20 “(A) A statement that the contractor has any license, bonding, insurance  
21 and permit that is required for the sale and construction or installation of  
22 the alternative energy device;

23 “(B) A specific description of the alternative energy device, including, but  
24 not limited to, the material, equipment and mechanism used in the device,  
25 operating procedure, sizing and siting method and construction or installa-  
26 tion procedure;

27 “(C) The addresses of three installations of the device that are available  
28 for inspection by the State Department of Energy;

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

30 “(E) Any important construction, installation or operating instructions;

1 and

2 “(F) Any other information that the State Department of Energy deter-  
3 mines is necessary.

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

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

12 “[~~(e)~~] (f) If the State Department of Energy finds that an alternative en-  
13 ergy device can meet the standards adopted under ORS 469.165, the Director  
14 of the State Department of Energy may issue an alternative energy device  
15 system certificate to the taxpayer constructing or installing or having an  
16 alternative energy device constructed or installed.

17 “[~~(f)~~] (g) An application for an alternative energy device system certif-  
18 icate shall be made in writing on a form provided by the State Department  
19 of Energy and shall contain:

20 “(A) A specific description of the alternative energy device, including, but  
21 not limited to, the material, equipment and mechanism used in the device,  
22 operating procedure, sizing, siting method and construction or installation  
23 procedure;

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

25 “(C) A statement that the taxpayer has all permits required for con-  
26 struction or installation of the device.

27 “(6) To claim the tax credit, the verification form described in subsection  
28 (4) of this section shall be submitted with the taxpayer’s tax return for the  
29 year the alternative energy device is placed in service or the immediately  
30 succeeding tax year. A copy of the contractor’s certification certificate, al-

1 alternative energy device system certificate or alternative fuel vehicle or re-  
2 lated equipment certificate also shall be submitted.

3 “(7) The verification form and contractor’s certificate, alternative energy  
4 device system certificate or alternative fuel vehicle or related equipment  
5 certificate described under this section shall be effective for purposes of tax  
6 relief allowed under ORS 316.116 or 317.115.

7 “(8) The verification form and contractor’s certificate described under this  
8 section may be transferred to the first purchaser of a dwelling or, in the case  
9 of construction or installation of a fueling station in an existing dwelling,  
10 the current owner, who intends to use or is using the dwelling as a principal  
11 or secondary residence.

12 “(9) Any person that pays the present value of the tax credit for an al-  
13 ternative energy device provided under ORS 316.116 or 317.115 and 469.160  
14 to 469.180 to the person who constructs or installs the alternative energy  
15 device shall be entitled to claim the credit in the manner and subject to rules  
16 adopted by the Department of Revenue to carry out the purposes of this  
17 subsection. The State Department of Energy may establish by rule uniform  
18 discount rates to be used in calculating the present value of a tax credit  
19 under this subsection.

20 **“SECTION 65.** ORS 469.172 is amended to read:

21 “469.172. The following devices are not eligible for the tax credit under  
22 ORS 316.116:

23 **“(1) Appliances;**

24 “[1] **(2)** Standard efficiency furnaces;

25 “[2] **(3)** Standard back-up heating systems;

26 “[3] **(4)** Woodstoves or wood furnaces, or any part of a heating system  
27 that burns wood, unless the woodstove, furnace or system constitutes a pre-  
28 mium efficiency biomass combustion device described in ORS 469.160 (4)(i);

29 “[4] **(5)** Heat pump water heaters that are part of a geothermal heat  
30 pump space heating system;

1 “[(5)] (6) Structures that cover or enclose a swimming pool;  
2 “[(6)] (7) Swimming pools, hot tubs or spas used to store heat;  
3 “[(7)] (8) Above ground, uninsulated swimming pools, hot tubs or spas;  
4 “[(8)] (9) Photovoltaic systems installed on recreational vehicles;  
5 “[(9)] (10) Conversion of an existing alternative energy device to another  
6 type of alternative energy device;

7 “[(10)] (11) Repair or replacement of an existing alternative energy device;

8 “[(11)] (12) A category two alternative energy device, if the equipment or  
9 other property that comprises the category two alternative energy device is  
10 the basis for an allowed credit for a category one alternative energy device  
11 under ORS 316.116;

12 “[(12)] (13) A category one alternative energy device, if the equipment or  
13 other property that comprises the category one alternative energy device is  
14 also the basis for an allowed credit for a category two alternative energy  
15 device under ORS 316.116; or

16 “[(13)] (14) Any other device identified by the State Department of En-  
17 ergy. The department may adopt rules defining standards for eligible and  
18 ineligible devices under this section.

19 **“SECTION 66. (1) The amendments to ORS 316.116 and 469.172 by**  
20 **sections 63 and 64 of this 2011 Act apply to appliances purchased and**  
21 **installed after December 31, 2011 and to tax years beginning on or after**  
22 **January 1, 2012.**

23 **“(2) The amendments to ORS 469.170 by section 64 of this 2011 Act**  
24 **apply to applications for certification received after the effective date**  
25 **of this 2011 Act.**

26 **“SECTION 67. The Department of energy may not issue certif-**  
27 **ications for more than \$10 million in potential tax credits for third-**  
28 **party alternative energy device installations in any tax year.**

29

30 **“CAPTIONS AND EFFECTIVE DATE**

1       **“SECTION 68. The unit captions used in this 2011 Act are provided**  
2 **only for the convenience of the reader and do not become part of the**  
3 **statutory law of this state or express any legislative intent in the**  
4 **enactment of this 2011 Act.**

5       **“SECTION 69. This 2011 Act takes effect on the 91st day after the**  
6 **date on which the 2011 session of the Seventy-sixth Legislative As-**  
7 **sembly adjourns sine die.”.**

8

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DRAFT