

**A-Engrossed**  
**House Bill 4079**

Ordered by the House February 9  
Including House Amendments dated February 9

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Energy, Environment and Water)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Requires State Department of Energy to submit report on implementation of legislative changes to energy tax credit programs to legislative committees related to energy policy and to tax and revenue policy.]*

**Modifies statutes governing energy-related income and excise tax credits. Provides that auction of tax credits for renewable energy development contributions may occur no later than April 15 following tax year. Provides that appropriation may replace all or portion of tax credits available through auction process. Provides for tax credit for transportation project to be claimed over period of years. Limits amount of allowable tax credits for transportation projects in any biennium to \$20 million. Limits amount of allowable tax credits for production or collection of biomass in any biennium to \$20 million. Requires information about energy-related tax credits to be posted on Oregon transparency website maintained by Oregon Department of Administrative Services.**

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to energy incentives programs; creating new provisions; amending ORS 184.484, 285C.557,  
3 315.141, 315.326, 315.329, 315.336, 315.341, 315.357, 316.116, 469B.106, 469B.253, 469B.256,  
4 469B.285, 469B.291, 469B.320, 469B.326, 469B.332 and 469B.344 and section 2, chapter 199,  
5 Oregon Laws 2011; and prescribing an effective date.

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

7 **SECTION 1.** ORS 469B.256 is amended to read:

8 469B.256. (1) The Director of the State Department of Energy may require an applicant for a  
9 grant under this section for a renewable energy production system to submit plans, specifications  
10 and contract terms, and after examination of the plans, specifications and terms may request cor-  
11 rections and revisions.

12 (2) If the director determines that the system is technically feasible and should operate in ac-  
13 cordance with the representations made by the applicant, and is in accordance with the provisions  
14 of ORS 469B.250 to 469B.265 and any applicable rules or standards adopted by the director, the di-  
15 rector may enter into a performance agreement with the applicant [*in anticipation of awarding*] **and**  
16 **award** a grant under this section **to the applicant**. The grant provided for in the performance  
17 agreement may not exceed 35 percent of the cost of the project and may not exceed \$250,000 per  
18 system. If construction does not begin within 12 months of an award under this section, the per-  
19 formance agreement shall be void and the State Department of Energy [*may not award*] **shall revoke**  
20 the grant.

21 (3) The director may, in accordance with ORS chapter 183, deny a grant under this section if

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 the director determines that:

2 (a) The system does not comply with the provisions of ORS 469B.250 to 469B.265 and applicable  
3 rules and standards;

4 (b) The applicant was directly involved in an act for which the director has levied civil penalties  
5 or revoked, canceled or suspended any certification under ORS 315.326 or 469B.130 to 469B.169, or  
6 any grant under ORS 469B.250 to 469B.265; or

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

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

15 *[(5) If the director determines that the applicant has complied with all provisions of the perform-*  
16 *ance agreement required under this section and with the provisions of ORS 469B.250 to 469B.265, the*  
17 *director shall award the grant provided in this section.]*

18 ~~[(6)]~~ (5) Upon determination by the director that the applicant has violated the provisions of the  
19 performance agreement or ORS 469B.250 to 469B.265, the applicant will be liable to the department  
20 for all grant moneys disbursed to the applicant.

21 **SECTION 2.** ORS 315.326 is amended to read:

22 315.326. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the  
23 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified  
24 renewable energy development contributions made by the taxpayer during the tax year to the  
25 Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy De-  
26 ployment Fund established in ORS 470.800.

27 (2)(a) The Department of Revenue shall, in cooperation with the State Department of Energy,  
28 conduct an auction of tax credits under this section. **The auction may be conducted no later than**  
29 **April 15 following the end of any tax year that ends on or before the preceding December 31**  
30 **and for which the credit is allowed.** The department may conduct the auction in the manner that  
31 it determines is best suited to maximize the return to the state on the sale of tax credit certif-  
32 ications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall  
33 be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the  
34 Department of Revenue for the actual costs incurred by the department in administering an auction,  
35 not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department.  
36 The Department of Revenue shall deposit net receipts from the auction required under this section  
37 in the Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy  
38 Deployment Fund established in ORS 470.800. Net receipts from the auction required under this  
39 section shall be used only for purposes related to renewable energy development.

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

41 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of  
42 \$1.5 million are certified for each fiscal year;

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

45 (C) Provide the necessary financial incentives for taxpayers to make contributions, taking into

1 consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

2 (3) Contributions made under this section shall be deposited in the Renewable Energy Develop-  
3 ment Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in  
4 ORS 470.800.

5 (4)(a) Upon receipt of a contribution, the State Department of Energy shall, except as provided  
6 in ORS 315.329, issue to the taxpayer written certification of the amount certified for tax credit  
7 under this section to the extent the amount certified for tax credit, when added to all amounts  
8 previously certified for tax credit under this section, does not exceed \$1.5 million for the fiscal year  
9 in which certification is made.

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

13 (5) The tax credit allowed under this section for any one tax year may not exceed the tax li-  
14 ability of the taxpayer.

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

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

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

26 **SECTION 3.** ORS 315.329 is amended to read:

27 315.329. (1) **In any fiscal year, the amount of tax credits allowed under ORS 315.326 may**  
28 **be reduced or eliminated, and the Legislative Assembly may, no later than 30 days prior to**  
29 **the end of each fiscal year**, in lieu of the issuance of certifications for tax credit under ORS  
30 315.326 by the State Department of Energy, [*the Legislative Assembly may, no later than 30 days prior*  
31 *to the end of each fiscal year, appropriate*] **make an appropriation** to the State Department of En-  
32 ergy for deposit into the Renewable Energy Development Subaccount, established in ORS 470.805,  
33 of the Clean Energy Deployment Fund established in ORS 470.800[, *an amount equal to the total*  
34 *amount that would otherwise be certified for tax credits during the current fiscal year, based on the*  
35 *amount of contributions and accompanying applications for credit received by the department during*  
36 *the fiscal year*]. Moneys deposited under this section are to be used only for purposes related to  
37 renewable energy development.

38 (2) If the Legislative Assembly makes the election allowed in subsection (1) of this section[:],

39 [(a)] any contributions made pursuant to ORS 315.326 to the Renewable Energy Development  
40 Subaccount during the current fiscal year and for which an application for a credit under ORS  
41 315.326 is [*pending*] **denied** shall, at the request of the taxpayer, be refunded by the State Depart-  
42 ment of Energy[: and]

43 [(b) A credit under ORS 315.326 may not be claimed for any contribution made during the current  
44 fiscal year].

45 **SECTION 4.** ORS 469B.253 is amended to read:

1 469B.253. (1) Prior to the installation or construction of a renewable energy production system,  
2 any person may apply to the State Department of Energy for a grant under ORS 469B.256 if:

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

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

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

7 (d) The system complies with the standards or rules adopted by the Director of the State De-  
8 partment of Energy.

9 (2) An application for a grant under ORS 469B.256 shall be made in writing on a form prepared  
10 by the department and shall contain:

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

14 (b) The anticipated total system cost.

15 (c) Information on the number and type of jobs, **directly connected to the awarding of the**  
16 **grant**, that will be:

17 (A) Created by the system;[,] and

18 (B) [*the number of jobs*] Sustained throughout the construction, installation and operation of the  
19 system.

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

22 (e) Any other information the director considers necessary to determine whether the system is  
23 in accordance with the provisions of ORS 469B.250 to 469B.265, and any applicable rules or stan-  
24 dards adopted by the director.

25 (3) An application for a grant shall be accompanied by a fee established under ORS 469B.259.  
26 The director may refund all or a portion of the fee if the application for a grant is rejected.

27 (4) The director may allow an applicant to file the application for a grant after the start of in-  
28 stallation or construction of the system if the director finds that:

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

31 (b) The system would otherwise qualify for a grant under ORS 469B.250 to 469B.265.

32 **SECTION 5. The amendments to ORS 315.326, 315.329, 469B.253 and 469B.256 by sections**  
33 **1 to 4 of this 2012 Act apply to applications for grants submitted under ORS 469B.253 after**  
34 **July 1, 2011, and to tax years beginning on or after January 1, 2011.**

35 **SECTION 6.** ORS 315.336 is amended to read:

36 315.336. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 or, if the  
37 taxpayer is a corporation, under ORS chapter 317 or 318, for a transportation project, based upon  
38 the certified cost of the project during the period for which the project is certified under ORS  
39 469B.320 to 469B.347.

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

42 (a) For tax years beginning on or after January 1, 2011, and before January 1, 2012, the maxi-  
43 mum allowed credit shall be:

44 (A) 35 percent of certified cost, if a preliminary certification is issued under ORS 469B.329 prior  
45 to July 1, 2011; or

1 (B) 25 percent of certified cost, if a preliminary certification is issued under ORS 469B.329 on  
2 or after July 1, 2011, and before January 1, 2012.

3 (b) For tax years beginning on or after January 1, 2012, and before January 1, 2013, the maxi-  
4 mum allowed credit shall be 25 percent of certified cost.

5 (c) For tax years beginning on or after January 1, 2013, and before January 1, 2014, the maxi-  
6 mum allowed credit shall be 20 percent of certified cost.

7 (d) For tax years beginning on or after January 1, 2014, and before January 1, 2015, the maxi-  
8 mum allowed credit shall be 15 percent of certified cost.

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

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

13 **(4)(a) Except as provided in paragraph (b) of this subsection, the credit allowed in each**  
14 **of the first two tax years in which the credit is claimed shall be 10 percent of the certified**  
15 **cost of the project, but may not exceed the tax liability of the taxpayer. The credit allowed**  
16 **in each of the succeeding three years shall be five percent of the certified cost, but may not**  
17 **exceed the tax liability of the taxpayer.**

18 **(b) If the amount of the credit allowed under this section is less than 35 percent of the**  
19 **certified cost of the project, the credit allowed in any tax year may not exceed five percent**  
20 **of the certified cost of the project, and may not exceed the tax liability of the taxpayer.**

21 [(4)] (5) In order for a tax credit to be allowable under this section:

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

23 (b) The project must have received final certification from the Director of the State Department  
24 of Energy under ORS 469B.320 to 469B.347.

25 [*(5) The tax credit allowed under this section for any one tax year may not exceed the tax liability*  
26 *of the taxpayer.*]

27 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
28 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
29 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried  
30 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
31 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,  
32 any credit not used in that third succeeding tax year may be carried forward and used in the fourth  
33 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be  
34 carried forward and used in the fifth succeeding tax year, but may not be carried forward for any  
35 tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years  
36 specified in subsection (2) of this section only as provided in this subsection.

37 (7) The credit allowed under this section is not in lieu of any depreciation or amortization de-  
38 duction for the transportation project to which the taxpayer otherwise may be entitled for purposes  
39 of ORS chapter 316, 317 or 318 for such year.

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

42 (9) The definitions in ORS 469B.320 apply to this section.

43 **SECTION 7.** ORS 469B.320 is amended to read:

44 469B.320. As used in ORS 315.336 and 469B.320 to 469B.347:

45 (1) "Alternative fuel vehicle infrastructure project" includes a facility for mixing, storing, com-

1 pressing or dispensing fuels for alternative fuel vehicles, and any other necessary and reasonable  
2 equipment.

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

5 (3)(a) "Transportation project" means: *[a public or nonprofit entity that provides]*

6 (A) Transit services **provided** to members of the public *[and]* **by a public or nonprofit entity**  
7 that receives state or federal funding for those services, **or is the direct recipient of funding from**  
8 **an entity that receives state or federal funding for the services;** or

9 (B) An alternative fuel vehicle infrastructure project.

10 (b) "Transportation project" **does not mean transit services provided to employees by a**  
11 **private employer.**

12 **SECTION 8.** ORS 469B.326 is amended to read:

13 469B.326. (1) Prior to the acquisition or performance of a transportation project, a person may  
14 apply to the State Department of Energy for preliminary certification for the project under ORS  
15 469B.329 if:

16 (a) The project complies with the standards adopted by the Director of the State Department  
17 of Energy; and

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

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

22 (a) A statement that the applicant plans to acquire or perform a project that substantially re-  
23 duces the consumption of purchased **petroleum** energy.

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

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

30 (d) The anticipated total project cost.

31 (e) Information on the number and types of jobs, **directly connected to the allowance of the**  
32 **credit**, that will be:

33 (A) Created by the project[,]; **and**

34 (B) *[the number of jobs]* Sustained throughout the acquisition and performance of the project.

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

37 (g) Any other information the director considers necessary to determine whether the project is  
38 in accordance with the provisions of ORS 469B.320 to 469B.347, and any applicable rules or stan-  
39 dards adopted by the director.

40 (3) An application for preliminary certification shall be accompanied by a fee established under  
41 ORS 469B.335. The director may refund all or a portion of the fee if the application for certification  
42 is rejected.

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

45 (a) Filing the application before the start of acquisition or performance is inappropriate because

1 special circumstances render filing earlier unreasonable; and

2 (b) The project would otherwise qualify for certification under ORS 469B.320 to 469B.347.

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

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

7 (b) The preliminary certification has been amended.

8 *[(6) Any preliminary certification for a facility consistent with a transportation project, under ORS  
9 469B.157, that remains outstanding as of July 1, 2011, shall expire on July 1, 2014.]*

10 **SECTION 9.** ORS 469B.332 is amended to read:

11 469B.332. (1) A final certification for a transportation project may not be issued by the Director  
12 of the State Department of Energy under this section unless:

13 (a) The project was acquired or performed under a preliminary certificate of approval issued  
14 under ORS 469B.329;

15 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.326  
16 (2) and does not violate any condition that may be imposed as described in subsection (4) of this  
17 section; and

18 (c) The project was acquired or performed in accordance with the applicable provisions of ORS  
19 469B.320 to 469B.347 and any applicable rules or standards adopted by the director.

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

21 (a) If the person received preliminary certification for the project under ORS 469B.329; and

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

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

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

26 (b)(A) The actual cost of the project attested to by a certified public accountant who is not an  
27 employee of the applicant or[,] **the applicant's completed audit in compliance with federal Office  
28 of Management and Budget Circular A-133; or**

29 **(B)** If the actual cost of the project is less than \$50,000, copies of receipts for acquisition and  
30 performance of the project;

31 (c) The amount of the credit under ORS 315.336 that is to be claimed;

32 (d) The number and types of jobs, **directly connected to the allowance of the credit**, created  
33 by the acquisition and performance of the project over the five-year period beginning on the date  
34 of issuance of the preliminary certification under ORS 469B.329;

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

37 (f) Documentation of compliance with applicable state and local laws and regulations and li-  
38 censing and permitting requirements as defined by the director; and

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

41 (4) After the filing of the application under this section, the director may issue the certificate  
42 together with any conditions that the director determines are appropriate to promote the purposes  
43 of ORS 315.336 and 469B.320 to 469B.347. If the applicant is an entity subject to regulation by the  
44 Public Utility Commission, the director may consult with the commission prior to issuance of the  
45 certificate. The action of the director shall include certification of the actual cost of the project.

1 However, the director may not certify an amount for tax credit purposes that is more than the  
2 amount of credit approved in the preliminary certificate issued for the project.

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

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

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

13 **SECTION 10.** ORS 469B.344 is amended to read:

14 469B.344. (1) The total amount of potential tax credits for all transportation projects in this  
15 state may not, at the time of preliminary certification under ORS 469B.329, exceed \$20 million for  
16 any biennium.

17 (2) **Notwithstanding ORS 315.336, in the event that the Director of the State Department**  
18 **of Energy receives applications for preliminary certification with a total amount of potential**  
19 **tax credits in excess of \$20 million for any biennium, the director shall allocate the issuance**  
20 **of preliminary certifications among applicants and proportionately reduce the amount of al-**  
21 **lowed credit.**

22 **SECTION 11. The amendments to ORS 315.336, 469B.320, 469B.326, 469B.332 and 469B.344**  
23 **by sections 6 to 10 of this 2012 Act apply to applications for preliminary certification sub-**  
24 **mitted under ORS 469B.326 after July 1, 2011, and to tax years beginning on or after January**  
25 **1, 2011.**

26 **SECTION 12.** ORS 316.116 is amended to read:

27 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due  
28 under this chapter for costs paid or incurred for construction or installation of each of one or more  
29 alternative energy devices in a dwelling.

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

33 (c) A credit against the taxes otherwise due under this chapter is not allowed for an alternative  
34 energy device that does not meet or exceed all applicable federal, state and local requirements for  
35 energy efficiency, including equipment codes, the state building code, specialty codes and any other  
36 standards.

37 (2)(a) In the case of a category one alternative energy device that is not an alternative fuel  
38 device, the credit shall be based upon the first year energy yield of the alternative energy device  
39 that qualifies under ORS 469B.100 to 469B.118. The amount of the credit shall be the same whether  
40 for collective or noncollective investment.

41 (b) The credit allowed under this section for each category one alternative energy device for  
42 each dwelling may not exceed the lesser of \$1,500 or the first year energy yield in kilowatt hours  
43 per year multiplied by 60 cents per dwelling utilizing the alternative energy device used for space  
44 heating, cooling, electrical energy or domestic water heating for tax years beginning on or after  
45 January 1, 1998.



1 (c) For each category one alternative energy device used for swimming pool, spa or hot tub  
2 heating, the credit allowed under this section shall be based upon 50 percent of the cost of the de-  
3 vice or the first year's energy yield in kilowatt hours per year multiplied by 15 cents, whichever is  
4 lower, up to \$1,500 for tax years beginning on or after January 1, 1998.

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

8 (e)(A) For each category two alternative energy device that is a solar electric system or fuel  
9 cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of in-  
10 stalled output or \$6,000. The State Department of Energy may by rule provide for a lesser amount  
11 of incentive as market conditions warrant, taking into consideration factors including the availabil-  
12 ity of bulk purchasing of alternative energy devices.

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

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

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

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

26 (a) The alternative energy device must be purchased, constructed, installed and operated in ac-  
27 cordance with ORS 469B.100 to 469B.118 and a certificate issued thereunder.

28 (b) The taxpayer who is allowed the credit must be the owner or contract purchaser of the  
29 dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the  
30 contract purchaser and must:

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

33 (B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant  
34 who uses the dwelling or dwellings as a principal or secondary residence.

35 (c) In the case of an alternative fuel device, unless the verification form and certificate are  
36 transferred as authorized under ORS 469B.106 (9), the taxpayer who is allowed the credit must be  
37 the contractor who constructs the dwelling that incorporates the alternative fuel device into the  
38 dwelling or installs the fueling station in the dwelling.

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

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

43 (4) The credit provided by this section does not affect the computation of basis under this  
44 chapter.

45 (5) The total credits allowed under this section in any one year may not exceed the tax liability

1 of the taxpayer.

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

11 (7) A nonresident shall be allowed the credit under this section in the proportion provided in  
12 ORS 316.117.

13 (8) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
14 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
15 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

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

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

23 (11) As used in this section, unless the context requires otherwise:

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

26 (b) "Noncollective investment" means an investment by an individual taxpayer for the acqui-  
27 sition, construction and installation of an alternative energy device for one or more dwellings.

28 (c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 (9).

29 (12) Notwithstanding any provision of subsection (1) or (2) of this section, the sum of the credit  
30 allowed under subsection (1) of this section plus any similar credit allowed for federal income tax  
31 purposes may not exceed the cost [*to the taxpayer*] for the acquisition, construction and installation  
32 of the alternative energy device.

33 **SECTION 13.** ORS 469B.106 is amended to read:

34 469B.106. (1) Subject to the limitations in section 75, chapter 730, Oregon Laws 2011, any person  
35 may claim a tax credit under ORS 316.116 (or ORS 317.115, if the person is a corporation) if the  
36 person:

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

38 (b) Meets the requirements of ORS 469B.100 to 469B.118; and

39 (c) Pays, subject to subsection (10) of this section, all or a portion of the costs of an alternative  
40 energy device.

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

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

1 by a contractor certified by the department under subsection (5) of this section. This paragraph does  
2 not apply to an alternative fuel vehicle or to related equipment.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (f) A statement, signed by both the taxpayer claiming the credit and the contractor if the device  
26 was constructed or installed by a contractor, that the construction or installation meets all the re-  
27 quirements of ORS 469B.100 to 469B.118 or, if the device is a fueling station and the taxpayer is the  
28 contractor, a statement signed by the contractor that the construction or installation meets all of  
29 the requirements of ORS 469B.100 to 469B.118;

30 (g) The date the alternative energy device was purchased **by the residential property owner,**  
31 **or, for a third-party alternative energy device installation, the date that the residential**  
32 **property owner and the alternative energy device owner signed a contract;**

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

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

36 (5)(a) When the State Department of Energy finds that an alternative energy device can meet  
37 the standards adopted under ORS 469B.103, the Director of the State Department of Energy may  
38 issue a contractor system certification to the person selling and constructing or installing the al-  
39 ternative energy device.

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

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

45 (B) A specific description of the alternative energy device, including, but not limited to, the

1 material, equipment and mechanism used in the device, operating procedure, sizing and siting  
2 method and construction or installation procedure;

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

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

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

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

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

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

14 (e) If the State Department of Energy finds that an alternative energy device can meet the  
15 standards adopted under ORS 469B.103, the Director of the State Department of Energy may issue  
16 an alternative energy device system certificate to the taxpayer constructing or installing or having  
17 an alternative energy device constructed or installed.

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

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

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

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

26 (6) *[An applicant seeking a credit for a third-party alternative energy device installation must ob-*  
27 *tain certification from the State Department of Energy under subsection (5) of this section prior to*  
28 *commencing installation of alternative energy devices. An applicant may receive certifications for no*  
29 *more than 25 devices under this subsection in one application.]* **Prior to commencing installation**  
30 **of alternative energy devices, installers of third-party alternative energy device installations**  
31 **must apply to the State Department of Energy to reserve credits on behalf of owners of**  
32 **residential property. Installers may reserve credit for no more than 25 installations under**  
33 **this subsection in one application.**

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

39 (8) The verification form and contractor's certificate, alternative energy device system certifi-  
40 cate or alternative fuel vehicle or related equipment certificate described under this section shall  
41 be effective for purposes of tax relief allowed under ORS 316.116 or 317.115.

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

1 (10) Any person that pays the present value of the tax credit for an alternative energy device  
2 provided under ORS 316.116 or 317.115 and 469B.100 to 469B.118 to the person who constructs or  
3 installs the alternative energy device shall be entitled to claim the credit in the manner and subject  
4 to rules adopted by the Department of Revenue to carry out the purposes of this subsection. The  
5 State Department of Energy may establish by rule uniform discount rates to be used in calculating  
6 the present value of a tax credit under this subsection.

7 **SECTION 14. The amendments to ORS 316.116 and 469B.106 by sections 12 and 13 of this**  
8 **2012 Act apply to alternative energy devices certified by the State Department of Energy on**  
9 **or after January 1, 2012, and to tax years beginning on or after January 1, 2012.**

10 **SECTION 15.** ORS 315.141 is amended to read:

11 315.141. (1) As used in this section:

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

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

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

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

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

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

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

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

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

26 (C) Agricultural residues;

27 (D) Offal and tallow from animal rendering;

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

29 (F) Wood debris collected as provided under ORS chapter 459 or 459A;

30 (G) Wastewater solids; or

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

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

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

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

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

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

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

1 biofuel; or

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

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

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

8 **(d) The director may reduce the amount of credit allowed a taxpayer for subsequent**  
9 **processings of oilseeds.**

10 [(d)] (e) Notwithstanding paragraph (a) of this subsection, a tax credit is not allowed for grain  
11 corn, but a tax credit shall be allowed for other corn material.

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

13 (5)(a) The State Department of Energy may establish by rule procedures and criteria for deter-  
14 mining the amount of the tax credit to be certified under this section, consistent with ORS 469B.403.  
15 The department shall provide written certification to taxpayers that are eligible to claim the credit  
16 under this section.

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

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

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

25 (7) Each agricultural producer or biomass collector shall maintain the written documentation  
26 of the amount certified for tax credit under this section in its records for a period of at least five  
27 years after the tax year in which the credit is claimed and provide the written documentation to the  
28 Department of Revenue upon request.

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

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

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

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

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

44 (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the  
45 department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this

1 section shall be prorated or computed in a manner consistent with ORS 314.085.

2 **SECTION 16.** ORS 315.357 is amended to read:

3 315.357. (1) For a facility other than a renewable energy resource equipment manufacturing fa-  
4 cility, a taxpayer may not be allowed a credit under ORS 315.354 unless the taxpayer:

5 [(1)] (a) Files an application for preliminary certification under ORS 469B.145 on or before April  
6 15, 2011;

7 [(2)] (b) Receives preliminary certification under ORS 469B.157 before July 1, 2011; and

8 [(3)] (c) Receives final certification under ORS 469B.161 before January 1, 2013, or has demon-  
9 strated, to the State Department of Energy, evidence of beginning construction before April 15, 2011.

10 **(2) Any preliminary certification issued for a facility under ORS 469B.157 shall expire on**  
11 **July 1, 2014.**

12 **SECTION 17.** ORS 315.341 is amended to read:

13 315.341. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if  
14 the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of a  
15 renewable energy resource equipment manufacturing facility during the period for which the facility  
16 is certified under ORS 285C.540 to 285C.559. The credit allowed under this section in each of five  
17 succeeding tax years shall be 10 percent of the certified cost of the facility, but may not exceed the  
18 tax liability of the taxpayer.

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

20 (a) The facility must be located in Oregon;

21 (b) The facility must have received:

22 (A) Final certification from the Director of the Oregon Business Development Department under  
23 ORS 285C.540 to 285C.559; or

24 (B) Final certification from the Director of the State Department of Energy under ORS 469B.130  
25 to 469B.169, prior to January 1, 2012; and

26 (c) The taxpayer must be an eligible applicant under ORS 285C.547 (1)(b).

27 (3) The total amount of credit allowable to an eligible taxpayer under this section may not ex-  
28 ceed 50 percent of the certified cost of a facility.

29 (4)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the  
30 facility, notice thereof shall be given to the Director of the Oregon Business Development Depart-  
31 ment, who shall revoke the certificate covering the facility as of the date of such disposition.

32 (b) The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new cer-  
33 tificate under ORS 285C.553. The new lessor or owner must meet the requirements of ORS 285C.540  
34 to 285C.559 and may claim a tax credit under this section only if all moneys owed to the State of  
35 Oregon have been paid, the facility continues to operate, unless continued operation is waived by  
36 the Oregon Business Development Department, and all conditions in the final certification are met.  
37 The tax credit available to the new owner shall be limited to the amount of credit not claimed by  
38 the former owner or, for a new lessor, the amount of credit not claimed by the lessor under all  
39 previous leases.

40 [(c) A transferee holding a credit that has been transferred under ORS 285C.549 may not claim the  
41 tax credit under this section for any tax year prior to the tax year in which the transferee obtained the  
42 credit.]

43 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
44 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
45 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried

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

12 (6) The credit allowed under this section is not in lieu of any depreciation or amortization de-  
 13 duction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter  
 14 316, 317 or 318 for such year.

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

17 (8) The definitions in ORS 285C.540 apply to this section.

18 **SECTION 18.** ORS 285C.557 is amended to read:

19 285C.557. (1) A certificate issued under ORS 285C.553 or 469B.161 is required for purposes of  
 20 obtaining tax credits in accordance with ORS 315.341. Such certification shall be granted for a pe-  
 21 riod not to exceed five years. The five-year period shall begin with the tax year of the applicant  
 22 during which the completed application for final certification of the facility under ORS 285C.553 is  
 23 received by the State Department of Energy.

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

26 **(3) For a transferee holding a credit that has been transferred under ORS 285C.549, the**  
 27 **five-year period shall begin with the tax year in which the transferee pays for the credit.**

28 **SECTION 19.** The amendments to ORS 285C.557, 315.141, 315.341 and 315.357 by sections  
 29 15 to 18 of this 2012 Act apply to tax years beginning on or after January 1, 2012.

30 **SECTION 20.** (1) **The total amount of tax credits allowed under ORS 315.141 for pro-**  
 31 **duction or collection of biomass may not exceed \$20 million for any biennium.**

32 **(2) Notwithstanding ORS 469B.403, in the event that the Director of the State Depart-**  
 33 **ment of Energy receives applications for tax credits in excess of \$20 million for any**  
 34 **biennium, the director shall allocate the issuance of certifications among applicants and**  
 35 **proportionately reduce the amount of allowed credit.**

36 **SECTION 21.** ORS 469B.285 is amended to read:

37 469B.285. (1) Prior to the installation or construction of an energy conservation project, any  
 38 person may apply to the State Department of Energy for preliminary certification under ORS  
 39 469B.288 if:

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

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

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



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

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

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

9 (d) The anticipated total project cost.

10 (e) Information on the number and type of jobs, **directly connected to the allowance of the**  
11 **credit**, that will be:

12 (A) Created by the project[.]; **and**

13 (B) [*the number of jobs*] Sustained throughout the construction, installation and operation of the  
14 project [*and the benefits of the project with regard to overall economic activity in this state*].

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

17 (g) Information relating to the standards described in ORS 469B.279.

18 (h) A recommendation for a research and development project as demonstrative of innovation  
19 that has been made by a qualified third party selected by the director.

20 (i) Any other information the director considers necessary to determine whether the project is  
21 in accordance with the provisions of ORS 469B.270 to 469B.306, and any applicable rules or stan-  
22 dards adopted by the director.

23 (3) An application for preliminary certification shall be accompanied by a fee established under  
24 ORS 469B.294. The director may refund all or a portion of the fee if the application for certification  
25 is rejected.

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

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

30 (b) The project would otherwise qualify for certification under ORS 469B.270 to 469B.306.

31 (5) The director may, by rule, waive preliminary certification under ORS 469B.288, or may es-  
32 tablish an informational filing system in place of preliminary certification, for projects that:

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

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

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

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

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

41 (b) The preliminary certification has been amended.

42 [*7) Any preliminary certification for a facility consistent with an energy conservation project, un-*  
43 *der ORS 469B.157, that remains outstanding as of July 1, 2011, shall expire on July 1, 2014.*]

44 **SECTION 22.** ORS 469B.291 is amended to read:

45 469B.291. (1) The Director of the State Department of Energy may issue a final certification for

1 an energy conservation project under this section only if:

2 (a) The project was installed or constructed under a preliminary certificate of approval issued  
3 under ORS 469B.288, unless preliminary certification is waived under ORS 469B.285 (5);

4 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.285  
5 (2) and does not violate any condition that may be imposed as described in subsection (4) of this  
6 section; and

7 (c) The project was installed or constructed in accordance with the applicable provisions of ORS  
8 469B.270 to 469B.306 and any applicable rules or standards adopted by the director.

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

10 (a) If the person received preliminary certification for the project under ORS 469B.288; and

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

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

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

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

18 (c) The amount of the credit under ORS 315.331 that is to be claimed;

19 (d) The number and type of jobs, **directly connected to the allowance of the credit, that will**  
20 **be** created by the operation and maintenance of the project over the five-year period beginning with  
21 the year of preliminary certification under ORS 469B.288 [*and information on the benefits of the*  
22 *project with regard to overall economic activity in this state*];

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

25 (f) Documentation of compliance with applicable state and local laws and regulations and li-  
26 censing and permitting requirements as defined by the director;

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

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

31 (4) After the filing of the application under this section, the director may issue the certificate  
32 together with any conditions that the director determines are appropriate to promote the purposes  
33 of ORS 315.331 and 469B.270 to 469B.306. If the applicant is an entity subject to regulation by the  
34 Public Utility Commission, the director may consult with the commission prior to issuance of the  
35 certificate. The action of the director shall include certification of the actual cost of the project.  
36 However, the director may not certify an amount for tax credit purposes that is more than the  
37 amount approved in the preliminary certificate issued for the project.

38 (5) If the director rejects an application for final certification, or certifies a lesser amount of  
39 credit than was claimed in the application, the director shall send to the applicant written notice  
40 of the action, together with a statement of the findings and reasons for the action, by certified mail,  
41 before the 60th day after the filing of the application. Failure of the director to act constitutes re-  
42 jection of the application.

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

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

3 **SECTION 23. The amendments to ORS 469B.285 and 469B.291 by sections 21 and 22 of this**  
4 **2012 Act apply to applications for preliminary certification submitted under ORS 469B.285**  
5 **after July 1, 2011, and to tax years beginning on or after January 1, 2011.**

6 **SECTION 24.** ORS 184.484 is amended to read:

7 184.484. (1) For each statute authorizing a tax expenditure that has a purpose connected to  
8 economic development and is listed in subsection (2) of this section, the state agency charged with  
9 certifying or otherwise administering the tax expenditure shall submit a report to the Oregon De-  
10 partment of Administrative Services. If no agency is authorized by statute, or if the statute does not  
11 provide for certification or administration of the tax expenditure, the Department of Revenue shall  
12 submit the report.

13 (2) This section applies to ORS 285C.175, 285C.309, 285C.362, 307.123, 307.455, 307.462, **315.141,**  
14 **315.326, 315.331, 315.336, 315.341,** 315.507, 315.514, **316.116,** 316.698, 316.778, 317.124, 317.391 and  
15 317.394 and to ORS 315.354 except as applicable in ORS 469B.145 (2)(a)(L) or (N).

16 (3) The following information, if it is already available in an existing database maintained by the  
17 agency, must be included in the report required under this section:

18 (a) The name of each taxpayer approved for the allowance of a tax expenditure.

19 (b) The address of each taxpayer.

20 (c) The total amount of credit against tax liability, reduction in taxable income or exemption  
21 from property taxation granted to each taxpayer.

22 (d) Specific outcomes or results required by the tax expenditure program and information about  
23 whether the taxpayer meets those requirements. This information shall be based on data already  
24 collected and analyzed by the agency in the course of administering the tax expenditure. Statistics  
25 must be accompanied by a description of the methodology employed in their generation.

26 (e) An explanation of the agency's certification decision for each taxpayer, if applicable.

27 (f) Any additional information submitted by the taxpayer and relied upon by the agency in its  
28 certification determination.

29 (g) Any other information that agency personnel deem valuable as providing context for the in-  
30 formation described in this subsection.

31 (4) The information reported under subsection (3) of this section may not include proprietary  
32 information or information that is exempt from disclosure under ORS 192.410 to 192.505 or 314.835.

33 (5) No later than September 30 of each year, agencies described in subsection (1) of this section  
34 shall submit to the Oregon Department of Administrative Services the information required under  
35 subsection (3) of this section as applicable to applications for allowance of tax expenditures ap-  
36 proved by the agency during the agency fiscal year ending during the current calendar year. The  
37 information shall then be posted on the Oregon transparency website required under ORS 184.483  
38 no later than December 31 of the same year.

39 (6) The information described in this section that is available on the Oregon transparency  
40 website must be accessible in the format and manner required by the Oregon Department of Ad-  
41 ministrative Services.

42 (7) The information described in this section shall be furnished to the Oregon transparency  
43 website by posting reports and providing links to existing information systems applications in ac-  
44 cordance with standards established by the Oregon Department of Administrative Services.

45 **SECTION 25.** Section 2, chapter 199, Oregon Laws 2011, is amended to read:

1       **Sec. 2.** [*Section 1 of this 2011 Act*] **ORS 184.484** applies to:

2       (1) Applications for tax expenditures pursuant to ORS 307.123, **315.141, 315.326, 315.331, 315.336,**  
3 **315.341,** 315.354, **316.116,** 316.778 and 317.391 that are approved or certified by state agencies in  
4 agency fiscal years ending on or after June 30, 2011.

5       (2) Applications for tax expenditures pursuant to ORS 285C.175, 285C.309, 285C.362, 315.507 and  
6 317.124 that are approved on or after June 30, 2011.

7       (3) Applications for tax expenditures pursuant to ORS 307.455, 307.462, 315.514, 316.698 and  
8 317.394 that are approved or certified by state agencies in agency fiscal years ending on or after  
9 June 30, 2013.

10       **SECTION 26.** **This 2012 Act takes effect on the 91st day after the date on which the 2012**  
11 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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