

**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, 314.752,
3 315.053, 315.141, 315.357, 315.514, 316.116, 317.115, 317.152, 317.154, 318.031,
4 469.160, 469.165, 469.170, 469.172, 469.790 and 496.303 and section 6, chapter
5 911, Oregon Laws 1989, section 77, chapter 736, Oregon Laws 2003, section
6 1a, chapter 559, Oregon Laws 2005, sections 5a and 8a, chapter 832, Oregon
7 Laws 2005, section 6, chapter 739, Oregon Laws 2007, and sections 3, 11 and
8 20, chapter 913, Oregon Laws 2009; repealing sections 2a, 2b and 15, chapter
9 625, Oregon Laws 2007; appropriating money; and prescribing an effective
10 date.”.

11 Delete lines 4 through 10 and insert:

12

13 **“MODIFICATION OF TAX CREDIT PROVISIONS**

14

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

17 “315.357. (1) [*Except as provided in subsection (2) of this section,*] **For a**
18 **facility other than a renewable energy resource equipment manufac-**
19 **turing facility,** a taxpayer may not be allowed a credit under ORS 315.354
20 unless the taxpayer:

21 **“(a) Files an application for preliminary certification under ORS**
22 **469.205 on or before April 15, 2011;**

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

3 **“(c) Receives final certification under ORS 469.215 before [July 1, 2012]**
4 **January 1, 2013, or has demonstrated evidence of beginning con-**
5 **struction before April 15, 2011.**

6 “(2) A taxpayer may not be allowed a credit under ORS 315.354 for a
7 renewable energy resource equipment manufacturing facility unless the tax-
8 payer receives preliminary certification under ORS 469.210 before January
9 1, 2014.

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

13 **“Sec. 6.** (1) ORS 315.141, 315.144 and 469.790 apply to tax credits for tax
14 years beginning on or after January 1, 2007, and before January 1, [2012]
15 **2018.**

16 “(2) Notwithstanding subsection (1) of this section, a tax credit is not
17 allowed for wheat grain (other than nongrain wheat material) [*before*] **for** tax
18 years beginning [*on or after*] **before** January 1, 2009, or on or after January
19 1, [2012] **2018.**

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

21 “315.141. (1) As used in this section:

22 “(a) ‘Agricultural producer’ means a person that produces biomass in
23 Oregon that is used, in Oregon, as biofuel or to produce biofuel.

24 “(b) ‘Biofuel’ means liquid, gaseous or solid fuels, derived from biomass,
25 that have been converted into a processed fuel ready for use as energy by a
26 biofuel producer’s customers or for direct biomass energy use at the biofuel
27 producer’s site.

28 “(c) ‘Biofuel producer’ means a person that through activities in Oregon:

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

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

1 “(C) Uses biomass in Oregon to produce energy.

2 “(d) ‘Biomass’ means organic matter that is available on a renewable or
3 recurring basis and that is derived from:

4 “(A) Forest or rangeland woody debris from harvesting or thinning con-
5 ducted to improve forest or rangeland ecological health and reduce unchar-
6 acteristic stand replacing wildfire risk;

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

8 “(C) Agricultural residues;

9 “(D) Offal and tallow from animal rendering;

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

11 “(F) Yard or wood debris collected as provided under ORS chapter 459 or
12 459A;

13 “(G) Wastewater solids; or

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

15 “(e) ‘Biomass’ does not mean wood that has been treated with creosote,
16 pentachlorophenol, inorganic arsenic or other inorganic chemical compounds
17 or waste, other than matter described in paragraph (d) of this subsection.

18 “(f) ‘Biomass collector’ means a person that collects biomass in Oregon
19 to be used, in Oregon, as biofuel or to produce biofuel.

20 “(g) ‘Oilseed processor’ means a person that receives agricultural
21 oilseeds and separates them into meal and oil by mechanical or
22 chemical means.

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

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

29 “(A) The production of biomass in Oregon that is used, in Oregon, as
30 biofuel or to produce biofuel; or

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

3 “(b) A credit under this section may be claimed in the tax year in which
4 the [*credit is certified under subsection (5) of this section*] **agricultural pro-**
5 **ducer or biomass collector transfers biomass to a biofuel producer or**
6 **oilseed processor.**

7 “(c) A taxpayer may be allowed a credit under this section for more than
8 one of the roles defined in subsection (1) of this section, but a biofuel pro-
9 ducer that is not also an agricultural producer or a biomass collector may
10 not claim a credit under this section.

11 “(d) Notwithstanding paragraph (a) of this subsection, a tax credit is not
12 allowed for grain corn, but a tax credit shall be allowed for other corn ma-
13 terial.

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

16 “(5)(a) The State Department of Energy may establish by rule procedures
17 and criteria for determining the amount of the tax credit to be certified un-
18 der this section, consistent with ORS 469.790. The department shall provide
19 written certification to taxpayers that are eligible to claim the credit under
20 this section.

21 “(b) The State Department of Energy may charge and collect a fee from
22 taxpayers for certification of credits under this section. The fee may not ex-
23 ceed the cost to the department of determining the amount of certified cost.

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

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

29 “(7) Each agricultural producer or biomass collector shall maintain the
30 written documentation of the amount certified for tax credit under this sec-

1 tion in its records for a period of at least five years after the tax year in
2 which the credit is claimed and provide the written documentation to the
3 Department of Revenue upon request.

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

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

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

16 “(a) A nonresident shall be allowed the credit under this section in the
17 proportion provided in ORS 316.117.

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

21 “(c) If a change in the taxable year of the taxpayer occurs as described
22 in ORS 314.085, or if the department terminates the taxpayer’s taxable year
23 under ORS 314.440, the credit allowed under this section shall be prorated
24 or computed in a manner consistent with ORS 314.085.

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

26 “469.790. To be eligible for the tax credit under ORS 315.141, the biomass
27 must be produced or collected in Oregon as a feedstock for bioenergy or
28 biofuel production in Oregon. The credit rates for biomass are:

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

30 “(2) For grain crops, including but not limited to wheat, barley and

1 triticale, \$0.90 per bushel.

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

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

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

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

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

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

14 “[~~(9)~~] **(8)** For animal manure or rendering offal, \$5.00 per wet ton.

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

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

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

21 “**Sec. 3.** Except as provided in ORS 315.507 (5), a credit may not be
22 claimed under ORS 315.507 for tax years beginning on or after January 1,
23 ~~[2012]~~ **2018**.

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

25 “285C.406. In order for a taxpayer to claim the property tax exemption
26 under ORS 285C.409 or a corporate excise or income tax credit under ORS
27 317.124:

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

1 285C.245; and

2 “(2)(a) For the purpose of the property tax exemption, the business firm
3 must obtain certification under ORS 285C.403 on or before June 30, [2013]
4 **2025**; or

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

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

12 **“Sec. 6.** ORS 317.152 to 317.154 apply to amounts paid or incurred in tax
13 years beginning on or after January 1, 1989, and before January 1, [2012]
14 **2018**.

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

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

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

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

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

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

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

29 “(2) For purposes of this section, ‘eligible taxpayer’ means a corporation,
30 other than a corporation excluded under Internal Revenue Code section

1 41(e)(7)(E).

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

6 “(4) The maximum credit under this section may not exceed [*\$2 million*]
7 **\$1 million.**

8 “(5) Any tax credit that is otherwise allowable under this section and that
9 is not used by the taxpayer in that year may be carried forward and offset
10 against the taxpayer’s tax liability for the next succeeding tax year. Any
11 credit remaining unused in such next succeeding tax year may be carried
12 forward and used in the second succeeding tax year, and likewise any credit
13 not used in that second succeeding tax year may be carried forward and used
14 in the third succeeding tax year, and any credit not used in that third suc-
15 ceeding tax year may be carried forward and used in the fourth succeeding
16 tax year, and any credit not used in that fourth succeeding tax year may be
17 carried forward and used in the fifth succeeding tax year, but may not be
18 carried forward for any tax year thereafter.

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

21 “317.152. (1) A credit against taxes otherwise due under this chapter shall
22 be allowed to eligible taxpayers for increases in qualified research expenses
23 and basic research payments. The credit shall be determined in accordance
24 with section 41 of the Internal Revenue Code, except as follows:

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

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

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

30 “(A) Section 41(c)(4) of the Internal Revenue Code (relating to the alter-

1 native incremental credit).

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

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

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

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

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

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

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

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

30 “(2) For purposes of this section:

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

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

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

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

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

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

25 **“SECTION 10. (1) The amendments to ORS 315.141, 317.152, 317.154**
26 **and 469.790 by sections 2a, 3, 8 and 9 of this 2011 Act apply to tax years**
27 **beginning on or after January 1, 2012.**

28 **“(2) The amendments to ORS 317.152 by section 8a of this 2011 Act**
29 **apply to tax years beginning on or after January 1, 2012, and to any**
30 **tax year for which a return is subject to audit or adjustment by the**

1 Department of Revenue on or after the effective date of this 2011 Act,
2 any tax year for which a return is the subject of an appeal on or after
3 the effective date of this 2011 Act and any tax year for which a claim
4 for refund may be made on or after the effective date of this 2011 Act.

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

6 “315.514. (1) A credit against the taxes that are otherwise due under ORS
7 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
8 318, is allowed to a taxpayer for certified film production development con-
9 tributions made by the taxpayer during the tax year to the Oregon Pro-
10 duction Investment Fund established under ORS 284.367.

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

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

30 “(A) Subject to paragraph (a) of this subsection, generate contributions

1 for which tax credits of [*\$7.5 million*] **\$6 million** are certified for each fiscal
2 year;

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

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

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

12 “[*(4)*] **(3)** Contributions made under this section shall be deposited in the
13 Oregon Production Investment Fund.

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

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

25 “[*(6)*] **(5)** To the extent the Oregon Film and Video Office does not certify
26 contributed amounts as eligible for a tax credit under this section, the tax-
27 payer may request a refund of the amount the taxpayer contributed, and the
28 office shall refund that amount.

29 “[*(7)(a)*] **(6)(a)** Except as provided in paragraph (b) of this subsection, a
30 tax credit claimed under this section may not exceed the tax liability of the

1 taxpayer and may not be carried over to another tax year.

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

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

13 “[8] (7) If a tax credit is claimed under this section by a nonresident or
14 part-year resident taxpayer, the amount shall be allowed without proration
15 under ORS 316.117.

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

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

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

25 “[c] *The amount of the tax credit certificate that is being sold to the*
26 *buyer;]*

27 “[d] *The amount of the tax credit certificate that is being retained by the*
28 *seller; and]*

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

30 “[10] *If requested by the Department of Revenue, the Oregon Film and*

1 *Video Office shall supply a list of taxpayers that have obtained tax credit*
2 *certification under this section, and for each listed taxpayer disclose:]*

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

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

5 “*[(11)] (8) If the amount of contribution for which a tax credit certifi-*
6 *ication is made is allowed as a deduction for federal tax purposes, the*
7 *amount of the contribution shall be added to federal taxable income for*
8 *Oregon tax purposes.*

9 “**SECTION 12. The Oregon Film and Video Office and the Depart-**
10 **ment of Revenue shall report, not later than February 15, 2013, to the**
11 **Legislative Assembly on the operation of the auction process required**
12 **in ORS 315.514.**

13 “**SECTION 13. (1) In lieu of the issuance of certifications for tax**
14 **credit under ORS 315.514 by the Oregon Film and Video Office, the**
15 **Legislative Assembly may, no later than 30 days prior to the end of**
16 **each fiscal year, appropriate to the Oregon Business Development**
17 **Department for deposit into the Oregon Production Investment Fund**
18 **an amount equal to the total amount that would otherwise be certified**
19 **for tax credits during the current fiscal year, based on the amount of**
20 **contributions and accompanying applications for credit received by the**
21 **office during the fiscal year.**

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

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

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

30 “**SECTION 14. ORS 284.367 is amended to read:**

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

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

5 “(a) Amounts donated to the fund;

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

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

9 “(d) Interest earned by the fund.

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

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

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

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

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

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

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

24 “284.367. (1) The Oregon Production Investment Fund is established in the
25 State Treasury, separate and distinct from the General Fund. Interest earned
26 by the Oregon Production Investment Fund shall be credited to the fund.

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

28 “(a) Amounts donated to the fund;

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

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

2 “(d) Interest earned by the fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 **“Sec. 11.** The State Department of Fish and Wildlife may not issue a
6 preliminary certificate of approval under ORS 315.138 after January 1,
7 [2012] **2018.**

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

10 “496.303. (1) The Fish and Wildlife Account is established in the State
11 Treasury, separate and distinct from the General Fund. All moneys in the
12 account are continuously appropriated to the State Fish and Wildlife Com-
13 mission. The Fish and Wildlife Account shall consist of the moneys in its
14 various subaccounts and any moneys transferred to the account by the Leg-
15 islative Assembly. Unless otherwise specified by law, interest earnings on
16 moneys in the account shall be paid into the State Treasury and credited to
17 the State Wildlife Fund.

18 “(2)(a) The Fish Screening Subaccount is established in the Fish and
19 Wildlife Account. The subaccount shall consist of:

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

21 “(B) All moneys received pursuant to ORS 498.306.

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

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

26 “(b) All moneys in the subaccount shall be used to carry out the pro-
27 visions of ORS **315.138**, 498.306 and 509.620. However, moneys received from
28 the surcharge on angling licenses imposed by ORS 497.124 shall be expended
29 only to carry out the provisions of law relating to the screening of water
30 diversions.

1 “(3) The Fish Endowment Subaccount is established in the Fish and
2 Wildlife Account. The subaccount shall consist of transfers of moneys au-
3 thorized by the Legislative Assembly from the State Wildlife Fund and gifts
4 and grants of moneys from whatever source for the purpose of paying the
5 expense of maintaining fish hatcheries operated by the department.

6 “(4) The Migratory Waterfowl Subaccount is established in the Fish and
7 Wildlife Account. All moneys received by the commission from the sale of
8 art works and prints related to the migratory waterfowl stamp shall be de-
9 posited in the subaccount. Moneys in the subaccount may be expended only
10 for activities that promote the propagation, conservation and recreational
11 uses of migratory waterfowl and for activities related to the design, pro-
12 duction, issuance and arrangements for sale of the migratory waterfowl
13 stamps and related art works and prints. Expenditures of moneys in the
14 subaccount may be made within this state, in other states or in foreign
15 countries, in such amounts as the commission determines appropriate. Ex-
16 penditures in other states and foreign countries shall be on such terms and
17 conditions as the commission determines will benefit most directly the mi-
18 gratory waterfowl resources of this state.

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

25 “(6) The Upland Bird Subaccount is established in the Fish and Wildlife
26 Account. All moneys received by the State Fish and Wildlife Commission
27 from the sale of upland bird stamps, from the sale of any art works and
28 prints related to the upland bird stamp and from private hunting preserve
29 permit fees shall be deposited in the subaccount. Moneys in the subaccount
30 may be expended only for promoting the propagation and conservation of

1 upland birds and the acquisition, development, management, enhancement,
2 sale or exchange of upland bird habitat, and for activities related to the de-
3 sign, production, issuance and arrangements for sale of the upland bird
4 stamps and related art works and prints. Expenditures of moneys in the
5 subaccount shall be made for the benefit of programs within this state in
6 such amounts and at such times as the commission determines appropriate
7 to most directly benefit the upland bird resources of the state.

8 “(7)(a) The Fish and Wildlife Deferred Maintenance Subaccount is estab-
9 lished in the Fish and Wildlife Account. Interest earnings on moneys in the
10 subaccount shall be credited to the subaccount. The subaccount shall consist
11 of moneys authorized by the Legislative Assembly from the State Wildlife
12 Fund and moneys obtained by gift, grant, bequest or donation from any other
13 public or private source.

14 “(b) The principal in the subaccount may be utilized only as provided in
15 paragraph (c) of this subsection. Interest earnings on the moneys in the
16 subaccount may be expended only for the maintenance of fish hatcheries and
17 State Department of Fish and Wildlife facilities other than administrative
18 facilities located in Salem.

19 “(c) The department may borrow funds from the principal of the subac-
20 count to maintain adequate cash flow requirements. However, moneys bor-
21 rowed from the principal must be repaid to the subaccount:

22 “(A) Within six months from the date on which the moneys were bor-
23 rowed.

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

27 “(d) For purposes of this subsection, ‘principal’ means moneys authorized
28 by the Legislative Assembly for transfer to the subaccount from the State
29 Wildlife Fund, including any assignment of earnings on moneys in the fund
30 and other moneys obtained by gift, grant, bequest or donation deposited into

1 the subaccount.

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

6 “(9) The Marine Shellfish Subaccount is established in the Fish and
7 Wildlife Account. Interest earnings on moneys in the subaccount shall be
8 credited to the subaccount. All moneys received by the commission from the
9 sale of resident and nonresident shellfish licenses pursuant to ORS 497.121
10 shall be deposited in the subaccount. Moneys in the subaccount shall be used
11 for the protection and enhancement of shellfish for recreational purposes,
12 including shellfish sanitation costs and the cost of enforcement of wildlife
13 laws pertaining to the taking of shellfish. The State Fish and Wildlife Di-
14 rector, or a designee, the Director of Agriculture, or a designee, and the
15 Superintendent of State Police, or a designee, shall jointly make a recom-
16 mendation to the Governor for inclusion in the Governor’s budget beginning
17 July 1 of each odd-numbered year.

18 “(10)(a) The Mountain Sheep Subaccount is established in the Fish and
19 Wildlife Account, consisting of moneys collected under ORS 497.112 (2)(a) to
20 (c).

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

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

28 “(b) All moneys in the subaccount shall be used for the propagation and
29 conservation of antelope, for research, development, management, enhance-
30 ment and sale or exchange of antelope habitat and for programs within the

1 state that in the discretion of the commission most directly benefit antelope
2 resources of this state.

3 “(12)(a) The Mountain Goat Subaccount is established in the Fish and
4 Wildlife Account, consisting of moneys collected under ORS 497.112 (2)(a) to
5 (c).

6 “(b) All moneys in the subaccount shall be used for the propagation and
7 conservation of mountain goats for research, development, management, en-
8 hancement and sale or exchange of mountain goat habitat and for programs
9 within the state that in the discretion of the commission most directly ben-
10 efit mountain goat resources of this state.

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

15 “(b) Using the record created pursuant to paragraph (a) of this subsection,
16 the commission shall report, in the budget documents submitted to the Leg-
17 islative Assembly, on the application of investment and interest earnings to
18 the maintenance of fish hatcheries and other State Department of Fish and
19 Wildlife facilities.

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

22 “314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits al-
23 lowed or allowable to a C corporation for purposes of ORS chapter 317 or
24 318 shall not be allowed to an S corporation. The business tax credits al-
25 lowed or allowable for purposes of ORS chapter 316 shall be allowed or are
26 allowable to the shareholders of the S corporation.

27 “(2) In determining the tax imposed under ORS chapter 316, as provided
28 under ORS 314.734, on income of the shareholder of an S corporation, there
29 shall be taken into account the shareholder’s pro rata share of business tax
30 credit (or item thereof) that would be allowed to the corporation (but for

1 subsection (1) of this section) or recapture or recovery thereof. The credit (or
2 item thereof), recapture or recovery shall be passed through to shareholders
3 in pro rata shares as determined in the manner prescribed under section
4 1377(a) of the Internal Revenue Code.

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

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

13 “(5) As used in this section, ‘business tax credit’ means a tax credit
14 granted to personal income taxpayers to encourage certain investment, to
15 create employment, economic opportunity or incentive or for charitable, ed-
16 ucational, scientific, literary or public purposes that is listed under this
17 subsection as a business tax credit or is designated as a business tax credit
18 by law or by the Department of Revenue by rule and includes but is not
19 limited to the following credits: ORS 285C.309 (tribal taxes on reservation
20 enterprise zones and reservation partnership zones), ORS 315.104 (forestation
21 and reforestation), ORS 315.134 (fish habitat improvement), ORS 315.138 (fish
22 screening, by-pass devices, fishways), ORS 315.156 (crop gleaning), ORS
23 315.164 and 315.169 (farmworker housing), ORS 315.204 (dependent care as-
24 sistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions
25 for child care), ORS 315.304 (pollution control facility), ORS 315.324 (plastics
26 recycling), ORS 315.354 and 469.207 (energy conservation facilities), ORS
27 315.507 (electronic commerce), ORS 315.511 (advanced telecommunications
28 facilities), ORS 315.604 (bone marrow transplant expenses), ORS 317.115 (fu-
29 eling stations necessary to operate an alternative fuel vehicle) and ORS
30 315.141 (biomass production for biofuel) **and section 23 of this 2011 Act**

1 (renewable energy development contributions), section 35 of this 2011
2 Act (energy conservation projects) and section 53 of this 2011 Act
3 (transportation projects).

4 **“SECTION 20.** ORS 318.031 is amended to read:

5 “318.031. It being the intention of the Legislative Assembly that this
6 chapter and ORS chapter 317 shall be administered as uniformly as possible
7 (allowance being made for the difference in imposition of the taxes), ORS
8 305.140 and 305.150, ORS chapter 314 and the following sections are incor-
9 porated into and made a part of this chapter: ORS 285C.309, 315.104, 315.134,
10 315.141, 315.156, 315.204, 315.208, 315.213, 315.304, 315.507, 315.511 and 315.604
11 **and sections 23, 35 and 53 of this 2011 Act** (all only to the extent appli-
12 cable to a corporation) and ORS chapter 317.

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

14 “315.053. An income tax credit allowed under ORS 315.141[,] **or** 315.354
15 [*or 315.514*] or section 47, chapter 843, Oregon Laws 2007, or section 12,
16 chapter 855, Oregon Laws 2007, **or section 35 or 53 of this 2011 Act** may
17 be transferred or sold only to one or more of the following:

18 “(1) A C corporation.

19 “(2) An S corporation.

20 “(3) A personal income taxpayer.

21

22

**“TAX CREDIT FOR RENEWABLE ENERGY
DEVELOPMENT CONTRIBUTIONS**

23

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

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

1 year to the Clean Energy Deployment Fund established in section 1,
2 chapter ____, Oregon Laws 2011 (Enrolled House Bill 2960).

3 “(2)(a) The Department of Revenue shall, in cooperation with the
4 State Department of Energy, conduct an auction of tax credits under
5 this section and issue tax credit certifications under this section. The
6 department may conduct the auction in the manner that it determines
7 is best suited to maximize the return to the state on the sale of the
8 certificates and shall announce a reserve bid prior to conducting the
9 auction. The reserve amount shall be at least 95 percent of the total
10 amount of the tax credit. Moneys necessary to reimburse the Depart-
11 ment of Revenue for the actual costs incurred by the department in
12 administering an auction, not to exceed 0.25 percent of auction pro-
13 ceeds, are continuously appropriated to the department. The Depart-
14 ment of Revenue shall deposit net receipts from the auction required
15 under this section in the Clean Energy Deployment Fund established
16 in section 1, chapter ____, Oregon Laws 2011 (Enrolled House Bill 2960).
17 Net receipts from the auction required under this section shall be used
18 only for purposes related to renewable energy development.

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

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

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

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

29 “(3) Contributions made under this section shall be deposited in the
30 Clean Energy Deployment Fund established in section 1, chapter ____,

1 **Oregon Laws 2011 (Enrolled House Bill 2960).**

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

9 **“(b) The State Department of Energy and the Department of Reve-**
10 **nue are not liable, and a refund of a contributed amount need not be**
11 **made, if a taxpayer who has received tax credit certification is unable**
12 **to use all or a portion of the tax credit to offset the tax liability of the**
13 **taxpayer.**

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

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

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

27 **“(8) If the amount of contribution for which a tax credit certif-**
28 **ication is made is allowed as a deduction for federal tax purposes, the**
29 **amount of the contribution shall be added to federal taxable income**
30 **for Oregon tax purposes.**

1 **“SECTION 24. (1) In lieu of the issuance of certifications for tax**
2 **credit under section 23 of this 2011 Act by the State Department of**
3 **Energy, the Legislative Assembly may, no later than 30 days prior to**
4 **the end of each fiscal year, appropriate to the State Department of**
5 **Energy for deposit into the Clean Energy Deployment Fund established**
6 **in section 1, chapter ____, Oregon Laws 2011 (Enrolled House Bill 2960),**
7 **an amount equal to the total amount that would otherwise be certified**
8 **for tax credits during the current fiscal year, based on the amount of**
9 **contributions and accompanying applications for credit received by the**
10 **department during the fiscal year.**

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

13 **“(a) Any contributions made pursuant to section 23 of this 2011 Act**
14 **to the Clean Energy Deployment Fund established in section 1, chapter**
15 **____, Oregon Laws 2011 (Enrolled House Bill 2960), during the current**
16 **fiscal year and for which an application for a credit under section 23**
17 **of this 2011 Act is pending shall, at the request of the taxpayer, be**
18 **refunded by the State Department of Energy; and**

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

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

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

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

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

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

1 **“(3) ‘Renewable energy production system’ means a system that**
2 **uses biomass, solar, geothermal, hydroelectric, wind, landfill gas,**
3 **biogas or wave, tidal or ocean thermal energy technology to produce**
4 **energy.**

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

8 **“NOTE:** Section 28 was deleted by amendment. Subsequent sections were
9 not renumbered.

10 **“SECTION 29. (1) Prior to the installation or construction of a**
11 **renewable energy production system, any person may apply to the**
12 **State Department of Energy for a grant under section 30 of this 2011**
13 **Act if:**

14 **“(a) The applicant will be the owner, contract purchaser or lessee**
15 **of the system at the time of installation or construction of the pro-**
16 **posed system;**

17 **“(b) The system does not exceed 35 megawatts of nameplate capac-**
18 **ity;**

19 **“(c) The system is located in Oregon; and**

20 **“(d) The system complies with the standards or rules adopted by the**
21 **Director of the State Department of Energy.**

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

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

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

30 **“(c) Information on the number and type of jobs that will be created**

1 by the system, and the number of jobs sustained throughout the con-
2 struction, installation and operation of the system.

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

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

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

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

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

19 “(b) The system would otherwise qualify for a grant under sections
20 27 to 33 of this 2011 Act.

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

26 “(2) If the director determines that the system is technically feasi-
27 ble and should operate in accordance with the representations made
28 by the applicant, and is in accordance with the provisions of sections
29 27 to 33 of this 2011 Act and any applicable rules or standards adopted
30 by the director, the director may enter into a performance agreement

1 with the applicant in anticipation of awarding a grant under this sec-
2 tion. The grant provided for in the performance agreement may not
3 exceed 35 percent of the cost of the project and may not exceed \$250,000
4 per system. If construction does not begin within 12 months of an
5 award under this section, the performance agreement shall be void and
6 the State Department of Energy may not award the grant.

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

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

11 “(b) The applicant was directly involved in an act for which the di-
12 rector has levied civil penalties or revoked, canceled or suspended any
13 certification under ORS 469.185 to 469.225 or section 23 of this 2011 Act,
14 or any grant under sections 27 to 33 of this 2011 Act; or

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

20 “(4) The department shall reduce the amount of grant allowable to
21 an applicant if, when combined with other government incentives,
22 loans or grants available to the applicant, the amount calculated un-
23 der subsection (2) of this section exceeds 75 percent of the total system
24 cost calculated under this section.

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

29 “(6) Upon determination by the director that the applicant has vio-
30 lated the provisions of the performance agreement or sections 27 to

1 33 of this 2011 Act, the applicant will be liable to the department for
2 all grant moneys disbursed to the applicant.

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

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

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

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

27 **“(2) In the event that the Director of the State Department of En-**
28 **ergy receives applications for grants under section 30 of this 2011 Act**
29 **in excess of the contributions received pursuant to section 23 of this**
30 **2011 Act, the director shall allocate the issuance of grants according**

1 to standards and criteria established by rule by the director.

2 **“SECTION 32a.** The State Department of Energy and the Depart-
3 ment of Revenue shall report, not later than February 15, 2013, to the
4 Legislative Assembly on the operation of the auction process required
5 in section 23 of this 2011 Act.

6 **“SECTION 33.** The State Department of Energy shall by rule es-
7 tablish policies and procedures for the administration and enforcement
8 of the provisions of sections 23, 24 and 27 to 33 of this 2011 Act, in-
9 cluding standards for what constitutes a single renewable energy pro-
10 duction system.

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

14
15 **“TAX CREDIT FOR ENERGY CONSERVATION PROJECTS**

16
17 **“SECTION 34.** Sections 35 and 36 are added to and made a part of
18 ORS chapter 315.

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

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

30 **“(b)** If the certified cost of the facility does not exceed \$20,000, the

1 total amount of the credit allowable under subsection (3) of this sec-
2 tion may be claimed in the first tax year for which the credit may be
3 claimed, but may not exceed the tax liability of the taxpayer.

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

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

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

9 “(c) If the project is a research and development project, it must
10 receive, prior to certification under section 44 of this 2011 Act, a rec-
11 ommendation from a qualified third party selected by the director.

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

15 “(A) LEED Platinum certification;

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

17 “(C) A nationally or regionally recognized and appropriate
18 sustainable building program whose performance standards are equiv-
19 alent to the standards required for LEED Platinum certification or a
20 four globes rating from the Green Globes program, as determined by
21 the department; or

22 “(D) Verification that the construction conformed to the standards
23 of the Reach Code adopted pursuant to ORS 455.500.

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

27 “(4)(a) Upon any sale, termination of the lease or contract, ex-
28 change or other disposition of the project, notice thereof shall be given
29 to the director, who shall revoke the certificate covering the project
30 as of the date of such disposition.

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

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

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

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

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

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

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

10 “(9) The definitions in section 38 of this 2011 Act apply to this sec-
11tion.

12 **“SECTION 36.** (1) A taxpayer may not be allowed a credit under
13section 35 of this 2011 Act if the first tax year for which the credit
14would otherwise be allowed, with respect to an energy conservation
15project certified under section 45 of this 2011 Act, begins on or after
16January 1, 2018.

17 “(2) A taxpayer may not be allowed a credit for an energy conser-
18vation project that is a cogeneration facility as that term is defined
19in ORS 758.505 for a tax year that begins before January 1, 2013.

20 **“SECTION 37.** Sections 38 to 50 of this 2011 Act are added to and
21made a part of ORS chapter 469.

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

23 “(1) ‘Cost’ means the capital costs and expenses necessarily in-
24curred in the acquisition, erection, construction and installation of an
25energy conservation project.

26 “(2) ‘Energy conservation project’ means any capital investment for
27which the first year energy savings yields a simple payback period of
28greater than three years. ‘Energy conservation project’ does not in-
29clude:

30 “(a) Recycling equipment, products and projects;

1 **“(b) Transportation projects;**

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

3 **“(d) Alternative fuel vehicles.**

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

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

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

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

16 **“SECTION 39. (1) In determining the priority of any energy con-**
17 **servation project for tax credits, preference shall be given to those**
18 **projects:**

19 **“(a) That have the highest energy savings over the five-year credit**
20 **allowance period per tax credit dollar; and**

21 **“(b) In which energy savings benefit a party other than the owner.**

22 **“(2) In administering this section, the Director of the State De-**
23 **partment of Energy shall compare projects of similar technology types**
24 **against each other, take into account the amount of energy saved over**
25 **the life of the equipment, market or industry sector, expected lifespan**
26 **of the facility compared to the simple payback period, and any other**
27 **factors defined in department rule. The department may certify less**
28 **than the total cost of any project based on this evaluation.**

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

1 value of the tax credit.

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

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

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

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

15 “(2) Standards relating to what constitutes a replacement of ineffi-
16 cient equipment.

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

18 “(4) Standards for the application of third party review of research
19 and development projects by a qualified third party selected by the
20 Director of the State Department of Energy, as required in section 43
21 of this 2011 Act.

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

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

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

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

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

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

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

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

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

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

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

24 **“(g) Information relating to the standards described in section 41**
25 **of this 2011 Act.**

26 **“(h) A recommendation for a research and development project as**
27 **demonstrative of innovation that has been made by a qualified third**
28 **party selected by the director.**

29 **“(i) Any other information the director considers necessary to de-**
30 **termine whether the project is in accordance with the provisions of**

1 sections 38 to 50 of this 2011 Act, and any applicable rules or standards
2 adopted by the director.

3 “(3) An application for preliminary certification shall be accompa-
4 nied by a fee established under section 46 of this 2011 Act. The director
5 may refund all or a portion of the fee if the application for certifi-
6 cation is rejected.

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

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

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

15 “(5) The director may, by rule, waive preliminary certification un-
16 der section 44 of this 2011 Act, or may establish an informational filing
17 system in place of preliminary certification, for projects that:

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

19 “(b) Consist of measures that the director determines to be eligible
20 for waiver of preliminary certification; and

21 “(c) Comply with any other requirements established by the direc-
22 tor.

23 “(6) Except as provided in subsection (7) of this section, a prelimi-
24 nary certification shall remain valid for a period of three calendar
25 years after the date on which the preliminary certification is issued
26 by the director, after which the certification becomes invalid even if:

27 “(a) The applicant is awaiting identification of a pass-through
28 partner; or

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

30 “(7) Any preliminary certification for a facility consistent with an

1 energy conservation project, under ORS 469.210, that remains out-
2 standing as of July 1, 2011, shall expire on July 1, 2014.

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) In accordance with ORS chapter 183, the director may issue an**
17 **order altering, conditioning, suspending or denying preliminary cer-**
18 **tification if the director determines 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 a qualified third party selected by the director; and

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

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

26 “(5) If the director rejects an application for final certification, or
27 certifies a lesser amount of credit than was claimed in the application,
28 the director shall send to the applicant written notice of the action,
29 together with a statement of the findings and reasons for the action,
30 by certified mail, before the 60th day after the filing of the application.

1 **Failure of the director to act constitutes rejection of the application.**

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

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

8 **“SECTION 46. By rule and after hearing, the Director of the State**
9 **Department of Energy may adopt a schedule of reasonable fees that**
10 **the State Department of Energy may require of applicants for prelim-**
11 **inary or final certification of an energy conservation project under**
12 **sections 38 to 50 of this 2011 Act. Before the adoption or revision of the**
13 **fees, the department shall estimate the total cost of the program to**
14 **the department. The fees shall be used to recover the anticipated cost**
15 **of administering and enforcing the provisions of sections 38 to 50 of**
16 **this 2011 Act, including filing, investigating, granting and rejecting**
17 **applications for certification and ensuring compliance with sections**
18 **38 to 50 of this 2011 Act and shall be designed not to exceed the total**
19 **cost estimated by the department. Any excess fees shall be held by the**
20 **department and shall be used by the department to reduce any future**
21 **fee increases. The fee may vary according to the size and complexity**
22 **of the project. The fee is not considered part of the cost of the project**
23 **to be certified.**

24 **“SECTION 47. (1) A certificate issued under section 45 of this 2011**
25 **Act is required for purposes of obtaining tax credits in accordance**
26 **with section 35 of this 2011 Act. Such certification shall be granted for**
27 **a period not to exceed five years. The five-year period shall begin with**
28 **the tax year of the applicant during which the completed application**
29 **for final certification of the project under section 45 of this 2011 Act**
30 **is received by the State Department of Energy.**

1 **“(2) If the original owner of the certificate uses any portion of the**
2 **credit, the certificate becomes nontransferable.**

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

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

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

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

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

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

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

1 statute of limitation does not preclude the collection of taxes described
2 in this subsection.

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

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

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

18 “SECTION 49. (1) The total amount of potential tax credits for all
19 energy conservation projects in this state may not, at the time of
20 preliminary certification under section 44 of this 2011 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 and
29 criteria established by rule by the director.

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

1 **tablish policies and procedures for the administration and enforcement**
2 **of the provisions of sections 35, 36 and 38 to 50 of this 2011 Act, in-**
3 **cluding standards for what constitutes a single energy conservation**
4 **project.**

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

9
10 **“TAX CREDIT FOR TRANSPORTATION PROJECTS**

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

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

19 **“(2) The credit allowed for a project other than an alternative fuel**
20 **vehicle infrastructure project shall 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; or**

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 an alternative fuel
11 vehicle infrastructure project under this section may not exceed 35
12 percent of the 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) The tax credit allowed under this section for any one tax year
19 may not exceed the tax liability of the taxpayer.

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

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

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

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

10 “(9) The definitions in section 56 of this 2011 Act apply to this sec-
11tion.

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

17 “(2) A taxpayer may not be allowed a credit for an alternative fuel
18 vehicle infrastructure project certified under section 60 of this 2011
19 Act if the first tax year for which the credit would otherwise be al-
20 lowed begins on or after January 1, 2018.

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

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

24 “(1) ‘Alternative fuel vehicle infrastructure project’ includes a fa-
25cility for mixing, storing, compressing or dispensing fuels for alterna-
26 tive fuel vehicles, and any other necessary and reasonable equipment.

27 “(2) ‘Cost’ includes core expenses such as vehicle repair, fuel, per-
28 sonnel and administrative expenses.

29 “(3) ‘Transportation project’ means a public or nonprofit entity that
30 provides transit services to members of the public and that receives

1 state or federal funding for those services, or an alternative fuel ve-
2 hicle infrastructure project.

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

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

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

13 **“SECTION 58. (1) Prior to the acquisition or performance of a**
14 **transportation project, a person may apply to the State Department**
15 **of Energy for preliminary certification for the project under section**
16 **59 of this 2011 Act if:**

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

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

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

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

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

30 **“(c) Information on the amount by which consumption of purchased**

1 energy by the applicant will be reduced, and, if applicable, information
2 about the expected level of project performance.

3 “(d) The anticipated total project cost.

4 “(e) Information on the number and types of jobs that will be cre-
5 ated by the project, the number of jobs sustained throughout the ac-
6 quisition and performance of the project.

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

10 “(g) Any other information the director considers necessary to de-
11 termine whether the project is in accordance with the provisions of
12 sections 56 to 65 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 61 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 acquisition or performance
20 of the project if the director finds that:

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

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

26 “(5) Except as provided in subsection (6) of this section, a prelimi-
27 nary certification shall remain valid for a period of three calendar
28 years after the date on which the preliminary certification is issued
29 by the director, after which the certification becomes 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 “(6) Any preliminary certification for a facility consistent with a
4 transportation project, under ORS 469.210, that remains outstanding
5 as of July 1, 2011, shall expire on July 1, 2014.

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

11 “(2) If the director determines that the project is technically feasi-
12 ble and should operate in accordance with the representations made
13 by the applicant, and is in accordance with the provisions of sections
14 56 to 65 of this 2011 Act and any applicable rules or standards adopted
15 by the director, the director may issue a preliminary certificate ap-
16 proving the acquisition or performance of the project. The certificate
17 shall indicate the potential amount of tax credit allowable and shall
18 list any conditions for claiming the credit.

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

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

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

26 “(c) The applicant was directly involved in an act for which the di-
27 rector has levied civil penalties or revoked, canceled or suspended any
28 certification under ORS 469.185 to 469.225 or sections 56 to 65 of this
29 2011 Act; or

30 “(d) The applicant or the principal, director, officer, owner, major-

1 ity shareholder or member of the applicant, or the manager of the
2 applicant if the applicant is a limited liability company, is in arrears
3 for payments owed to any government agency while in any capacity
4 with direct or indirect control over a business.

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

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

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

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

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

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

21 **“(b) After completion of the acquisition or performance of the**
22 **project.**

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

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

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

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

3 “(d) The number and types of jobs created by the acquisition and
4 performance of the project over the five-year period beginning on the
5 date of issuance of the preliminary certification under section 59 of
6 this 2011 Act;

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

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

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

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

26 “(5) If the director rejects an application for final certification, or
27 certifies a lesser amount of credit than was claimed in the application,
28 the director shall send to the applicant written notice of the action,
29 together with a statement of the findings and reasons for the action,
30 by certified mail, before the 60th day after the filing of the application.

1 **Failure of the director to act constitutes rejection of the application.**

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

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

8 **“SECTION 61. By rule and after hearing, the Director of the State**
9 **Department of Energy may adopt a schedule of reasonable fees that**
10 **the State Department of Energy may require of applicants for prelim-**
11 **inary or final certification of a transportation project under sections**
12 **56 to 65 of this 2011 Act. Before the adoption or revision of the fees,**
13 **the department shall estimate the total cost of the program to the**
14 **department. The fees shall be used to recover the anticipated cost of**
15 **administering and enforcing the provisions of sections 56 to 65 of this**
16 **2011 Act, including filing, investigating, granting and rejecting appli-**
17 **cations for certification and ensuring compliance with sections 56 to**
18 **65 of this 2011 Act and shall be designed not to exceed the total cost**
19 **estimated by the department. Any excess fees shall be held by the de-**
20 **partment and shall be used by the department to reduce any future fee**
21 **increases. The fee may vary according to the size and complexity of**
22 **the project. The fee is not considered part of the cost of the project**
23 **to be certified.**

24 **“SECTION 62. (1) A certificate issued under section 60 of this 2011**
25 **Act is required for purposes of obtaining tax credits in accordance**
26 **with section 53 of this 2011 Act. Such certification shall be granted for**
27 **a period not to exceed five years. The five-year period shall begin with**
28 **the tax year of the applicant during which the completed application**
29 **for final certification of the transportation project under section 60 of**
30 **this 2011 Act is received by the State Department of Energy.**

1 **“(2) If the original owner of the certificate uses any portion of the**
2 **credit, the certificate becomes nontransferable.**

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

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

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

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

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

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

26 **“(3)(a) The Department of Revenue shall have the benefit of all laws**
27 **of this state pertaining to the collection of income and excise taxes**
28 **and may proceed to collect the amounts described in subsection (2) of**
29 **this section from the person that obtained certification from the State**
30 **Department of Energy, or any successor in interest to the business**

1 interests of that person. An assessment of tax is not necessary and a
2 statute of limitation does not preclude the collection of taxes described
3 in subsection (2) of this section.

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

9 “(4) If the certificate is ordered revoked pursuant to subsection
10 (1)(b) of this section, the certificate holder shall be denied any further
11 relief under section 53 of this 2011 Act in connection with the project
12 from and after the date that the order of revocation becomes final.

13 “(5) Notwithstanding subsections (1) to (4) of this section, a certif-
14 icate or portion of a certificate held by a transferee under section 57
15 of this 2011 Act may not be considered revoked for purposes of the
16 transferee, the tax credit allowable to the transferee under section 57
17 of this 2011 Act may not be reduced, and a transferee is not liable
18 under subsections (2) to (4) of this section.

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

23 “SECTION 65. The State Department of Energy shall by rule es-
24 tablish policies and procedures for the administration and enforcement
25 of the provisions of sections 53 and 56 to 65 of this 2011 Act, including
26 standards for what constitutes a single transportation project.

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

1 **“TAX CREDIT FOR RESIDENTIAL ENERGY DEVICES**

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

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

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

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

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

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

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

24 **“316.116. (1)(a)** A resident individual shall be allowed a credit against the
25 taxes otherwise due under this chapter for costs paid or incurred for con-
26 struction or installation of each of one or more alternative energy devices
27 in a dwelling.

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

1 “(c) **A credit against the taxes otherwise due under this chapter is**
2 **not allowed for an alternative energy device that does not meet or**
3 **exceed all applicable federal, state and local requirements for energy**
4 **efficiency, including equipment codes, the state building code, spe-**
5 **cialty codes and any other standards.**

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

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

15 “[(A) \$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 used
17 for space heating, cooling, electrical energy or domestic water heating for tax
18 years beginning on or after January 1, 1990, and before January 1, 1996.]

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

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

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

1 **dwelling utilizing the alternative energy device.**

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

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

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

11 “[*(C)*] \$1,500 for tax years beginning on or after January 1, 1998.

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

16 “[*(e)(A)*] **(f)(A)** For each category two alternative energy device that is
17 a solar electric system or fuel cell system, the credit allowed under this
18 section *[shall equal]* **may not exceed the lesser of \$3 per watt of installed**
19 **output or \$6,000**, *but the installed output that is used to determine the*
20 *amount of credit under this paragraph may not exceed 2,000 watts*. **The State**
21 **Department of Energy may by rule provide for a lesser amount of in-**
22 **centive as market conditions warrant, taking into consideration fac-**
23 **tors including the availability of bulk purchasing of alternative energy**
24 **devices.**

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

29 “**(C)** Notwithstanding subparagraph (A) or (B) of this paragraph, the total
30 amount of the credits allowed in any one tax year may not exceed the tax

1 liability of the taxpayer or \$1,500 for each alternative energy device, which-
2 ever is less. Unused credit amounts may be carried forward as provided in
3 subsection [(7)] **(6)** of this section, but may not be carried forward to a tax
4 year that is more than five tax years following the first tax year for which
5 any credit was allowed with respect to the category two alternative energy
6 device that is the basis for the credit.

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

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

14 “[~~(A)~~ *48 cents per first year kilowatt hour saved, or the equivalent for other*
15 *fuel saved, not to exceed \$1,200 for each tax year beginning on or after January*
16 *1, 1998, and before January 1, 1999; and]*

17 “[~~(B)~~ *40 cents per kilowatt hour saved, or the equivalent for other fuel*
18 *saved, not to exceed \$1,000 for each tax year beginning on or after January 1,*
19 *1999.]*

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

23 “[~~(4)~~ **(3)** To qualify for a credit under this section, all of the following
24 are required:

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

28 “(b) [*Except for credits claimed for alternative fuel devices,*] The taxpayer
29 who is allowed the credit must be the owner or contract purchaser of the
30 dwelling or dwellings served by the alternative energy device or the tenant

1 of the owner or of the contract purchaser and must:

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

4 “(B) Rent or lease, under a residential rental agreement, the dwelling or
5 dwellings to a tenant who uses the dwelling or dwellings as a principal or
6 secondary residence[, *unless the basis for the credit is the installation of an*
7 *energy efficient appliance. If the basis for the credit is the installation of an*
8 *energy efficient appliance, the credit shall be allowed only to the taxpayer who*
9 *actually occupies the dwelling as a principal or secondary residence].*

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

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

24 “(e) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not
25 designed for electric plug-in charging, it must be purchased before January
26 1, 2010.

27 “[5] **(4)** The credit provided by this section does not affect the compu-
28 tation of basis under this chapter.

29 “[6] **(5)** The total credits allowed under this section in any one year may
30 not exceed the tax liability of the taxpayer.

1 “[(7)] (6) Any tax credit otherwise allowable under this section that is
2 not used by the taxpayer in a particular 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 the next succeeding tax year may be carried
5 forward and used in the second succeeding tax year, and likewise any credit
6 not used in that second succeeding tax year may be carried forward and used
7 in the third succeeding tax year, and any credit not used in that third suc-
8 ceeding tax year may be carried forward and used in the fourth succeeding
9 tax year, and any credit not used in that fourth succeeding tax year may be
10 carried forward and used in the fifth succeeding tax year, but may not be
11 carried forward for any tax year thereafter.

12 “[(8)] (7) A nonresident shall be allowed the credit under this section in
13 the proportion provided in ORS 316.117.

14 “[(9)] (8) If a change in the taxable year of a taxpayer occurs as described
15 in ORS 314.085, or if the Department of Revenue terminates the taxpayer’s
16 taxable year under ORS 314.440, the credit allowed by this section shall be
17 prorated or computed in a manner consistent with ORS 314.085.

18 “[(10)] (9) If a change in the status of a taxpayer from resident to non-
19 resident or from nonresident to resident occurs, the credit allowed by this
20 section shall be determined in a manner consistent with ORS 316.117.

21 “[(11)] (10) A husband and wife who file separate returns for a taxable
22 year may each claim a share of the tax credit that would have been allowed
23 on a joint return in proportion to the contribution of each. However, a hus-
24 band or wife living in a separate principal residence may claim the tax credit
25 in the same amount as permitted a single person.

26 “[(12)] (11) As used in this section, unless the context requires otherwise:

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

30 “(b) ‘Noncollective investment’ means an investment by an individual

1 taxpayer for the acquisition, construction and installation of an alternative
2 energy device for one or more dwellings.

3 “(c) ‘Taxpayer’ includes a transferee of a verification form under ORS
4 469.170 [(8)] (9).

5 “[13] (12) Notwithstanding any provision of subsection (1) or (2) of this
6 section, the sum of the credit allowed under subsection (1) of this section
7 plus any similar credit allowed for federal income tax purposes may not ex-
8 ceed the cost to the taxpayer for the acquisition, construction and installa-
9 tion of the alternative energy device.

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

11 “469.160. As used in ORS 316.116, 317.115 and 469.160 to 469.180:

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

14 “(2) ‘Alternative fuel device’ [*means any of the following:*]

15 “[*(a) An alternative fuel vehicle;*]

16 “[*(b) Related equipment; or*]

17 “[*(c) A fueling station necessary to operate an alternative fuel vehicle.*] **in-**
18 **cludes a facility for mixing, storing, compressing or dispensing fuels**
19 **for alternative fuel vehicles, and any other necessary and reasonable**
20 **equipment.**

21 “(3) ‘Alternative fuel vehicle’ means a motor vehicle as defined in ORS
22 801.360 that is:

23 “(a) Registered in this state; and

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

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

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

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

4 “(A) Domestic water heating; or

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

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

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

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

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

13 “(g) An energy efficient appliance;

14 “(h) An alternative fuel device; or

15 “(i) A premium efficiency biomass combustion device that includes a
16 dedicated outside combustion air source and that meets minimum perform-
17 ance standards that are established by the State Department of Energy.

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

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

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

26 “(8)(a) ‘Cost’ means the actual cost of the acquisition, construction and
27 installation of the alternative energy device [*paid by the taxpayer for the al-*
28 *ternative energy device*].

29 “(b) For an alternative fuel vehicle, ‘cost’ means the difference between
30 the cost of the alternative fuel vehicle and the same vehicle or functionally

1 similar vehicle manufactured to use conventional gasoline or diesel fuel or,
2 in the case of modification of an existing vehicle, the cost of the modifica-
3 tion. 'Cost' does not include any amounts paid for remodification of the
4 same vehicle.

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

10 "(d) For related equipment, 'cost' means the cost of the related equipment
11 and any modifications or additions to the related equipment necessary to
12 prepare the related equipment for use in converting a vehicle to alternative
13 fuel use.

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

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

21 "(11) 'Energy efficient appliance' [*means a clothes washer, clothes dryer,*
22 *water heater, refrigerator, freezer, dishwasher, appliance designed to heat or*
23 *cool a dwelling or other major household appliance that has been certified by*
24 *the State Department of Energy to have premium energy efficiency character-*
25 *istics.*] **includes emerging technologies, such as high-efficiency heat-**
26 **pump water heaters for domestic hot water that meet the Northern**
27 **Tier Specification established by the Northwest Energy Efficiency Al-**
28 **liance for electricity or have 0.67 or greater energy factor for gas**
29 **heat-pump water heaters, ductless heat pumps, high-efficiency fur-**
30 **naces that are at least 95 percent efficient, on-demand gas water**

1 **heaters and heat-pumps, that exceed code.**

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

4 “(13) ‘Fuel cell system’ means any system, mechanism or series of mech-
5 anisms that uses fuel cells or fuel cell technology to generate electrical en-
6 ergy for a dwelling.

7 “(14) ‘Fueling station’ includes but is not limited to a compressed natural
8 gas compressor fueling system or an electric charging system for vehicle
9 power battery charging.

10 “(15) ‘Placed in service’ means[:]

11 “[*(a)*] the date an alternative energy device is ready and available to
12 produce usable energy or save energy.

13 “[*(b)* *For an alternative fuel vehicle:*]

14 “[*(A)* *In the case of purchase, the date that the alternative fuel vehicle is*
15 *first purchased as an alternative fuel vehicle ready and available for use.*]

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

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

20 “[*(d)* *For related equipment, the date that the equipment is first*
21 *operational.*]

22 “[*(16)* *‘Related equipment’ means equipment necessary to convert a vehicle*
23 *to use an alternative fuel.*]

24 “[*(17)*] **(16)** ‘Solar electric system’ means any system, mechanism or series
25 of mechanisms, including photovoltaic systems, that uses solar radiation to
26 generate electrical energy for a dwelling.

27 **“(17) ‘Third-party alternative energy device installation’ means an**
28 **alternative energy device that is installed in connection with residen-**
29 **tial property and owned by a person other than the residential prop-**
30 **erty owner in accordance with an agreement in effect for at least 10**

1 **years between the residential property owner and the alternative en-**
2 **ergy device owner. The agreement must cover maintenance and either**
3 **the use of or the power generated by the alternative energy device.**

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

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

7 “469.165. (1) For the purposes of carrying out ORS 469.160 to 469.180, the
8 State Department of Energy may adopt rules prescribing minimum perform-
9 ance criteria for alternative energy devices for dwellings. **The department**
10 **may, in prescribing criteria, rely on applicable federal, state and local**
11 **requirements for energy efficiency, including the state building code**
12 **and any specialty codes and any code adopted by the Building Codes**
13 **Division of the Department of Consumer and Business Services.**

14 **“(2) The department shall take into consideration evolving market**
15 **conditions in prescribing minimum performance criteria for alterna-**
16 **tive energy devices and in determining credit amounts, consistent with**
17 **ORS 316.116.**

18 “[~~(2)~~] (3) The department, in adopting rules under this section for solar
19 heating and cooling systems, shall take into consideration applicable stan-
20 dards of federal performance criteria prescribed pursuant to the provisions
21 of [~~section 5506, title 42, United States Code (] the Solar Heating and Cooling~~
22 **Demonstration Act of 1974[)]], 42 U.S.C. 5506.**

23 “[~~(3)~~] (4) The Director of the State Department of Energy shall adopt
24 rules governing the determination of eligibility, verification and certification
25 of an alternative fuel device for purposes of the tax credits granted under
26 ORS 316.116 and 317.115, including but not limited to rules that further de-
27 fine an alternative fuel vehicle, related equipment or fueling station neces-
28 sary to operate an alternative fuel vehicle, that govern the computation of
29 costs eligible for credit and that require equitable allocation of the tax credit
30 benefits between the lessor and the lessee of an alternative fuel vehicle as

1 a condition of tax credit eligibility.

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

3 **“469.170. (1) Subject to the limitations in section 75 of this 2011 Act,**
4 any person may claim a tax credit under ORS 316.116 (or ORS 317.115, if the
5 person is a corporation) if the person:

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

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

9 “(c) Pays, subject to subsection [(9)] **(10)** of this section, all or a portion
10 of the costs of an alternative energy device.

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

14 “(3)(a) In order to be eligible for a tax credit under ORS 316.116 or
15 317.115, a person claiming a tax credit for construction or installation of an
16 alternative energy device (including a fueling station) shall have the device
17 certified by the State Department of Energy or constructed or installed by
18 a contractor certified by the department under subsection (5) of this section.
19 This paragraph does not apply to an alternative fuel vehicle or to related
20 equipment.

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

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

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

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

29 “(c) If the device was constructed or installed by a contractor, evidence
30 that the contractor has any license, bond, insurance and permit required to

1 sell and construct or install the alternative energy device;

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

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

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

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

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

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

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

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

17 “(f) A statement, signed by both the taxpayer claiming the credit and the
18 contractor if the device was constructed or installed by a contractor, that
19 the construction or installation meets all the requirements of ORS 469.160
20 to 469.180 or, if the device is a fueling station and the taxpayer is the con-
21 tractor, a statement signed by the contractor that the construction or in-
22 stallation meets all of the requirements of ORS 469.160 to 469.180;

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

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

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

27 “(5)(a) When the State Department of Energy finds that an alternative
28 energy device can meet the standards adopted under ORS 469.165, the Di-
29 rector of the State Department of Energy may issue a contractor system
30 certification to the person selling and constructing or installing the alter-

1 native energy device.

2 “(b) Any person who sells or installs more than 12 alternative energy
3 devices in one year shall apply for a contractor system certification. An ap-
4 plication for a contractor system certification shall be made in writing on
5 a form provided by the State Department of Energy and shall contain:

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

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

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

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

16 “(E) Any important construction, installation or operating instructions;
17 and

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

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

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

28 “(e) If the State Department of Energy finds that an alternative energy
29 device can meet the standards adopted under ORS 469.165, the Director of
30 the State Department of Energy may issue an alternative energy device sys-

1 tem certificate to the taxpayer constructing or installing or having an al-
2 ternative energy device constructed or installed.

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

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

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

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

13 “**(6) An applicant seeking a credit for a third-party alternative en-
14 ergy device installation must obtain certification from the State De-
15 partment of Energy under subsection (5) of this section prior to
16 commencing installation of alternative energy devices. An applicant
17 may receive certifications for no more than 25 devices under this
18 subsection in one application process.**

19 “[~~(6)~~] **(7)** To claim the tax credit, the verification form described in sub-
20 section (4) of this section shall be submitted with the taxpayer’s tax return
21 for the year the alternative energy device is placed in service or the imme-
22 diately succeeding tax year. A copy of the contractor’s certification certifi-
23 cate, alternative energy device system certificate or alternative fuel vehicle
24 or related equipment certificate also shall be submitted.

25 “[~~(7)~~] **(8)** The verification form and contractor’s certificate, alternative
26 energy device system certificate or alternative fuel vehicle or related equip-
27 ment certificate described under this section shall be effective for purposes
28 of tax relief allowed under ORS 316.116 or 317.115.

29 “[~~(8)~~] **(9)** The verification form and contractor’s certificate described un-
30 der this section may be transferred to the first purchaser of a dwelling or,

1 in the case of construction or installation of a fueling station in an existing
2 dwelling, the current owner, who intends to use or is using the dwelling as
3 a principal or secondary residence.

4 “[9] (10) Any person that pays the present value of the tax credit for
5 an alternative energy device provided under ORS 316.116 or 317.115 and
6 469.160 to 469.180 to the person who constructs or installs the alternative
7 energy device shall be entitled to claim the credit in the manner and subject
8 to rules adopted by the Department of Revenue to carry out the purposes of
9 this subsection. The State Department of Energy may establish by rule uni-
10 form discount rates to be used in calculating the present value of a tax credit
11 under this subsection.

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

13 “469.172. The following devices are not eligible for the tax credit under
14 ORS 316.116:

15 “(1) Standard efficiency furnaces;

16 “(2) **Air conditioning systems;**

17 “(3) **Boilers;**

18 “[2] (4) Standard back-up heating systems;

19 “[3] (5) Woodstoves or wood furnaces, or any part of a heating system
20 that burns wood, unless the woodstove, furnace or system constitutes a pre-
21 mium efficiency biomass combustion device described in ORS 469.160 (4)(i);

22 “[4] (6) Heat pump water heaters that are part of a geothermal heat
23 pump space heating system;

24 “[5] (7) Structures that cover or enclose a swimming pool;

25 “[6] (8) Swimming pools, hot tubs or spas used to store heat;

26 “[7] (9) Above ground, uninsulated swimming pools, hot tubs or spas;

27 “[8] (10) Photovoltaic systems installed on recreational vehicles;

28 “[9] (11) Conversion of an existing alternative energy device to another
29 type of alternative energy device;

30 “[10] (12) Repair or replacement of an existing alternative energy device;

1 “[(11)] **(13)** A category two alternative energy device, if the equipment or
2 other property that comprises the category two alternative energy device is
3 the basis for an allowed credit for a category one alternative energy device
4 under ORS 316.116;

5 “[(12)] **(14)** A category one alternative energy device, if the equipment or
6 other property that comprises the category one alternative energy device is
7 also the basis for an allowed credit for a category two alternative energy
8 device under ORS 316.116; or

9 “[(13)] **(15)** Any other device identified by the State Department of En-
10 ergy. The department may adopt rules defining standards for eligible and
11 ineligible devices under this section.

12 “**SECTION 73.** ORS 317.115 is amended to read:

13 “317.115. (1) A business tax credit is allowed against the taxes otherwise
14 due under this chapter based upon costs paid or incurred for construction
15 or installation in a dwelling of a fueling station necessary to operate an al-
16 ternative fuel vehicle. The credit is allowed to the contractor who con-
17 structs the dwelling in which the fueling station is incorporated or installs
18 the fueling station in the dwelling but may be taken by any person under the
19 circumstances described in ORS 469.170 [(9)] **(10)** and the rules adopted
20 thereunder.

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

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

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

28 “(b) The contractor must present with the claim for credit a verification
29 form signed not only by the contractor but by the owner, contract purchaser
30 or tenant authorizing the contractor to claim the credit and indicating that

1 the owner, contract purchaser or tenant will not claim a credit based upon
2 the cost of the same fueling station under ORS 316.116 or this section.

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

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

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

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

22 “(7) The certificate and verification form described under ORS 469.170
23 may be transferred by the contractor to the first purchaser of the dwelling
24 that incorporates the fueling station if the purchaser intends to use the
25 dwelling as a principal or secondary residence or, in the case of construction
26 or installation of a fueling station in an existing dwelling, the current
27 owner, if the current owner intends to use, or uses, the dwelling as a prin-
28 cipal or secondary residence. A certificate and verification form so trans-
29 ferred may be used by the purchaser to claim a credit under ORS 316.116.

30 **SECTION 74. The amendments to ORS 316.116, 469.160, 469.165,**

1 469.170 and 469.172 by sections 69 to 72 of this 2011 Act apply to alter-
2 native energy devices certified by the State Department of Energy on
3 or after January 1, 2012, and to tax years beginning on or after Janu-
4 ary 1, 2012.

5 **“SECTION 75.** The State Department of Energy may not issue cer-
6 tifications for more than \$10 million in potential tax credits for third-
7 party alternative energy device installations in any tax year.

8 **“SECTION 76.** The Public Utility Commission shall report to the
9 Legislative Assembly prior to February 15, 2012, on the effectiveness
10 of incentives provided by the Energy Trust of Oregon and shall provide
11 recommendations as to whether operation of these incentives could
12 replace, in whole or in part, the allowance of tax credits under ORS
13 316.116 and sections 23, 35 and 53 of this 2011 Act.

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

16 **“(2)** Section 15, chapter 625, Oregon Laws 2007, as amended by sec-
17 tion 35, chapter 33, Oregon Laws 2009, is repealed.

18

19 **“CAPTIONS AND EFFECTIVE DATE**

20

21 **“SECTION 78.** The unit captions used in this 2011 Act are provided
22 only for the convenience of the reader and do not become part of the
23 statutory law of this state or express any legislative intent in the
24 enactment of this 2011 Act.

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

28
