

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3672**

1 In line 2 of the printed bill, after the semicolon delete the rest of the line  
2 and insert “; creating new provisions; amending ORS 284.367, 285C.406,  
3 314.752, 315.053, 315.357, 315.514, 316.116, 317.115, 317.152, 317.154, 318.031,  
4 469.160, 469.170, 469.172 and 469.790 and section 6, chapter 911, Oregon Laws  
5 1989, section 77, chapter 736, Oregon Laws 2003, section 1a, chapter 559,  
6 Oregon Laws 2005, sections 5a and 8a, chapter 832, Oregon Laws 2005, sec-  
7 tion 6, chapter 739, Oregon Laws 2007, and sections 3 and 20, chapter 913,  
8 Oregon Laws 2009; and prescribing an effective date.”.

9 Delete lines 4 through 10 and insert:  
10

11 **“MODIFICATION OF TAX CREDIT PROVISIONS**  
12

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

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

17 **“(a)** The taxpayer receives [*final certification under ORS 469.215*] **pre-**  
18 **liminary certification under ORS 469.210** before July 1, [2012] **2011; and**

19 **“(b)** **If the application is for a facility other than a renewable energy**  
20 **resource equipment manufacturing facility, the taxpayer files an ap-**  
21 **plication for preliminary certification under ORS 469.205 on or before**  
22 **May 12, 2011.**

1 “(2) A taxpayer may not be allowed a credit under ORS 315.354 for a  
2 renewable energy resource equipment manufacturing facility unless the tax-  
3 payer receives preliminary certification under ORS 469.210 before January  
4 1, 2014.

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

8 “**Sec. 6.** (1) ORS 315.141, 315.144 and 469.790 apply to tax credits for tax  
9 years beginning on or after January 1, 2007, and before January 1, [2012]  
10 **2018.**

11 “(2) Notwithstanding subsection (1) of this section, a tax credit is not  
12 allowed for wheat grain (other than nongrain wheat material) [*before*] **for** tax  
13 years beginning [*on or after*] **before** January 1, 2009, or on or after January  
14 1, [2012] **2018.**

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

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

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

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

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

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

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

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

30 “(7) For grass, wheat, straw or other vegetative biomass from agricultural

1 crops, \$10.00 per [green] **bone dry** ton.

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

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

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

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

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

11 **“Sec. 3.** Except as provided in ORS 315.507 (5), a credit may not be  
12 claimed under ORS 315.507 for tax years beginning on or after January 1,  
13 [2012] **2018.**

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

15 “285C.406. In order for a taxpayer to claim the property tax exemption  
16 under ORS 285C.409 or a corporate excise or income tax credit under ORS  
17 317.124:

18 “(1) The written agreement between the business firm and the rural en-  
19 terprise zone sponsor that is required under ORS 285C.403 (3)(c) must be  
20 entered into prior to the termination of the enterprise zone under ORS  
21 285C.245; and

22 “(2)(a) For the purpose of the property tax exemption, the business firm  
23 must obtain certification under ORS 285C.403 on or before June 30, [2013]  
24 **2025**; or

25 “(b) For the purpose of the corporate excise or income tax credit, the  
26 business firm must obtain certification under ORS 285C.403 on or before June  
27 30, [2012] **2018.**

28 **“SECTION 7.** Section 6, chapter 911, Oregon Laws 1989, as amended by  
29 section 14, chapter 746, Oregon Laws 1995, section 1, chapter 548, Oregon  
30 Laws 2001, section 15, chapter 739, Oregon Laws 2003, and section 86, chapter

1 94, Oregon Laws 2005, is amended to read:

2 “**Sec. 6.** ORS 317.152 to 317.154 apply to amounts paid or incurred in tax  
3 years beginning on or after January 1, 1989, and before January 1, [2012]  
4 **2018.**

5 “**SECTION 8.** ORS 317.152 is amended to read:

6 “317.152. (1) A credit against taxes otherwise due under this chapter shall  
7 be allowed to eligible taxpayers for increases in qualified research expenses  
8 and basic research payments. The credit shall be determined in accordance  
9 with section 41 of the Internal Revenue Code, except as follows:

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

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

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

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

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

19 “(2) For purposes of this section, ‘eligible taxpayer’ means a corporation,  
20 other than a corporation excluded under Internal Revenue Code section  
21 41(e)(7)(E).

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

26 “(4) The maximum credit under this section may not exceed [*\$2 million*]  
27 **\$1 million.**

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

1 “[5] (6) Any tax credit that is otherwise allowable under this section and  
2 that is not used by the taxpayer in that year may be carried forward and  
3 offset against the taxpayer’s tax liability for the next succeeding tax year.  
4 Any credit remaining unused in such next succeeding tax year may be car-  
5 ried forward and used in the second succeeding tax year, and likewise any  
6 credit not used in that second succeeding tax year may be carried forward  
7 and used in the third succeeding tax year, and any credit not used in that  
8 third succeeding tax year may be carried forward and used in the fourth  
9 succeeding tax year, and any credit not used in that fourth succeeding tax  
10 year may be carried forward and used in the fifth succeeding tax year, but  
11 may not be carried forward for any tax year thereafter.

12 **“SECTION 9.** ORS 317.154 is amended to read:

13 “317.154. (1) A credit against taxes otherwise due under this chapter shall  
14 be allowed for qualified research expenses that exceed 10 percent of Oregon  
15 sales.

16 “(2) For purposes of this section:

17 “(a) ‘Oregon sales’ shall be computed using the laws and administrative  
18 rules for calculating the numerator of the Oregon sales factor under ORS  
19 314.665.

20 “(b) ‘Qualified research’ has the meaning given the term under section  
21 41(d) of the Internal Revenue Code and shall consist only of research con-  
22 ducted in Oregon.

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

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

28 “(5) The maximum credit under this section may not exceed [*\$2 million*]  
29 **\$1 million.**

30 “(6) Any tax credit that is otherwise allowable under this section and that

1 is not used by the taxpayer in that year may be carried forward and offset  
2 against the taxpayer's tax liability for the next succeeding tax year. Any  
3 credit remaining unused in such next succeeding tax year may be carried  
4 forward and used in the second succeeding tax year, and likewise any credit  
5 not used in that second succeeding tax year may be carried forward and used  
6 in the third succeeding tax year, and any credit not used in that third suc-  
7 ceeding tax year may be carried forward and used in the fourth succeeding  
8 tax year, and any credit not used in that fourth succeeding tax year may be  
9 carried forward and used in the fifth succeeding tax year, but may not be  
10 carried forward for any tax year thereafter.

11 **SECTION 10. The amendments to ORS 317.152 and 317.154 by**  
12 **sections 8 and 9 of this 2011 Act apply to tax years beginning on or**  
13 **after January 1, 2012, and to any tax year for which a return is subject**  
14 **to audit or adjustment by the Department of Revenue on or after the**  
15 **effective date of this 2011 Act, any tax year for which a return is the**  
16 **subject of an appeal on or after the effective date of this 2011 Act and**  
17 **any tax year for which a claim for refund may be made on or after the**  
18 **effective date of this 2011 Act.**

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

20 "315.514. (1) A credit against the taxes that are otherwise due under ORS  
21 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or  
22 318, is allowed to a taxpayer for certified film production development con-  
23 tributions made by the taxpayer during the tax year to the Oregon Pro-  
24 duction Investment Fund established under ORS 284.367.

25 "(2)(a) [*The amount of the tax credit shall equal the amount certified for*  
26 *credit by the Oregon Film and Video Office, except that a contribution must*  
27 *equal at least 90 percent of the tax credit.*] **The Department of Revenue**  
28 **shall, in cooperation with the Oregon Film and Video Office, conduct**  
29 **an auction of tax credit certifications under this section. The depart-**  
30 **ment may conduct the auction in the manner that it determines is**

1 **best suited to maximize the return to the state on the sale of the**  
2 **certificates and shall announce a reserve bid prior to conducting the**  
3 **auction. The reserve amount shall be at least 95 percent of the total**  
4 **amount of the tax credit. The department may retain no more than**  
5 **0.25 percent of auction proceeds to defray costs of administering an**  
6 **auction. The department shall deposit net receipts from the auction**  
7 **required under this section in the Oregon Production Investment**  
8 **Fund.**

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

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

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

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

20 “(3) A taxpayer [*seeking*] **who has been selected through the auction**  
21 **process required under subsection (2) of this section for receipt of a tax**  
22 **credit under this section shall apply for tax credit certification to the Oregon**  
23 **Film and Video Office on a form supplied by the office. The taxpayer shall**  
24 **include payment of the contribution at the time of application.**

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

27 “(5)(a) Upon receipt of a contribution, the Oregon Film and Video Office  
28 shall, **except as provided in section 12 of this 2011 Act**, issue to the tax-  
29 payer written certification of the amount certified for tax credit under this  
30 section to the extent the amount certified for tax credit, when added to all

1 amounts previously certified for tax credit under this section, does not ex-  
2 ceed [*\$7.5 million*] **\$6 million** for the fiscal year in which certification is  
3 made.

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

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

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

15 “(b) Any tax credit otherwise allowable under this section that is not used  
16 by the taxpayer in a particular tax 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 the 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 but may not be carried forward for any tax  
22 year thereafter.

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

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

29 “[*9*] *A taxpayer who has received a tax credit certificate under this section*  
30 *may sell the certificate to another taxpayer. The sale is effective only if a*



1 notice of tax credit certificate sale is filed with the Department of Revenue.  
2 The notice shall be filed on a form prescribed by the department on or before  
3 the date on which the income or corporate excise tax return of the buyer for  
4 the first year for which the credit could be claimed is filed or due, whichever  
5 is earlier. The notice form shall include the following information:]

6 “[a] The name and taxpayer identification number of the seller;]

7 “[b] The name and taxpayer identification number of the buyer;]

8 “[c] The amount of the tax credit certificate that is being sold to the  
9 buyer;]

10 “[d] The amount of the tax credit certificate that is being retained by the  
11 seller; and]

12 “[e] Any other information required by the department.]

13 “[10] (9) If requested by the Department of Revenue, the Oregon Film  
14 and Video Office shall supply a list of taxpayers that have obtained tax  
15 credit certification under this section, and for each listed taxpayer disclose:

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

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

18 “[11] (10) If the amount of contribution for which a tax credit certifi-  
19 cation is made is allowed as a deduction for federal tax purposes, the  
20 amount of the contribution shall be added to federal taxable income for  
21 Oregon tax purposes.

22 **“SECTION 11a. The Oregon Film and Video Office and the Depart-**  
23 **ment of Revenue shall report, not later than February 15, 2012, to the**  
24 **Legislative Assembly on the operation of the auction process required**  
25 **in ORS 315.514.**

26 **“SECTION 12. (1) In lieu of the issuance of certifications for tax**  
27 **credit under ORS 315.514 by the Oregon Film and Video Office, the**  
28 **Legislative Assembly may, no later than 30 days prior to the end of**  
29 **each fiscal year, appropriate to the Oregon Business Development**  
30 **Department for deposit into the Oregon Production Investment Fund**

1 **an amount equal to the total amount that would otherwise be certified**  
2 **for tax credits during the current fiscal year, based on the amount of**  
3 **contributions and accompanying applications for credit received by the**  
4 **office during the fiscal year.**

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

7 **“(a) Any contributions to the Oregon Production Investment Fund**  
8 **made during the current fiscal year and for which an application for**  
9 **a credit under ORS 315.514 is pending shall, at the request of the tax-**  
10 **payer, be refunded by the Oregon Film and Video Office; and**

11 **“(b) A credit under ORS 315.514 may not be claimed for any contri-**  
12 **bution made during the current fiscal year.**

13 **“SECTION 13. ORS 284.367 is amended to read:**

14 **“284.367. (1) The Oregon Production Investment Fund is established in the**  
15 **State Treasury, separate and distinct from the General Fund. Interest earned**  
16 **by the Oregon Production Investment Fund shall be credited to the fund.**

17 **“(2) Moneys in the Oregon Production Investment Fund shall consist of:**

18 **“(a) Amounts donated to the fund;**

19 **“(b) Amounts appropriated or otherwise transferred to the fund by the**  
20 **Legislative Assembly;**

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

22 **“(d) Interest earned by the fund.**

23 **“(3) Ninety-five percent of moneys in the fund are continuously appropri-**  
24 **ated to the Oregon Business Development Department for the purposes of**  
25 **making:**

26 **“(a) Reimbursements to filmmakers under ORS 284.368;**

27 **“(b) Payments to a tax credit marketer for marketing services provided**  
28 **by the marketer as described in ORS 284.369; and**

29 **“(c) Refunds described in ORS 315.514 (6).**

30 **“(4) Five percent of moneys in the fund are continuously appropriated to**

1 the department for the purpose of making reimbursements to local  
2 filmmakers under ORS 284.368 (3). **Total reimbursements to local**  
3 **filmmakers may not exceed \$250,000 in a fiscal year.**

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

5 **“SECTION 13a.** ORS 284.367, as amended by section 13 of this 2011 Act,  
6 is amended to read:

7 “284.367. (1) The Oregon Production Investment Fund is established in the  
8 State Treasury, separate and distinct from the General Fund. Interest earned  
9 by the Oregon Production Investment Fund shall be credited to the fund.

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

11 “(a) Amounts donated to the fund;

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

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

15 “(d) Interest earned by the fund.

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

19 “(a) Reimbursements to filmmakers under ORS 284.368;

20 “(b) Payments to a tax credit marketer for marketing services provided  
21 by the marketer as described in ORS 284.369; and

22 “(c) Refunds described in ORS 315.514 (6).

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

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

28 **“SECTION 14.** Section 1a, chapter 559, Oregon Laws 2005, is amended to  
29 read:

30 **“Sec. 1a.** The Oregon Film and Video Office may not issue a qualifying

1 film production labor rebate certificate under section 1 [*of this 2005 Act*],  
2 **chapter 559, Oregon Laws 2005**, on or after January 1, [2012] **2018**.

3 **SECTION 15.** Section 77, chapter 736, Oregon Laws 2003, as amended by  
4 section 1, chapter 913, Oregon Laws 2009, is amended to read:

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

8 “**SECTION 16.** (1) **The amendments to ORS 315.514 by section 11 of**  
9 **this 2011 Act apply to tax credit certifications issued by the Oregon**  
10 **Film and Video Office on or after July 1, 2011.**

11 “(2) **The amendments to ORS 284.367 by section 13 of this 2011 Act**  
12 **apply to fiscal years beginning after June 30, 2011, and before July 1,**  
13 **2013.**

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

16 “**SECTION 17.** ORS 314.752, as amended by section 26, chapter 76, Oregon  
17 Laws 2010, is amended to read:

18 “314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits al-  
19 lowed or allowable to a C corporation for purposes of ORS chapter 317 or  
20 318 shall not be allowed to an S corporation. The business tax credits al-  
21 lowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
22 allowable to the shareholders of the S corporation.

23 “(2) In determining the tax imposed under ORS chapter 316, as provided  
24 under ORS 314.734, on income of the shareholder of an S corporation, there  
25 shall be taken into account the shareholder’s pro rata share of business tax  
26 credit (or item thereof) that would be allowed to the corporation (but for  
27 subsection (1) of this section) or recapture or recovery thereof. The credit (or  
28 item thereof), recapture or recovery shall be passed through to shareholders  
29 in pro rata shares as determined in the manner prescribed under section  
30 1377(a) of the Internal Revenue Code.

1 “(3) The character of any item included in a shareholder’s pro rata share  
2 under subsection (2) of this section shall be determined as if such item were  
3 realized directly from the source from which realized by the corporation, or  
4 incurred in the same manner as incurred by the corporation.

5 “(4) If the shareholder is a nonresident and there is a requirement appli-  
6 cable for the business tax credit that in the case of a nonresident the credit  
7 be allowed in the proportion provided in ORS 316.117, then that provision  
8 shall apply to the nonresident shareholder.

9 “(5) As used in this section, ‘business tax credit’ means a tax credit  
10 granted to personal income taxpayers to encourage certain investment, to  
11 create employment, economic opportunity or incentive or for charitable, ed-  
12 ucational, scientific, literary or public purposes that is listed under this  
13 subsection as a business tax credit or is designated as a business tax credit  
14 by law or by the Department of Revenue by rule and includes but is not  
15 limited to the following credits: ORS 285C.309 (tribal taxes on reservation  
16 enterprise zones and reservation partnership zones), ORS 315.104 (forestation  
17 and reforestation), ORS 315.134 (fish habitat improvement), ORS 315.138 (fish  
18 screening, by-pass devices, fishways), ORS 315.156 (crop gleaning), ORS  
19 315.164 and 315.169 (farmworker housing), ORS 315.204 (dependent care as-  
20 sistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions  
21 for child care), ORS 315.304 (pollution control facility), ORS 315.324 (plastics  
22 recycling), ORS 315.354 and 469.207 (energy conservation facilities), ORS  
23 315.507 (electronic commerce), ORS 315.511 (advanced telecommunications  
24 facilities), ORS 315.604 (bone marrow transplant expenses), ORS 317.115 (fu-  
25 eling stations necessary to operate an alternative fuel vehicle) and ORS  
26 315.141 (biomass production for biofuel) **and section 23 of this 2011 Act**  
27 **(renewable energy development contributions), section 35 of this 2011**  
28 **Act (energy conservation projects) and section 53 of this 2011 Act**  
29 **(transportation projects).**

30 **“SECTION 18.** ORS 318.031 is amended to read:

1 “318.031. It being the intention of the Legislative Assembly that this  
2 chapter and ORS chapter 317 shall be administered as uniformly as possible  
3 (allowance being made for the difference in imposition of the taxes), ORS  
4 305.140 and 305.150, ORS chapter 314 and the following sections are incor-  
5 porated into and made a part of this chapter: ORS 285C.309, 315.104, 315.134,  
6 315.141, 315.156, 315.204, 315.208, 315.213, 315.304, 315.507, 315.511 and 315.604  
7 **and sections 23, 35 and 53 of this 2011 Act** (all only to the extent appli-  
8 cable to a corporation) and ORS chapter 317.

9 **“SECTION 19. Section 20 of this 2011 Act is added to and made a**  
10 **part of ORS chapter 315.**

11 **“SECTION 20. An income tax credit that is allowed under this**  
12 **chapter or ORS chapter 316, 317 or 318 may not be claimed against the**  
13 **tax imposed under ORS 317.090.**

14 **“SECTION 21. ORS 315.053 is amended to read:**

15 “315.053. An income tax credit allowed under ORS 315.141, 315.354 or  
16 315.514 or section 47, chapter 843, Oregon Laws 2007, or section 12, chapter  
17 855, Oregon Laws 2007, **or section 35 or 53 of this 2011 Act** may be trans-  
18 ferred or sold only to one or more of the following:

19 “(1) A C corporation.

20 “(2) An S corporation.

21 “(3) A personal income taxpayer.

22

23 **“TAX CREDIT FOR RENEWABLE ENERGY**

24 **DEVELOPMENT CONTRIBUTIONS**

25

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

28 **“SECTION 23. (1) A credit against the taxes that are otherwise due**  
29 **under ORS chapter 316 or, if the taxpayer is a corporation, under ORS**  
30 **chapter 317 or 318, is allowed to a taxpayer for certified renewable en-**

1 **ergy development contributions made by the taxpayer during the tax**  
2 **year to the Clean Energy Deployment Fund established in section 1,**  
3 **chapter —, Oregon Laws 2011 (Enrolled House Bill 2960).**

4 **“(2)(a) The Department of Revenue shall, in cooperation with the**  
5 **State Department of Energy, conduct an auction of tax credit certif-**  
6 **ications under this section. The Department of Revenue may conduct**  
7 **the auction in the manner that it determines is best suited to maxi-**  
8 **mize the return to the state on the sale of the certificates and shall**  
9 **announce a reserve bid prior to conducting the auction. The reserve**  
10 **amount shall be at least 95 percent of the total amount of the tax**  
11 **credit. The Department of Revenue may retain no more than 0.25**  
12 **percent of auction proceeds to defray costs of administering an auc-**  
13 **tion. The Department of Revenue shall deposit net receipts from the**  
14 **auction required under this section in the Clean Energy Deployment**  
15 **Fund established in section 1, chapter —, Oregon Laws 2011 (Enrolled**  
16 **House Bill 2960).**

17 **“(b) The State Department of Energy shall adopt rules in order to**  
18 **achieve the following goals:**

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

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

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

27 **“(3) A taxpayer who has been selected through the auction process**  
28 **required under subsection (2) of this section for receipt of a tax credit**  
29 **under this section shall apply for tax credit certification to the State**  
30 **Department of Energy on a form supplied by the department. The**

1 taxpayer shall include payment of the contribution at the time of ap-  
2 plication.

3 “(4) Contributions made under this section shall be deposited in the  
4 Clean Energy Deployment Fund established in section 1, chapter —,   
5 Oregon Laws 2011 (Enrolled House Bill 2960).

6 “(5)(a) Upon receipt of a contribution, the State Department of  
7 Energy shall, except as provided in section 24 of this 2011 Act, issue  
8 to the taxpayer written certification of the amount certified for tax  
9 credit under this section to the extent the amount certified for tax  
10 credit, when added to all amounts previously certified for tax credit  
11 under this section, does not exceed \$1.5 million for the fiscal year in  
12 which certification is made.

13 “(b) The State Department of Energy is not liable, and a refund of  
14 a contributed amount need not be made, if a taxpayer who has re-  
15 ceived tax credit certification is unable to use all or a portion of the  
16 tax credit to offset the tax liability of the taxpayer.

17 “(6) To the extent the State Department of Energy does not certify  
18 contributed amounts as eligible for a tax credit under this section, the  
19 taxpayer may request a refund of the amount the taxpayer contrib-  
20 uted, and the department shall refund that amount.

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

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



1 but may not be carried forward for any tax year thereafter.

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

5 “(9) If requested by the Department of Revenue, the State Depart-  
6 ment of Energy shall supply a list of taxpayers that have obtained tax  
7 credit certification under this section, and for each listed taxpayer  
8 disclose:

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

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

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

15 “SECTION 24. (1) In lieu of the issuance of certifications for tax  
16 credit under section 23 of this 2011 Act by the State Department of  
17 Energy, the Legislative Assembly may, no later than 30 days prior to  
18 the end of each fiscal year, appropriate to the State Department of  
19 Energy for deposit into the Clean Energy Deployment Fund established  
20 in section 1, chapter \_\_\_\_, Oregon Laws 2011 (Enrolled House Bill 2960),  
21 an amount equal to the total amount that would otherwise be certified  
22 for tax credits during the current fiscal year, based on the amount of  
23 contributions and accompanying applications for credit received by the  
24 office during the fiscal year.

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

27 “(a) Any contributions made pursuant to section 23 of this 2011 Act  
28 to the Clean Energy Deployment Fund established in section 1, chapter  
29 \_\_\_\_, Oregon Laws 2011 (Enrolled House Bill 2960), during the current  
30 fiscal year and for which an application for a credit under section 23

1 of this 2011 Act is pending shall, at the request of the taxpayer, be  
2 refunded by the State Department of Energy; and

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

5 “SECTION 25. A taxpayer may not be allowed a credit under section  
6 23 of this 2011 Act for any tax year that begins on or after January 1,  
7 2018.

8 “SECTION 26. Sections 27 to 33 of this 2011 Act are added to and  
9 made a part of ORS chapter 469.

10 “SECTION 27. As used in sections 27 to 33 of this 2011 Act:

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

12 “(2) ‘Cost’ means the actual cost of the acquisition, construction  
13 and installation of the renewable energy production system paid by the  
14 applicant for the system.

15 “(3) ‘Renewable energy production system’ means a system that  
16 uses biomass, solar, geothermal, hydroelectric or wave, tidal or ocean  
17 thermal energy technology to produce energy.

18 “(4) ‘Solar technology’ means any system, mechanism or series of  
19 mechanisms, including photovoltaic systems, that uses solar radiation  
20 to generate electrical energy.

21 “SECTION 28. In determining the eligibility of any renewable en-  
22 ergy production system for grants under section 30 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 “SECTION 29. (1) Prior to the installation or construction of a  
26 renewable energy production system, any person may apply to the  
27 State Department of Energy for a grant under section 30 of this 2011  
28 Act if:

29 “(a) The applicant will be the owner, contract purchaser or lessee  
30 of the system at the time of installation or construction of the pro-

1 posed system;

2 “(b) The system does not exceed 35 megawatts of nameplate capac-  
3 ity; and

4 “(c) The system complies with the standards or rules adopted by the  
5 Director of the State Department of Energy.

6 “(2) An application for a grant under section 30 of this 2011 Act shall  
7 be made in writing on a form prepared by the department and shall  
8 contain:

9 “(a) A detailed description of the system and its operation and in-  
10 formation showing that the system will operate as represented in the  
11 application and remain in operation for at least five years, unless the  
12 director by rule specifies another period of operation.

13 “(b) The anticipated total system cost.

14 “(c) Information on the number and type of jobs that will be created  
15 by the system, the number of jobs sustained throughout the con-  
16 struction, installation and operation of the system and the benefits of  
17 the system with regard to overall economic activity in this state.

18 “(d) Information demonstrating that the system will comply with  
19 applicable state and local laws and regulations and obtain required li-  
20 censes and permits.

21 “(e) A recommendation for a system that demonstrates innovation,  
22 if applicable, that has been made by the Oregon Innovation Council  
23 or a comparable third party selected by the director.

24 “(f) Any other information the director considers necessary to de-  
25 termine whether the system is in accordance with the provisions of  
26 sections 27 to 33 of this 2011 Act, and any applicable rules or standards  
27 adopted by the director.

28 “(3) An application for a grant shall be accompanied by a fee es-  
29 tablished under section 31 of this 2011 Act. The director may refund  
30 all or a portion of the fee if the application for a grant is rejected.

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

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

7       “(b) The system would otherwise qualify for a grant under sections  
8 27 to 33 of this 2011 Act.

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

14       “(2) If the director determines that the system is technically feasi-  
15 ble and should operate in accordance with the representations made  
16 by the applicant, and is in accordance with the provisions of sections  
17 27 to 33 of this 2011 Act and any applicable rules or standards adopted  
18 by the director, the director may enter into a performance agreement  
19 with the applicant in anticipation of awarding a grant under this sec-  
20 tion. The grant provided for in the performance agreement may not  
21 exceed 35 percent of the cost of the project and may not exceed \$250,000  
22 per system. If construction does not begin within six months of an  
23 award under this section, the performance agreement shall be void and  
24 the State Department of Energy may not award the grant.

25       “(3) The director may, in accordance with ORS chapter 183, deny a  
26 grant under this section if the director determines that:

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

29       “(b) The applicant was directly involved in an act for which the di-  
30 rector has levied civil penalties or revoked, canceled or suspended any

1 certification under ORS 469.185 to 469.225 or section 23 of this 2011 Act,  
2 or any grant under sections 27 to 33 of this 2011 Act; or

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

8 “(4) If the director determines that the applicant has complied with  
9 all provisions of the performance agreement required under this sec-  
10 tion and with the provisions of sections 27 to 33 of this 2011 Act, the  
11 director shall award the grant provided in this section.

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

28 “SECTION 32. (1) The total amount of potential tax credits for  
29 certified renewable energy development contributions in this state  
30 may not, at the time of certification under section 23 of this 2011 Act,

1 **exceed:**

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

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

5 **“(2) In the event that the Director of the State Department of En-**  
6 **ergy receives applications for grants under section 30 of this 2011 Act**  
7 **in excess of the contributions received pursuant to section 23 of this**  
8 **2011 Act, the director shall allocate the issuance of grants according**  
9 **to standards established by rule by the director.**

10 **“SECTION 33. The State Department of Energy shall by rule es-**  
11 **tablish policies and procedures for the administration and enforcement**  
12 **of the provisions of sections 23, 24 and 27 to 33 of this 2011 Act.**

13 **“SECTION 33a. Sections 23, 24 and 27 to 33 of this 2011 Act apply to**  
14 **applications for grants submitted under section 29 of this 2011 Act af-**  
15 **ter July 1, 2011, and to tax years beginning on or after January 1, 2011.**

16

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

18

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

21 **“SECTION 35. (1) A credit is allowed against the taxes otherwise**  
22 **due under ORS chapter 316 or, if the taxpayer is a corporation, under**  
23 **ORS chapter 317 or 318, for an energy conservation project that is**  
24 **certified under sections 38 to 50 of this 2011 Act. The credit is allowed**  
25 **as follows:**

26 **“(a) Except as provided in paragraph (b) of this subsection, the**  
27 **credit allowed in each of the first two tax years in which the credit is**  
28 **claimed shall be 10 percent of the certified cost of the facility, but may**  
29 **not exceed the tax liability of the taxpayer. The credit allowed in each**  
30 **of the succeeding three years shall be five percent of the certified cost,**

1 but may not exceed the tax liability of the taxpayer.

2 “(b) If the certified cost of the facility does not exceed \$20,000, the  
3 total amount of the credit allowable under subsection (3) of this sec-  
4 tion may be claimed in the first tax year for which the credit may be  
5 claimed, but may not exceed the tax liability of the taxpayer.

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

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

8 “(b) The project must have received final certification from the  
9 Director of the State Department of Energy under sections 38 to 50 of  
10 this 2011 Act.

11 “(c) If the project is a research and development project, it must  
12 receive, prior to certification under section 44 of this 2011 Act, a rec-  
13 ommendation from the Oregon Innovation Council or a comparable  
14 third party selected by the director.

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

19 “(A) Qualify for LEED Platinum certification;

20 “(B) Qualify for a four globes rating from the Green Globes pro-  
21 gram;

22 “(C) Obtain from a nationally or regionally recognized and appro-  
23 priate sustainable building program, a certification equivalent to  
24 LEED Platinum certification or to a four globes rating from the Green  
25 Globes program, as determined by the department; or

26 “(D) Conform with the Reach Code established under ORS 455.500.

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

30 “(4)(a) Upon any sale, termination of the lease or contract, ex-

1 **change or other disposition of the project, notice thereof shall be given**  
2 **to the director, who shall revoke the certificate covering the project**  
3 **as of the date of such disposition.**

4 **“(b) A new owner, or, upon re-leasing of the project, a new lessee,**  
5 **may apply for a new certificate under section 45 of this 2011 Act. The**  
6 **new lessee or owner must meet the requirements of sections 38 to 50**  
7 **of this 2011 Act and may claim a tax credit under this section only if**  
8 **all moneys owed by the new owner or lessee to the State of Oregon**  
9 **have been paid, if the project continues to operate, unless continued**  
10 **operation is waived by the department, and if all conditions in the**  
11 **final certification are met. The tax credit available to the new owner**  
12 **shall be limited to the amount of credit not claimed by the former**  
13 **owner or, for a new lessee, the amount of credit not claimed by the**  
14 **lessee under all previous leases. The State Department of Energy may**  
15 **wave the requirement that a new owner or lessee apply for a new**  
16 **certificate under section 45 of this 2011 Act if the remaining credit is**  
17 **less than \$20,000.**

18 **“(c) The department may not revoke the certificate covering a**  
19 **project under paragraph (a) of this subsection if the tax credit associ-**  
20 **ated with the project has been transferred to a taxpayer who is an el-**  
21 **igible applicant under section 43 of this 2011 Act.**

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



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

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

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

12 “(8) The definitions in section 38 of this 2011 Act apply to this sec-  
13 tion.

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

19 “(2) A taxpayer may not be allowed a credit for an energy conser-  
20 vation project that is a cogeneration facility as that term is defined  
21 in ORS 758.505 for a tax year that begins before January 1, 2013.

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

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

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

28 “(2) ‘Energy conservation project’ means any capital investment for  
29 which the first year energy savings yields a simple payback period of  
30 greater than three years. ‘Energy conservation project’ does not in-

1 **clude:**

2 **“(a) Recycling equipment;**

3 **“(b) Transportation projects;**

4 **“(c) Energy recovery as that term is defined in ORS 459.005; or**

5 **“(d) Alternative fuel vehicles that are gasoline-electric hybrid ve-**  
6 **hicles.**

7 **“(3) ‘Four globes’ means the highest of four tiers of ratings for**  
8 **certification in the Green Globes program rating system.**

9 **“(4) ‘Green Globes program’ means a building guidance and assess-**  
10 **ment program to advance overall environmental performance and**  
11 **sustainability of commercial buildings established by the Green**  
12 **Building Initiative.**

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

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

19 **“SECTION 39. (1) In determining the priority of any energy con-**  
20 **servation project for tax credits, preference shall be given to those**  
21 **projects with the highest energy savings over the five-year credit al-**  
22 **lowance period per tax credit dollar.**

23 **“(2) The Director of the State Department of Energy shall establish**  
24 **by rule a tiered priority system to be used in evaluating applicants for**  
25 **certification of projects. The State Department of Energy shall rely**  
26 **on the standards established under section 41 of this 2011 Act in de-**  
27 **termining the eligibility for tax credits and in allocating the available**  
28 **certified cost pursuant to section 49 of this 2011 Act among projects.**

29 **“(3) In implementing the system, the director shall compare**  
30 **projects of similar costs and technology types against each other, take**

1 into account the amount of energy saved over the life of the equip-  
2 ment, market or industry sector, expected lifespan of the facility  
3 compared to the simple payback period, and any other factors defined  
4 in department rule. The department may certify less than the total  
5 cost of any project based on this evaluation.

6 **“SECTION 40. (1) The owner of a project may transfer a tax credit  
7 for the project in exchange for a cash payment equal to the present  
8 value of the tax credit.**

9 **“(2) The State Department of Energy shall establish by rule a for-  
10 mula to be employed in the determination of prices of credits trans-  
11 ferred under this section. In establishing the formula the department  
12 shall incorporate inflation projections and market real rate of return.**

13 **“(3) The department shall recalculate credit transfer prices quar-  
14 terly, employing the formula established under subsection (2) of this  
15 section.**

16 **“(4) Notwithstanding any other provision of law, a tax credit  
17 transferred pursuant to this section does not decrease the amount of  
18 taxes required to be reported by a public utility.**

19 **“SECTION 41. The State Department of Energy shall by rule es-  
20 tablish the following standards relating to energy conservation  
21 projects:**

22 **“(1) In consultation with the Department of Consumer and Business  
23 Services Building Codes Division, standards relating to energy savings  
24 in new construction.**

25 **“(2) Standards relating to what constitutes a replacement of ineffi-  
26 cient functional equipment based on remaining service life, for  
27 projects that are a retrofit of existing construction.**

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

29 **“(4) Standards for the application of third party review of research  
30 and development projects by the Oregon Innovation Council or a**

1 comparable third party selected by the Director of the State Depart-  
2 ment of Energy, as required in section 43 of this 2011 Act.

3 **“SECTION 42. For an energy conservation project, the total amount**  
4 **that receives a preliminary certification from the Director of the State**  
5 **Department of Energy may not exceed \$10 million in certified cost.**

6 **“SECTION 43. (1) Prior to the installation or construction of an**  
7 **energy conservation project, any person may apply to the State De-**  
8 **partment of Energy for preliminary certification under section 44 of**  
9 **this 2011 Act if:**

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

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

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

16 **“(a) A statement that the applicant plans to acquire, construct or**  
17 **install a project that substantially reduces the consumption of pur-**  
18 **chased energy or uses energy more efficiently.**

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

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

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

28 **“(e) Information on the number and type of jobs that will be created**  
29 **by the project, the number of jobs sustained throughout the con-**  
30 **struction, installation and operation of the project and the benefits of**

1 the project 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) Information relating to the standards described in section 41  
6 of this 2011 Act.

7 “(h) A recommendation for a research and development project as  
8 demonstrative of innovation that has been made by the Oregon Inno-  
9 vation Council or a comparable third party selected by the director.

10 “(i) Any other information the director considers necessary to de-  
11 termine whether the project is in accordance with the provisions of  
12 sections 38 to 50 of this 2011 Act, and any applicable rules or standards  
13 adopted by the director.

14 “(3) An application for preliminary certification shall be accompa-  
15 nied by a fee established under section 46 of this 2011 Act. The director  
16 may refund all or a portion of the fee if the application for certifi-  
17 cation 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 project 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 project would otherwise qualify for certification under  
25 sections 38 to 50 of this 2011 Act.

26 “(5) A preliminary certification shall remain valid for a period of  
27 three calendar years after the date on which the preliminary certifi-  
28 cation is issued by the director, after which the certification becomes  
29 invalid even if:

30 “(a) The applicant is awaiting identification of a pass-through

1 partner; or

2 “(b) The preliminary certification has been amended.

3 **“SECTION 44. (1) The Director of the State Department of Energy**  
4 **may require an applicant for certification of an energy conservation**  
5 **project to submit plans, specifications and contract terms, and after**  
6 **examination of the plans, specifications and terms may request cor-**  
7 **rections and revisions.**

8 “(2) If the director determines that the project is technically feasi-  
9 ble and should operate in accordance with the representations made  
10 by the applicant, and is in accordance with the provisions of sections  
11 38 to 50 of this 2011 Act and any applicable rules or standards adopted  
12 by the director, the director may issue a preliminary certificate ap-  
13 proving the installation or construction of the project. The certificate  
14 shall indicate the potential amount of tax credit allowable and shall  
15 list any conditions for claiming the credit.

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

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

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

23 “(c) The applicant was directly involved in an act for which the di-  
24 rector has levied civil penalties or revoked, canceled or suspended any  
25 certification under ORS 469.185 to 469.225 or sections 38 to 50 of this  
26 2011 Act; or

27 “(d) 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 45. (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 44 of this 2011 Act;**

7 **“(b) The applicant demonstrates the ability to provide the informa-**  
8 **tion required by section 43 (2) of this 2011 Act and does not violate any**  
9 **condition that may be imposed as described in subsection (4) of this**  
10 **section; and**

11 **“(c) The project was installed or constructed in accordance with the**  
12 **applicable provisions of sections 38 to 50 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 44 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 attested 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 35 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 44 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 another 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 or a comparable third  
13 party selected by the director; and

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

17 “(4) After the filing of the application under this section, the di-  
18 rector may issue the certificate together with any conditions that the  
19 director determines are appropriate to promote the purposes of  
20 sections 35 and 38 to 50 of this 2011 Act. If the applicant is an entity  
21 subject to regulation by the Public Utility Commission, the director  
22 may consult with the commission prior to issuance of the certificate.  
23 The action of the director shall include certification of the actual cost  
24 of the project. However, the director may not certify an amount for  
25 tax credit purposes that is more than the amount approved in the  
26 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 46. 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 38 to 50 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 ensuring compliance with sections 38 to 50 of this 2011 Act  
18 and shall be designed not to exceed the total cost estimated by the  
19 department. Any excess fees shall be held by the department and shall  
20 be used by the department to reduce any future fee increases. The fee  
21 may vary according to the size and complexity of the project. The fee  
22 is not considered part of the cost of the project to be certified.

23 “SECTION 47. (1) A certificate issued under section 45 of this 2011  
24 Act is required for purposes of obtaining tax credits in accordance  
25 with section 35 of this 2011 Act. Such certification shall be granted for  
26 a 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 45 of this 2011 Act  
29 is received by the State Department of Energy.

30 “(2) For a transferee holding a credit that has been transferred

1 under section 40 of this 2011 Act, the five-year period shall begin with  
2 the tax year in which the transferee pays for the credit.

3 “(3) An application shall be considered complete without the iden-  
4 tification of a transferee for purposes of section 40 of this 2011 Act.

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

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

10 “(b) The holder of the certificate or the operator of the project has  
11 failed to construct or operate the project in compliance with the plans,  
12 specifications and procedures in the certificate; or

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

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

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

1 in this subsection.

2 “(b) For purposes of this subsection, a lender, bankruptcy trustee  
3 or other person that acquires an interest through bankruptcy or  
4 through foreclosure of a security interest is not considered to be a  
5 successor in interest to the business interests of the person that ob-  
6 tained certification.

7 “(4) If the certificate is ordered revoked pursuant to subsection  
8 (1)(b) of this section, the certificate holder shall be denied any further  
9 relief under section 35 of this 2011 Act in connection with the facility  
10 from and after the date that the order of revocation becomes final.

11 “(5) Notwithstanding subsections (1) to (4) of this section, a certif-  
12 icate or portion of a certificate held by a transferee under section 40  
13 of this 2011 Act may not be considered revoked for purposes of the  
14 transferee, the tax credit allowable to the transferee under section 40  
15 of this 2011 Act may not be reduced, and a transferee is not liable  
16 under subsections (2) to (4) of this section.

17 “SECTION 49. (1) The total amount of certified costs for potential  
18 tax credits for all energy conservation projects in this state may not,  
19 at the time of preliminary certification under section 44 of this 2011  
20 Act, exceed:

21 “(a) \$30 million for any biennium; or

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

24 “(2) In the event that the Director of the State Department of En-  
25 ergy receives applications for preliminary certification with a total  
26 amount of certified costs for potential tax credits in excess of the  
27 limitations in subsections (1) of this section, the director shall allocate  
28 the issuance of preliminary certifications according to standards es-  
29 tablished by rule by the director.

30 “SECTION 50. The State Department of Energy shall by rule es-

1 **tabish policies and procedures for the administration and enforcement**  
2 **of the provisions of sections 35, 36 and 38 to 50 of this 2011 Act.**

3 **“SECTION 51. Sections 35, 36 and 38 to 50 of this 2011 Act apply to**  
4 **applications for preliminary certification submitted under section 43**  
5 **of this 2011 Act after July 1, 2011, and to tax years beginning on or**  
6 **after January 1, 2011.**

7  
8 **“TAX CREDIT FOR TRANSPORTATION PROJECTS**

9  
10 **“SECTION 52. Sections 53 and 54 of this 2011 Act are added to and**  
11 **made a part of ORS chapter 315.**

12 **“SECTION 53. (1) A credit is allowed against the taxes otherwise**  
13 **due under ORS chapter 316 or, if the taxpayer is a corporation, under**  
14 **ORS chapter 317 or 318, for a transportation project, based upon the**  
15 **certified cost of the project, including core expenses such as vehicle**  
16 **repair, fuel, personnel and administrative expenses, during the period**  
17 **for which the project is certified under sections 56 to 65 of this 2011**  
18 **Act.**

19 **“(2) The credit allowed for a transportation services contract shall**  
20 **be as follows:**

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

23 **“(A) 35 percent of certified cost, if a preliminary certification is is-**  
24 **sued under section 59 of this 2011 Act prior to July 1, 2011; and**

25 **“(B) 25 percent of certified cost, if a preliminary certification is is-**  
26 **sued under section 59 of this 2011 Act on or after July 1, 2011, and be-**  
27 **fore January 1, 2012.**

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

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

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

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

10       “(3) The total amount of the credit allowable for a alternative fuel  
11 fueling station under this section may not exceed 35 percent of the  
12 certified cost of the project.

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

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

15       “(b) The project must have received final certification from the  
16 Director of the State Department of Energy under sections 56 to 65 of  
17 this 2011 Act.

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

1 in subsection (2) of this section only as provided in this subsection.

2 “(6) The credit allowed under this section is not in lieu of any de-  
3preciation or amortization deduction for the transportation project to  
4which the taxpayer otherwise may be entitled for purposes of ORS  
5chapter 316, 317 or 318 for such year.

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

8 “(8) The definitions in section 56 of this 2011 Act apply to this sec-  
9tion.

10 **“SECTION 54. (1) A taxpayer may not be allowed a credit for a**  
11 **transportation services contract certified under section 60 of this 2011**  
12 **Act if the first tax year for which the credit would otherwise be al-**  
13 **lowed begins on or after January 1, 2016.**

14 **“(2) A taxpayer may not be allowed a credit for an alternative fuel**  
15 **vehicle fueling station certified under section 60 of this 2011 Act if the**  
16 **first tax year for which the credit would otherwise be allowed begins**  
17 **on or after January 1, 2018.**

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

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

21 **“(1) ‘Alternative fuel vehicle fueling station’ includes a facility for**  
22 **mixing, storing, compressing or dispensing fuels for alternative fuel**  
23 **vehicle fleets, and any other necessary and reasonable equipment.**

24 **“(2) ‘Cost’ means the capital or operating costs and expenses nec-**  
25 **essarily incurred in the acquisition and performance of a transporta-**  
26 **tion project.**

27 **“(3) ‘Transportation project’ means a transportation services con-**  
28 **tract or an alternative fuel vehicle fueling station.**

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

1       “(5) ‘Transportation services contract’ means a contract entered  
2 into by a transportation provider that is related to a transportation  
3 project, and may be further defined by the State Department of Energy  
4 by rule. ‘Transportation services contract’ does not include a contract  
5 to provide transportation services to or from an airport for airline  
6 passengers.

7       “SECTION 57. (1) The owner of a transportation project may  
8 transfer a tax credit for the project in exchange for a cash payment  
9 equal to the present value of the tax credit.

10       “(2) The State Department of Energy shall establish by rule a for-  
11 mula to be employed in the determination of prices of credits trans-  
12 ferred under this section. In establishing the formula the department  
13 shall incorporate inflation projections and market real rate of return.

14       “(3) The department shall recalculate credit transfer prices quar-  
15 terly, employing the formula established under subsection (2) of this  
16 section.

17       “(4) Notwithstanding any other provision of law, a tax credit  
18 transferred pursuant to this section does not decrease the amount of  
19 taxes required to be reported by a public utility.

20       “SECTION 58. (1) Prior to the acquisition or performance of a  
21 transportation project, a person may apply to the State Department  
22 of Energy for preliminary certification for the project under section  
23 59 of this 2011 Act if:

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

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

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

30       “(a) A statement that the applicant plans to acquire or perform a

1 **project that substantially reduces the consumption of purchased en-**  
2 **ergy.**

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

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

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

11 **“(e) Information on the number and types of jobs that will be cre-**  
12 **ated by the project, the number of jobs sustained throughout the ac-**  
13 **quisition and performance of the project.**

14 **“(f) Information demonstrating that the project will comply with**  
15 **applicable state and local laws and regulations and obtain required li-**  
16 **censes and permits.**

17 **“(g) Any other information the director considers necessary to de-**  
18 **termine whether the project is in accordance with the provisions of**  
19 **sections 56 to 65 of this 2011 Act, and any applicable rules or standards**  
20 **adopted by the director.**

21 **“(3) An application for preliminary certification shall be accompa-**  
22 **nied by a fee established under section 61 of this 2011 Act. The director**  
23 **may refund all or a portion of the fee if the application for certif-**  
24 **ication is rejected.**

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

28 **“(a) Filing the application before the start of acquisition or per-**  
29 **formance is inappropriate because special circumstances render filing**  
30 **earlier unreasonable; and**



1       **“(b) The project would otherwise qualify for certification under**  
2 **sections 56 to 65 of this 2011 Act.**

3       **“(5) A preliminary certification shall remain valid for a period of**  
4 **five calendar years after the date on which the preliminary certifi-**  
5 **cation is issued by the director, after which shall become invalid even**  
6 **if:**

7       **“(a) The applicant is awaiting identification of a pass-through**  
8 **partner; or**

9       **“(b) The preliminary certification has been amended.**

10       **“SECTION 59. (1) The Director of the State Department of Energy**  
11 **may require an applicant for certification of a transportation project**  
12 **to submit plans, specifications and contract terms, and after exam-**  
13 **ination of the plans, specifications and terms may request corrections**  
14 **and revisions.**

15       **“(2) If the director determines that the project is technically feasi-**  
16 **ble and should operate in accordance with the representations made**  
17 **by the applicant, and is in accordance with the provisions of sections**  
18 **56 to 65 of this 2011 Act and any applicable rules or standards adopted**  
19 **by the director, the director may issue a preliminary certificate ap-**  
20 **proving the acquisition or performance of the project. The certificate**  
21 **shall indicate the potential amount of tax credit allowable and shall**  
22 **list any conditions for claiming the credit.**

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

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

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

30       **“(c) The applicant was directly involved in an act for which the di-**

1 rector has levied civil penalties or revoked, canceled or suspended any  
2 certification under ORS 469.185 to 469.225 or sections 56 to 65 of this  
3 2011 Act; or

4 “(d) The applicant or the principal, director, officer, owner, major-  
5 ity shareholder or member of the applicant, or the manager of the  
6 applicant if the applicant is a limited liability company, is in arrears  
7 for payments owed to any government agency while in any capacity  
8 with direct or indirect control over a business.

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

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

14 “(b) The applicant demonstrates the ability to provide the informa-  
15 tion required by section 58 (2) of this 2011 Act and does not violate any  
16 condition that may be imposed as described in subsection (4) of this  
17 section; and

18 “(c) The project was acquired or performed in accordance with the  
19 applicable provisions of sections 56 to 65 of this 2011 Act and any ap-  
20 plicable rules or standards adopted by the director.

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

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

25 “(b) After completion of the acquisition or performance of the  
26 project.

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

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

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

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

7       **“(d) The number and types of jobs created by the acquisition and**  
8 **performance of the project over the five-year period beginning on the**  
9 **date of issuance of the preliminary certification under section 59 of**  
10 **this 2011 Act and information on the benefits of the project with re-**  
11 **gard to overall economic activity in this state;**

12       **“(e) Information sufficient to demonstrate that the project will re-**  
13 **main in operation for at least five years, unless the director by rule**  
14 **specifies another period of operation;**

15       **“(f) Documentation of compliance with applicable state and local**  
16 **laws and regulations and licensing and permitting requirements as**  
17 **defined by the director; and**

18       **“(g) Any other information determined by the director to be neces-**  
19 **sary prior to issuance of a final certificate, including inspection of the**  
20 **project by the department.**

21       **“(4) After the filing of the application under this section, the di-**  
22 **rector may issue the certificate together with any conditions that the**  
23 **director determines are appropriate to promote the purposes of**  
24 **sections 53 and 56 to 65 of this 2011 Act. If the applicant is an entity**  
25 **subject to regulation by the Public Utility Commission, the director**  
26 **may consult with the commission prior to issuance of the certificate.**  
27 **The action of the director shall include certification of the actual cost**  
28 **of the project. However, the director may not certify an amount for**  
29 **tax credit purposes that is more than the amount of credit approved**  
30 **in the preliminary certificate issued for the project.**

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

7       “(6) Upon approval of an application for final certification of a  
8 project, the director shall certify the project. The final certification  
9 shall indicate the amount of projected energy savings attributable to  
10 the project and the certified cost of the project.

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

13       “SECTION 61. By rule and after hearing, the Director of the State  
14 Department of Energy may adopt a schedule of reasonable fees that  
15 the State Department of Energy may require of applicants for prelim-  
16 inary or final certification of a transportation project under sections  
17 56 to 65 of this 2011 Act. Before the adoption or revision of the fees,  
18 the department shall estimate the total cost of the program to the  
19 department. The fees shall be used to recover the anticipated cost of  
20 filing, investigating, granting and rejecting applications for certifi-  
21 cation and ensuring compliance with sections 56 to 65 of this 2011 Act  
22 and shall be designed not to exceed the total cost estimated by the  
23 department. Any excess fees shall be held by the department and shall  
24 be used by the department to reduce any future fee increases. The fee  
25 may vary according to the size and complexity of the project. The fee  
26 is not considered part of the cost of the project to be certified.

27       “SECTION 62. (1) A certificate issued under section 60 of this 2011  
28 Act is required for purposes of obtaining tax credits in accordance  
29 with section 53 of this 2011 Act. Such certification shall be granted for  
30 a period not to exceed five years. The five-year period shall begin with

1 the tax year of the applicant during which the completed application  
2 for final certification of the transportation project under section 60 of  
3 this 2011 Act is received by the State Department of Energy.

4 “(2) For a transferee holding a credit that has been transferred  
5 under section 57 of this 2011 Act, the five-year period shall begin with  
6 the tax year in which the transferee pays for the credit.

7 “(3) An application shall be considered complete without the iden-  
8 tification of a transferee for purposes of section 57 of this 2011 Act.

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

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

14 “(b) The holder of the certificate or the operator of the transpor-  
15 tation project has failed to acquire or perform the project in compli-  
16 ance with the plans, specifications and contract terms in the  
17 certificate; or

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

19 “(2) As soon as an order of revocation under this section becomes  
20 final, the director shall notify the Department of Revenue and the  
21 project owner, contract purchaser or lessee of the order of revocation.  
22 Upon notification, the Department of Revenue immediately shall pro-  
23 ceed to collect those taxes not paid by the certificate holder as a result  
24 of the tax credits provided to the certificate holder under section 53  
25 of this 2011 Act, from the certificate holder or a successor in interest  
26 to the business interests of the certificate holder. All prior tax credits  
27 provided to the holder of the certificate by virtue of the certificate  
28 shall be forfeited.

29 “(3)(a) The Department of Revenue shall have the benefit of all laws  
30 of this state pertaining to the collection of income and excise taxes

1 and may proceed to collect the amounts described in subsection (2) of  
2 this section from the person that obtained certification from the State  
3 Department of Energy, or any successor in interest to the business  
4 interests of that person. An assessment of tax is not necessary and a  
5 statute of limitation does not preclude the collection of taxes described  
6 in subsection (2) of this section.

7 “(b) For purposes of this subsection, a lender, bankruptcy trustee  
8 or other person that acquires an interest through bankruptcy or  
9 through foreclosure of a security interest is not considered to be a  
10 successor in interest to the business interests of the person that ob-  
11 tained certification.

12 “SECTION 64. The total amount of potential tax credits for all  
13 transportation projects in this state may not, at the time of prelimi-  
14 nary certification under section 59 of this 2011 Act, exceed \$20 million  
15 for any biennium.

16 “SECTION 65. The State Department of Energy shall by rule es-  
17 tablish policies and procedures for the administration and enforcement  
18 of the provisions of sections 53 and 56 to 65 of this 2011 Act.

19 “SECTION 66. Sections 53 and 56 to 65 of this 2011 Act apply to ap-  
20 plications for preliminary certification submitted under section 58 of  
21 this 2011 Act after July 1, 2011, and to tax years beginning on or after  
22 January 1, 2011.

23

## 24 “TAX CREDIT FOR RESIDENTIAL ENERGY DEVICES

25

26 “SECTION 67. Section 5a, chapter 832, Oregon Laws 2005, as amended  
27 by section 35, chapter 843, Oregon Laws 2007, and section 12, chapter 913,  
28 Oregon Laws 2009, is amended to read:

29 “**Sec. 5a. (1)** A taxpayer may not be allowed a credit under ORS 316.116  
30 if the first tax year for which the credit would otherwise be allowed with

1 respect to an alternative energy device [*or alternative fuel vehicle or related*  
2 *equipment is*] **begins** on or after January 1, [2012] **2018**.

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

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

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

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

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

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

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

24 **“(c) A credit against the taxes otherwise due under this chapter is**  
25 **not allowed for an alternative energy device that does not meet or**  
26 **exceed all applicable federal, state and local requirements for energy**  
27 **efficiency, including the state building code and any specialty codes.**

28 “(2)(a) In the case of a category one alternative energy device that is not  
29 an alternative fuel device, the credit shall be based upon the first year en-  
30 ergy yield of the alternative energy device that qualifies under ORS 469.160

1 to 469.180. The amount of the credit shall be the same whether for collective  
2 or noncollective investment.

3 “(b) The credit allowed under this section for each category one alterna-  
4 tive energy device **that is not an alternative energy device described in**  
5 **paragraph (c) of this subsection** for each dwelling may not exceed the  
6 lesser of[:]

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

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

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

19 “(c) **For each category one alternative energy device that is a whole**  
20 **house air-to-air heat pump or a hydronic air handler, the credit al-**  
21 **lowed under this section may not exceed the lesser of \$750 or the first**  
22 **year energy yield in kilowatt hours per year multiplied by 30 cents per**  
23 **dwelling utilizing the alternative energy device.**

24 “[c] (d) For each category one alternative energy device used for swim-  
25 ming pool, spa or hot tub heating, the credit allowed under this section shall  
26 be based upon 50 percent of the cost of the device or the first year’s energy  
27 yield in kilowatt hours per year multiplied by 15 cents, whichever is lower,  
28 up to[:]

29 “[A] \$1,500 for tax years beginning on or after January 1, 1990, and before  
30 January 1, 1996.]



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

3        “[C] \$1,500 for tax years beginning on or after January 1, 1998.

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

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

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

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

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

29       “[3)(a) *In the case of a credit for a category one alternative energy device*  
30       *that is an energy efficient appliance, the credit allowed for each appliance to*

1 *a resident individual under this section shall equal:]*

2 *“(A) 48 cents per first year kilowatt hour saved, or the equivalent for other*  
3 *fuel saved, not to exceed \$1,200 for each tax year beginning on or after January*  
4 *1, 1998, and before January 1, 1999; and]*

5 *“(B) 40 cents per kilowatt hour saved, or the equivalent for other fuel*  
6 *saved, not to exceed \$1,000 for each tax year beginning on or after January 1,*  
7 *1999.]*

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

11 *“(4) (3) To qualify for a credit under this section, all of the following*  
12 *are required:*

13 *“(a) The alternative energy device must be purchased, constructed, in-*  
14 *stalled and operated in accordance with ORS 469.160 to 469.180 and a certif-*  
15 *icate issued thereunder.*

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

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

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

28 *“(c) In the case of an alternative fuel device, if the device is a fueling*  
29 *station necessary to operate an alternative fuel vehicle, unless the verifica-*  
30 *tion form and certificate are transferred as authorized under ORS 469.170*

1 [(8)] (9), the taxpayer who is allowed the credit must be the contractor who  
2 constructs the dwelling that incorporates the fueling station into the dwell-  
3 ing or installs the fueling station in the dwelling. If the category one alter-  
4 native energy device is an alternative fuel vehicle, the credit must be  
5 claimed by the owner as defined under ORS 801.375 or contract purchaser.  
6 If the category one alternative energy device is related equipment for an al-  
7 ternative fuel vehicle, the credit may be claimed by the owner or contract  
8 purchaser.

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

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

15 “[5)] (4) The credit provided by this section does not affect the compu-  
16 tation of basis under this chapter.

17 “[6)] (5) The total credits allowed under this section in any one year may  
18 not exceed the tax liability of the taxpayer.

19 “[7)] (6) Any tax credit otherwise allowable under this section that is  
20 not used by the taxpayer in a particular year may be carried forward and  
21 offset against the taxpayer’s tax liability for the next succeeding tax year.  
22 Any credit remaining unused in the next succeeding tax year may be carried  
23 forward and used in the second succeeding tax year, and likewise any credit  
24 not used in that second succeeding tax year may be carried forward and used  
25 in the third succeeding tax year, and any credit not used in that third suc-  
26 ceeding tax year may be carried forward and used in the fourth succeeding  
27 tax year, and any credit not used in that fourth succeeding tax year may be  
28 carried forward and used in the fifth succeeding tax year, but may not be  
29 carried forward for any tax year thereafter.

30 “[8)] (7) A nonresident shall be allowed the credit under this section in

1 the proportion provided in ORS 316.117.

2 “[9] (8) If a change in the taxable year of a taxpayer occurs as described  
3 in ORS 314.085, or if the Department of Revenue terminates the taxpayer’s  
4 taxable year under ORS 314.440, the credit allowed by this section shall be  
5 prorated or computed in a manner consistent with ORS 314.085.

6 “[10] (9) If a change in the status of a taxpayer from resident to non-  
7 resident or from nonresident to resident occurs, the credit allowed by this  
8 section shall be determined in a manner consistent with ORS 316.117.

9 “[11] (10) A husband and wife who file separate returns for a taxable  
10 year may each claim a share of the tax credit that would have been allowed  
11 on a joint return in proportion to the contribution of each. However, a hus-  
12 band or wife living in a separate principal residence may claim the tax credit  
13 in the same amount as permitted a single person.

14 “[12] (11) As used in this section, unless the context requires otherwise:

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

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

21 “(c) ‘Taxpayer’ includes a transferee of a verification form under ORS  
22 469.170 [(8)] (9).

23 “[13] (12) Notwithstanding any provision of subsection (1) or (2) of this  
24 section, the sum of the credit allowed under subsection (1) of this section  
25 plus any similar credit allowed for federal income tax purposes may not ex-  
26 ceed the cost to the taxpayer for the acquisition, construction and installa-  
27 tion of the alternative energy device.

28 **“SECTION 70.** ORS 469.160 is amended to read:

29 “469.160. As used in ORS 316.116, 317.115 and 469.160 to 469.180:

30 “(1) ‘Alternative energy device’ means a category one alternative energy

1 device or a category two alternative energy device.

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

3 “(a) An alternative fuel vehicle;

4 “(b) Related equipment; or

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

6 “(3) ‘Alternative fuel vehicle’ means a motor vehicle as defined in ORS  
7 801.360 that is:

8 “(a) Registered in this state; and

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

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

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

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

19 “(A) Domestic water heating; or

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

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

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

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

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

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

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

30 “[i] **(h)** A premium efficiency biomass combustion device that includes

1 a dedicated outside combustion air source and that meets minimum per-  
2 formance standards that are established by the State Department of Energy.

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

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

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

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

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

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

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

29 “(9) ‘Domestic water heating’ means the heating of water used in a  
30 dwelling for bathing, clothes washing, dishwashing and other related func-

1 tions.

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

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

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

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

16 “[*(14)*] **(13)** ‘Fueling station’ includes but is not limited to a compressed  
17 natural gas compressor fueling system or an electric charging system for  
18 vehicle power battery charging.

19 “[*(15)*] **(14)** ‘Placed in service’ means:

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

22 “(b) For an alternative fuel vehicle:

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

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

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

30 “(d) For related equipment, the date that the equipment is first opera-

1 tional.

2 “[16] (15) ‘Related equipment’ means equipment necessary to convert a  
3 vehicle to use an alternative fuel.

4 “[17] (16) ‘Solar electric system’ means any system, mechanism or series  
5 of mechanisms, including photovoltaic systems, that uses solar radiation to  
6 generate electrical energy for a dwelling.

7 “(17) ‘Third-party alternative energy device installation’ means the  
8 installation of alternative energy devices that are:

9 “(a) Installed by a licensed solar heating and cooling installer; or

10 “(b) Obtained in bulk for the purpose of installing in multiple lo-  
11 cations at a discounted rate to consumers.

12 “[18] (18) ‘Wind electric system’ means any system, mechanism or series  
13 of mechanisms that uses wind to generate electrical energy for a dwelling.

14 “**SECTION 71.** ORS 469.170 is amended to read:

15 “469.170. (1) **Subject to the limitations in section 75 of this 2011 Act,**  
16 any person may claim a tax credit under ORS 316.116 (or ORS 317.115, if the  
17 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. An ap-  
16 plication for a contractor system certification shall be made in writing on  
17 a form provided by the State Department of Energy and shall contain:

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

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

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

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

28 “(E) Any important construction, installation or operating instructions;  
29 and

30 “(F) Any other information that the State Department of Energy deter-

1 mines is necessary.

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

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

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

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

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

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

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

25 “(6) **A licensed solar heating and cooling installer or a third-party**  
26 **alternative energy device installation must obtain certification from**  
27 **the State Department of Energy under subsection (5) of this section**  
28 **prior to commencing installation of alternative energy devices. A cer-**  
29 **tification may not be issued in any tax year to any taxpayer for more**  
30 **than 25 devices in a third-party alternative energy device installation.**

1        “[6] (7) To claim the tax credit, the verification form described in sub-  
2 section (4) of this section shall be submitted with the taxpayer’s tax return  
3 for the year the alternative energy device is placed in service or the imme-  
4 diately succeeding tax year. A copy of the contractor’s certification certifi-  
5 cate, alternative energy device system certificate or alternative fuel vehicle  
6 or related equipment certificate also shall be submitted.

7        “[7] (8) The verification form and contractor’s certificate, alternative  
8 energy device system certificate or alternative fuel vehicle or related equip-  
9 ment certificate described under this section shall be effective for purposes  
10 of tax relief allowed under ORS 316.116 or 317.115.

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

16       “[9] (10) Any person that pays the present value of the tax credit for  
17 an alternative energy device provided under ORS 316.116 or 317.115 and  
18 469.160 to 469.180 to the person who constructs or installs the alternative  
19 energy device shall be entitled to claim the credit in the manner and subject  
20 to rules adopted by the Department of Revenue to carry out the purposes of  
21 this subsection. The State Department of Energy may establish by rule uni-  
22 form discount rates to be used in calculating the present value of a tax credit  
23 under this subsection.

24       **“SECTION 72.** ORS 469.172 is amended to read:

25       “469.172. The following devices are not eligible for the tax credit under  
26 ORS 316.116:

27       “(1) Standard efficiency furnaces;

28       “(2) **Appliances;**

29       “(3) **Furnaces with electrically commutated motors that have effi-**  
30 **ciency ratings of 94 percent or less;**

1       **“(4) Air conditioning systems;**  
2       **“(5) Boilers;**  
3       **“[(2)] (6) Standard back-up heating systems;**  
4       **“[(3)] (7) Woodstoves or wood furnaces, or any part of a heating system**  
5 **that burns wood, unless the woodstove, furnace or system constitutes a pre-**  
6 **mium efficiency biomass combustion device described in ORS 469.160 [(4)(i)]**  
7 **(4)(h);**  
8       **“[(4)] (8) Heat pump water heaters that are part of a geothermal heat**  
9 **pump space heating system;**  
10       **“[(5)] (9) Structures that cover or enclose a swimming pool;**  
11       **“[(6)] (10) Swimming pools, hot tubs or spas used to store heat;**  
12       **“[(7)] (11) Above ground, uninsulated swimming pools, hot tubs or spas;**  
13       **“[(8)] (12) Photovoltaic systems installed on recreational vehicles;**  
14       **“[(9)] (13) Conversion of an existing alternative energy device to another**  
15 **type of alternative energy device;**  
16       **“[(10)] (14) Repair or replacement of an existing alternative energy device;**  
17       **“[(11)] (15) A category two alternative energy device, if the equipment or**  
18 **other property that comprises the category two alternative energy device is**  
19 **the basis for an allowed credit for a category one alternative energy device**  
20 **under ORS 316.116;**  
21       **“[(12)] (16) A category one alternative energy device, if the equipment or**  
22 **other property that comprises the category one alternative energy device is**  
23 **also the basis for an allowed credit for a category two alternative energy**  
24 **device under ORS 316.116; or**  
25       **“[(13)] (17) Any other device identified by the State Department of En-**  
26 **ergy. The department may adopt rules defining standards for eligible and**  
27 **ineligible devices under this section.**  
28       **“SECTION 73. ORS 317.115 is amended to read:**  
29       **“317.115. (1) A business tax credit is allowed against the taxes otherwise**  
30 **due under this chapter based upon costs paid or incurred for construction**

1 or installation in a dwelling of a fueling station necessary to operate an al-  
2 ternative fuel vehicle. The credit is allowed to the contractor who con-  
3 structs the dwelling in which the fueling station is incorporated or installs  
4 the fueling station in the dwelling but may be taken by any person under the  
5 circumstances described in ORS 469.170 [(9)] (10) and the rules adopted  
6 thereunder.

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

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

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

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

19 “(c) The credit must be claimed for the tax year in which the fueling  
20 station that has been certified under ORS 469.160 to 469.180 first is placed  
21 in service or the immediately succeeding tax year.

22 “(4) The credit allowed under this section shall not affect the computation  
23 of basis for purposes of this chapter, nor shall the credit affect the compu-  
24 tation or be in lieu of any depreciation deduction for the fueling station.

25 “(5) The credit allowed under this section in any one year shall not ex-  
26 ceed the tax liability of the taxpayer for that year.

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

1 forward and used in the second succeeding tax year, and likewise any credit  
2 not used in that second succeeding tax year may be carried forward and used  
3 in the third succeeding tax year, and any credit not used in that third suc-  
4 ceeding tax year may be carried forward and used in the fourth succeeding  
5 tax year, and any credit not used in that fourth succeeding tax year may be  
6 carried forward and used in the fifth succeeding tax year, but may not be  
7 carried forward for any tax year thereafter.

8 “(7) The certificate and verification form described under ORS 469.170  
9 may be transferred by the contractor to the first purchaser of the dwelling  
10 that incorporates the fueling station if the purchaser intends to use the  
11 dwelling as a principal or secondary residence or, in the case of construction  
12 or installation of a fueling station in an existing dwelling, the current  
13 owner, if the current owner intends to use, or uses, the dwelling as a prin-  
14 cipal or secondary residence. A certificate and verification form so trans-  
15 ferred may be used by the purchaser to claim a credit under ORS 316.116.

16 **“SECTION 74. The amendments to ORS 316.116, 469.160, 469.170 and**  
17 **469.172 by sections 69 to 72 of this 2011 Act apply to alternative energy**  
18 **devices certified by the State Department of Energy on or after Janu-**  
19 **ary 1, 2012, and to tax years beginning on or after January 1, 2012.**

20 **“SECTION 75. The Department of energy may not issue certif-**  
21 **ications for more than \$10 million in potential tax credits for third-**  
22 **party alternative energy device installations in any tax year.**

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

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#### “CAPTIONS AND EFFECTIVE DATE

1       **“SECTION 77. 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 78. 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.”.**

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