

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4079**

1 In line 2 of the printed bill, after “programs;” insert “creating new pro-  
2 visions; amending ORS 285C.557, 315.141, 315.326, 315.329, 315.336, 315.341,  
3 315.357, 316.116, 469B.106, 469B.253, 469B.256, 469B.285, 469B.291, 469B.320,  
4 469B.326, 469B.332 and 469B.344;”.

5 Delete lines 4 through 7 and insert:

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

7 “469B.256. (1) The Director of the State Department of Energy may re-  
8 quire an applicant for a grant under this section for a renewable energy  
9 production system to submit plans, specifications and contract terms, and  
10 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  
13 should operate in accordance with the representations made by the applicant,  
14 and is in accordance with the provisions of ORS 469B.250 to 469B.265 and  
15 any applicable rules or standards adopted by the director, the director may  
16 enter into a performance agreement with the applicant [*in anticipation of*  
17 *awarding*] **and award** a grant under this section **to the applicant**. The  
18 grant provided for in the performance agreement may not exceed 35 percent  
19 of the cost of the project and may not exceed \$250,000 per system. If con-  
20 struction does not begin within 12 months of an award under this section,  
21 the performance agreement shall be void and the State Department of Energy  
22 [*may not award*] **shall revoke** the grant.

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

3 “(a) The system does not comply with the provisions of ORS 469B.250 to  
4 469B.265 and applicable rules and standards;

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

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

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

19 “[5] *If the director determines that the applicant has complied with all*  
20 *provisions of the performance agreement required under this section and with*  
21 *the provisions of ORS 469B.250 to 469B.265, the director shall award the grant*  
22 *provided in this section.]*

23 “[6] (5) Upon determination by the director that the applicant has vio-  
24 lated the provisions of the performance agreement or ORS 469B.250 to  
25 469B.265, the applicant will be liable to the department for all grant moneys  
26 disbursed to the applicant.

27 **“SECTION 2.** ORS 315.326 is amended to read:

28 “315.326. (1) A credit against the taxes that are otherwise due under ORS  
29 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or  
30 318, is allowed to a taxpayer for certified renewable energy development

1 contributions made by the taxpayer during the tax year to the Renewable  
2 Energy Development Subaccount, established in ORS 470.805, of the Clean  
3 Energy Deployment Fund established in ORS 470.800.

4 “(2)(a) The Department of Revenue shall, in cooperation with the State  
5 Department of Energy, conduct an auction of tax credits under this section.  
6 **The auction may be conducted no later than April 15 following the end**  
7 **of any tax year that ends on or before the preceding December 31 and**  
8 **for which the credit is allowed.** The department may conduct the auction  
9 in the manner that it determines is best suited to maximize the return to the  
10 state on the sale of tax credit certifications and shall announce a reserve  
11 bid prior to conducting the auction. The reserve amount shall be at least 95  
12 percent of the total amount of the tax credit. Moneys necessary to reimburse  
13 the Department of Revenue for the actual costs incurred by the department  
14 in administering an auction, not to exceed 0.25 percent of auction proceeds,  
15 are continuously appropriated to the department. The Department of Revenue  
16 shall deposit net receipts from the auction required under this section in the  
17 Renewable Energy Development Subaccount, established in ORS 470.805, of  
18 the Clean Energy Deployment Fund established in ORS 470.800. Net receipts  
19 from the auction required under this section shall be used only for purposes  
20 related to renewable energy development.

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

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

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

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

30 “(3) Contributions made under this section shall be deposited in the

1 Renewable Energy Development Subaccount, established in ORS 470.805, of  
2 the Clean Energy Deployment Fund established in ORS 470.800.

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

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

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

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

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

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

1       “315.329. (1) **In any fiscal year, the amount of tax credits allowed**  
2 **under ORS 315.326 may be reduced or eliminated, and the Legislative**  
3 **Assembly may, no later than 30 days prior to the end of each fiscal**  
4 **year,** in lieu of the issuance of certifications for tax credit under ORS  
5 315.326 by the State Department of Energy, [*the Legislative Assembly may,*  
6 *no later than 30 days prior to the end of each fiscal year, appropriate*] **make**  
7 **an appropriation** to the State Department of Energy for deposit into the  
8 Renewable Energy Development Subaccount, established in ORS 470.805, of  
9 the Clean Energy Deployment Fund established in ORS 470.800[, *an amount*  
10 *equal to the total amount that would otherwise be certified for tax credits*  
11 *during the current fiscal year, based on the amount of contributions and ac-*  
12 *companying applications for credit received by the department during the fiscal*  
13 *year*]. Moneys deposited under this section are to be used only for purposes  
14 related to renewable energy development.

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

17       “[(a)] any contributions made pursuant to ORS 315.326 to the Renewable  
18 Energy Development Subaccount during the current fiscal year and for which  
19 an application for a credit under ORS 315.326 is [*pending*] **denied** shall, at  
20 the request of the taxpayer, be refunded by the State Department of  
21 Energy[; *and*]

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

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

25       “469B.253. (1) Prior to the installation or construction of a renewable  
26 energy production system, any person may apply to the State Department of  
27 Energy for a grant under ORS 469B.256 if:

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

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

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

2 “(d) The system complies with the standards or rules adopted by the Di-  
3 rector of the State Department of Energy.

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

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

10 “(b) The anticipated total system cost.

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

13 “(A) Created by the system;[,] and

14 “(B) [*the number of jobs*] Sustained throughout the construction, instal-  
15 lation and operation of the system.

16 “(d) Information demonstrating that the system will comply with appli-  
17 cable state and local laws and regulations and obtain required licenses and  
18 permits.

19 “(e) Any other information the director considers necessary to determine  
20 whether the system is in accordance with the provisions of ORS 469B.250 to  
21 469B.265, and any applicable rules or standards adopted by the director.

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

25 “(4) The director may allow an applicant to file the application for a  
26 grant after the start of installation or construction of the system if the di-  
27 rector finds that:

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

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

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

7 **“SECTION 6.** ORS 315.336 is amended to read:

8 “315.336. (1) A credit is allowed against the taxes otherwise due under  
9 ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317  
10 or 318, for a transportation project, based upon the certified cost of the  
11 project during the period for which the project is certified under ORS  
12 469B.320 to 469B.347.

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

15 “(a) For tax years beginning on or after January 1, 2011, and before Jan-  
16 uary 1, 2012, the maximum allowed credit shall be:

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

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

21 “(b) For tax years beginning on or after January 1, 2012, and before Jan-  
22 uary 1, 2013, the maximum allowed credit shall be 25 percent of certified  
23 cost.

24 “(c) For tax years beginning on or after January 1, 2013, and before Jan-  
25 uary 1, 2014, the maximum allowed credit shall be 20 percent of certified  
26 cost.

27 “(d) For tax years beginning on or after January 1, 2014, and before Jan-  
28 uary 1, 2015, the maximum allowed credit shall be 15 percent of certified  
29 cost.

30 “(e) For tax years beginning on or after January 1, 2015, and before Jan-

1 uary 1, 2016, the maximum allowed credit shall be 10 percent of certified  
2 cost.

3 “(3) The total amount of the credit allowable for an alternative fuel ve-  
4 hicle infrastructure project under this section may not exceed 35 percent of  
5 the certified cost of the project.

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

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

16 “[4] (5) In order for a tax credit to be allowable under this section:

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

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

20 “[5] *The tax credit allowed under this section for any one tax year may*  
21 *not exceed the tax liability of the taxpayer.]*

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



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

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

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

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

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

13 469B.320. As used in ORS 315.336 and 469B.320 to 469B.347:

14 “(1) ‘Alternative fuel vehicle infrastructure project’ includes a facility for  
15 mixing, storing, compressing or dispensing fuels for alternative fuel vehicles,  
16 and any other necessary and reasonable equipment.

17 “(2) ‘Cost’ includes capital expenditures and core expenses such as vehicle  
18 repair, fuel, personnel and administrative expenses.

19 “(3)(a) ‘Transportation project’ means: [*a public or nonprofit entity that*  
20 *provides*]

21 “(A) Transit services **provided** to members of the public [*and*] **by a**  
22 **public or nonprofit entity** that receives state or federal funding for those  
23 services, **or is the direct recipient of funding from an entity that re-**  
24 **ceives state or federal funding for the services;** or

25 “(B) An alternative fuel vehicle infrastructure project.

26 “(b) ‘Transportation project’ **does not mean transit services pro-**  
27 **vided to employees by a private employer.**

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

29 “469B.326. (1) Prior to the acquisition or performance of a transportation  
30 project, a person may apply to the State Department of Energy for prelimi-

1 nary certification for the project under ORS 469B.329 if:

2 “(a) The project complies with the standards adopted by the Director of  
3 the State Department of Energy; and

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

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

8 “(a) A statement that the applicant plans to acquire or perform a project  
9 that substantially reduces the consumption of purchased **petroleum** energy.

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

14 “(c) Information on the amount by which consumption of purchased **pe-**  
15 **troleum** energy by the applicant will be reduced, and, if applicable, infor-  
16 mation about the expected level of project performance.

17 “(d) The anticipated total project cost.

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

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

21 “(B) [*the number of jobs*] Sustained throughout the acquisition and per-  
22 formance of the project.

23 “(f) Information demonstrating that the project will comply with applica-  
24 ble state and local laws and regulations and obtain required licenses and  
25 permits.

26 “(g) Any other information the director considers necessary to determine  
27 whether the project is in accordance with the provisions of ORS 469B.320 to  
28 469B.347, and any applicable rules or standards adopted by the director.

29 “(3) An application for preliminary certification shall be accompanied by  
30 a fee established under ORS 469B.335. The director may refund all or a por-

1 tion of the fee if the application for certification is rejected.

2 “(4) The director may allow an applicant to file the application for pre-  
3 liminary certification after the start of acquisition or performance of the  
4 project if the director finds that:

5 “(a) Filing the application before the start of acquisition or performance  
6 is inappropriate because special circumstances render filing earlier unrea-  
7 sonable; and

8 “(b) The project would otherwise qualify for certification under ORS  
9 469B.320 to 469B.347.

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

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

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

17 “*[(6) Any preliminary certification for a facility consistent with a trans-  
18 portation project, under ORS 469B.157, that remains outstanding as of July  
19 1, 2011, shall expire on July 1, 2014.]*

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

21 “469B.332. (1) A final certification for a transportation project may not  
22 be issued by the Director of the State Department of Energy under this sec-  
23 tion unless:

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

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

29 “(c) The project was acquired or performed in accordance with the appli-  
30 cable provisions of ORS 469B.320 to 469B.347 and any applicable rules or

1 standards adopted by the director.

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

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

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

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

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

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

15 “(B) If the actual cost of the project is less than \$50,000, copies of re-  
16 cepts for acquisition and performance of the project;

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

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

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

25 “(f) Documentation of compliance with applicable state and local laws and  
26 regulations and licensing and permitting requirements as defined by the di-  
27 rector; and

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

1 “(4) After the filing of the application under this section, the director may  
2 issue the certificate together with any conditions that the director deter-  
3 mines are appropriate to promote the purposes of ORS 315.336 and 469B.320  
4 to 469B.347. If the applicant is an entity subject to regulation by the Public  
5 Utility Commission, the director may consult with the commission prior to  
6 issuance of the certificate. The action of the director shall include certif-  
7 ication of the actual cost of the project. However, the director may not cer-  
8 tify an amount for tax credit purposes that is more than the amount of credit  
9 approved in the preliminary certificate issued for the project.

10 “(5) If the director rejects an application for final certification, or certi-  
11 fies a lesser amount of credit than was claimed in the application, the di-  
12 rector shall send to the applicant written notice of the action, together with  
13 a statement of the findings and reasons for the action, by certified mail, be-  
14 fore the 60th day after the filing of the application. Failure of the director  
15 to act constitutes rejection of the application.

16 “(6) Upon approval of an application for final certification of a project,  
17 the director shall certify the project. The final certification shall indicate the  
18 amount of projected energy savings attributable to the project and the cer-  
19 tified cost of the project.

20 “(7) The director may establish by rule timelines and intermediate dead-  
21 lines for submission of application materials.

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

23 “469B.344. (1) The total amount of potential tax credits for all transpor-  
24 tation projects in this state may not, at the time of preliminary certification  
25 under ORS 469B.329, exceed \$20 million for any biennium.

26 **“(2) Notwithstanding ORS 315.336, in the event that the Director of**  
27 **the State Department of Energy receives applications for preliminary**  
28 **certification with a total amount of potential tax credits in excess of**  
29 **\$20 million for any biennium, the director shall allocate the issuance**  
30 **of preliminary certifications among applicants and proportionately**

1 **reduce the amount of allowed credit.**

2 **“SECTION 11. The amendments to ORS 315.336, 469B.320, 469B.326,**  
3 **469B.332 and 469B.344 by sections 6 to 10 of this 2012 Act apply to ap-**  
4 **plications for preliminary certification submitted under ORS 469B.326**  
5 **after July 1, 2011, and to tax years beginning on or after January 1,**  
6 **2011.**

7 **“SECTION 12. ORS 316.116 is amended to read:**

8 “316.116. (1)(a) A resident individual shall be allowed a credit against the  
9 taxes otherwise due under this chapter for costs paid or incurred for con-  
10 struction or installation of each of one or more alternative energy devices  
11 in a dwelling.

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

15 “(c) A credit against the taxes otherwise due under this chapter is not  
16 allowed for an alternative energy device that does not meet or exceed all  
17 applicable federal, state and local requirements for energy efficiency, in-  
18 cluding equipment codes, the state building code, specialty codes and any  
19 other standards.

20 “(2)(a) In the case of a category one alternative energy device that is not  
21 an alternative fuel device, the credit shall be based upon the first year en-  
22 ergy yield of the alternative energy device that qualifies under ORS 469B.100  
23 to 469B.118. The amount of the credit shall be the same whether for collec-  
24 tive or noncollective investment.

25 “(b) The credit allowed under this section for each category one alterna-  
26 tive energy device for each dwelling may not exceed the lesser of \$1,500 or  
27 the first year energy yield in kilowatt hours per year multiplied by 60 cents  
28 per dwelling utilizing the alternative energy device used for space heating,  
29 cooling, electrical energy or domestic water heating for tax years beginning  
30 on or after January 1, 1998.

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

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

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

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

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

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

1 energy device.

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

4 “(a) The alternative energy device must be purchased, constructed, in-  
5 stalled and operated in accordance with ORS 469B.100 to 469B.118 and a  
6 certificate issued thereunder.

7 “(b) The taxpayer who is allowed the credit must be the owner or contract  
8 purchaser of the dwelling or dwellings served by the alternative energy de-  
9 vice or the tenant of the owner or of the contract purchaser and must:

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

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

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

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

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

26 “(4) The credit provided by this section does not affect the computation  
27 of basis under this chapter.

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

30 “(6) Any tax credit otherwise allowable under this section that is not used



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

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

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

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

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

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

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

29 “(b) ‘Noncollective investment’ means an investment by an individual  
30 taxpayer for the acquisition, construction and installation of an alternative

1 energy device for one or more dwellings.

2 “(c) ‘Taxpayer’ includes a transferee of a verification form under ORS  
3 469B.106 (9).

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

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

10 “469B.106. (1) Subject to the limitations in section 75, chapter 730, Oregon  
11 Laws 2011, any person may claim a tax credit under ORS 316.116 (or ORS  
12 317.115, if the person is a corporation) if the person:

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

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

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

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

21 “(3)(a) In order to be eligible for a tax credit under ORS 316.116 or  
22 317.115, a person claiming a tax credit for construction or installation of an  
23 alternative energy device (including a fueling station) shall have the device  
24 certified by the State Department of Energy or constructed or installed by  
25 a contractor certified by the department under subsection (5) of this section.  
26 This paragraph does not apply to an alternative fuel vehicle or to related  
27 equipment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 “(g) The date the alternative energy device was purchased **by the resi-**

1 **dential property owner, or, for a third-party alternative energy device**  
2 **installation, the date that the residential property owner and the al-**  
3 **ternative energy device owner signed a contract;**

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

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

7 “(5)(a) When the State Department of Energy finds that an alternative  
8 energy device can meet the standards adopted under ORS 469B.103, the Di-  
9 rector of the State Department of Energy may issue a contractor system  
10 certification to the person selling and constructing or installing the alter-  
11 native energy device.

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

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

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

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

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

26 “(E) Any important construction, installation or operating instructions;  
27 and

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

30 “(c) A new application for contractor system approval shall be filed when

1 there is a change in the information supplied under paragraph (b) of this  
2 subsection.

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

8 “(e) If the State Department of Energy finds that an alternative energy  
9 device can meet the standards adopted under ORS 469B.103, the Director of  
10 the State Department of Energy may issue an alternative energy device sys-  
11 tem certificate to the taxpayer constructing or installing or having an al-  
12 ternative energy device constructed or installed.

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

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

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

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

23 “(6) *[An applicant seeking a credit for a third-party alternative energy de-*  
24 *vice installation must obtain certification from the State Department of Energy*  
25 *under subsection (5) of this section prior to commencing installation of alter-*  
26 *native energy devices. An applicant may receive certifications for no more than*  
27 *25 devices under this subsection in one application.]* **Prior to commencing**  
28 **installation of alternative energy devices, installers of third-party al-**  
29 **ternative energy device installations must apply to the State Depart-**  
30 **ment of Energy to reserve credits on behalf of owners of residential**

1 **property. Installers may reserve credit for no more than 25 installa-**  
2 **tions under this subsection in one application.**

3 “(7) To claim the tax credit, the verification form described in subsection  
4 (4) of this section shall be submitted with the taxpayer’s tax return for the  
5 year the alternative energy device is placed in service or the immediately  
6 succeeding tax year. A copy of the contractor’s certification certificate, al-  
7 ternative energy device system certificate or alternative fuel vehicle or re-  
8 lated equipment certificate also shall be submitted.

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

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

18 “(10) Any person that pays the present value of the tax credit for an al-  
19 ternative energy device provided under ORS 316.116 or 317.115 and 469B.100  
20 to 469B.118 to the person who constructs or installs the alternative energy  
21 device shall be entitled to claim the credit in the manner and subject to rules  
22 adopted by the Department of Revenue to carry out the purposes of this  
23 subsection. The State Department of Energy may establish by rule uniform  
24 discount rates to be used in calculating the present value of a tax credit  
25 under this subsection.

26 **“SECTION 14. The amendments to ORS 316.116 and 469B.106 by**  
27 **sections 12 and 13 of this 2012 Act apply to alternative energy devices**  
28 **certified by the State Department of Energy on or after January 1,**  
29 **2012, and to tax years beginning on or after January 1, 2012.**

30 **“SECTION 15. ORS 315.141 is amended to read:**

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

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

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

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

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

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

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

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

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

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

18 “(C) Agricultural residues;

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

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

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

22 “(G) Wastewater solids; or

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

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

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

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

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

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

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

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

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

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

17       **“(d) The director may reduce the amount of credit allowed a tax-  
18 payer for subsequent processings of oilseeds.**

19       “~~[(d)]~~ (e) Notwithstanding paragraph (a) of this subsection, a tax credit  
20 is not allowed for grain corn, but a tax credit shall be allowed for other corn  
21 material.

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

24       “(5)(a) The State Department of Energy may establish by rule procedures  
25 and criteria for determining the amount of the tax credit to be certified un-  
26 der this section, consistent with ORS 469B.403. The department shall provide  
27 written certification to taxpayers that are eligible to claim the credit under  
28 this section.

29       “(b) The State Department of Energy may charge and collect a fee from  
30 taxpayers for certification of credits under this section. The fee may not ex-



1 ceed the cost to the department of determining the amount of certified cost.

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

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

7 “(7) Each agricultural producer or biomass collector shall maintain the  
8 written documentation of the amount certified for tax credit under this sec-  
9 tion in its records for a period of at least five years after the tax year in  
10 which the credit is claimed and provide the written documentation to the  
11 Department of Revenue upon request.

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

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

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

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

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

29 “(c) If a change in the taxable year of the taxpayer occurs as described  
30 in ORS 314.085, or if the department terminates the taxpayer’s taxable year

1 under ORS 314.440, the credit allowed under this section shall be prorated  
2 or computed in a manner consistent with ORS 314.085.

3 **“SECTION 16.** ORS 315.357 is amended to read:

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

7 “[1] (a) Files an application for preliminary certification under ORS  
8 469B.145 on or before April 15, 2011;

9 “[2] (b) Receives preliminary certification under ORS 469B.157 before  
10 July 1, 2011; and

11 “[3] (c) Receives final certification under ORS 469B.161 before January  
12 1, 2013, or has demonstrated, to the State Department of Energy, evidence  
13 of beginning construction before April 15, 2011.

14 **“(2) Any preliminary certification issued for a facility under ORS  
15 469B.157 shall expire on July 1, 2014.**

16 **“SECTION 17.** ORS 315.341 is amended to read:

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

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

25 “(a) The facility must be located in Oregon;

26 “(b) The facility must have received:

27 “(A) Final certification from the Director of the Oregon Business Devel-  
28 opment Department under ORS 285C.540 to 285C.559; or

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

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

2       “(3) The total amount of credit allowable to an eligible taxpayer under  
3 this section may not exceed 50 percent of the certified cost of a facility.

4       “(4)(a) Upon any sale, termination of the lease or contract, exchange or  
5 other disposition of the facility, notice thereof shall be given to the Director  
6 of the Oregon Business Development Department, who shall revoke the cer-  
7 tificate covering the facility as of the date of such disposition.

8       “(b) The new owner, or upon re-leasing of the facility, the new lessor,  
9 may apply for a new certificate under ORS 285C.553. The new lessor or  
10 owner must meet the requirements of ORS 285C.540 to 285C.559 and may  
11 claim a tax credit under this section only if all moneys owed to the State  
12 of Oregon have been paid, the facility continues to operate, unless continued  
13 operation is waived by the Oregon Business Development Department, and  
14 all conditions in the final certification are met. The tax credit available to  
15 the new owner shall be limited to the amount of credit not claimed by the  
16 former owner or, for a new lessor, the amount of credit not claimed by the  
17 lessor under all previous leases.

18       “[(c) A transferee holding a credit that has been transferred under ORS  
19 285C.549 may not claim the tax credit under this section for any tax year prior  
20 to the tax year in which the transferee obtained the credit.]

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

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

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

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

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

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

18 “285C.557. (1) A certificate issued under ORS 285C.553 or 469B.161 is re-  
19 quired for purposes of obtaining tax credits in accordance with ORS 315.341.  
20 Such certification shall be granted for a period not to exceed five years. The  
21 five-year period shall begin with the tax year of the applicant during which  
22 the completed application for final certification of the facility under ORS  
23 285C.553 is received by the State Department of Energy.

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

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

29 **“SECTION 19.** The amendments to ORS 285C.557, 315.141, 315.341 and  
30 **315.357 by sections 15 to 18 of this 2012 Act apply to tax years beginning**

1 on or after January 1, 2012.

2 **“SECTION 20. (1) The total amount of tax credits allowed under**  
3 **ORS 315.141 for production or collection of biomass may not exceed \$20**  
4 **million for any biennium.**

5 **“(2) Notwithstanding ORS 469B.403, in the event that the Director**  
6 **of the State Department of Energy receives applications for tax credits**  
7 **in excess of \$20 million for any biennium, the director shall allocate**  
8 **the issuance of certifications among applicants and proportionately**  
9 **reduce the amount of allowed credit.**

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

11 **“469B.285. (1) Prior to the installation or construction of an energy con-**  
12 **servation project, any person may apply to the State Department of Energy**  
13 **for preliminary certification under ORS 469B.288 if:**

14 **“(a) The project complies with the standards adopted by the Director of**  
15 **the State Department of Energy; and**

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

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

20 **“(a) A statement that the applicant plans to acquire, construct or install**  
21 **a project that substantially reduces the consumption of purchased energy or**  
22 **uses energy more efficiently.**

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

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

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

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

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

4 “(B) [*the number of jobs*] Sustained throughout the construction, instal-  
5 lation and operation of the project [*and the benefits of the project with regard*  
6 *to overall economic activity in this state*].

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

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

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

14 “(i) Any other information the director considers necessary to determine  
15 whether the project is in accordance with the provisions of ORS 469B.270 to  
16 469B.306, and any applicable rules or standards adopted by the director.

17 “(3) An application for preliminary certification shall be accompanied by  
18 a fee established under ORS 469B.294. The director may refund all or a por-  
19 tion of the fee if the application for certification is rejected.

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

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

26 “(b) The project would otherwise qualify for certification under ORS  
27 469B.270 to 469B.306.

28 “(5) The director may, by rule, waive preliminary certification under ORS  
29 469B.288, or may establish an informational filing system in place of pre-  
30 liminary certification, for projects that:

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

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

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

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

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

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

12       “[(7) *Any preliminary certification for a facility consistent with an energy*  
13 *conservation project, under ORS 469B.157, that remains outstanding as of July*  
14 *1, 2011, shall expire on July 1, 2014.*]

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

16       “469B.291. (1) The Director of the State Department of Energy may issue  
17 a final certification for an energy conservation project under this section  
18 only if:

19       “(a) The project was installed or constructed under a preliminary certifi-  
20 cate of approval issued under ORS 469B.288, unless preliminary certification  
21 is waived under ORS 469B.285 (5);

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

25       “(c) The project was installed or constructed in accordance with the ap-  
26 plicable provisions of ORS 469B.270 to 469B.306 and any applicable rules or  
27 standards adopted by the director.

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

30       “(a) If the person received preliminary certification for the project under

1 ORS 469B.288; and

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

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

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

7 “(b) The actual cost of the project attested to by a certified public ac-  
8 countant who is not an employee of the applicant or, if the actual cost of  
9 the project is less than \$50,000, copies of receipts for purchase and installa-  
10 tion of the project;

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

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

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

20 “(f) Documentation of compliance with applicable state and local laws and  
21 regulations and licensing and permitting requirements as defined by the di-  
22 rector;

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

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

28 “(4) After the filing of the application under this section, the director may  
29 issue the certificate together with any conditions that the director deter-  
30 mines are appropriate to promote the purposes of ORS 315.331 and 469B.270



1 to 469B.306. If the applicant is an entity subject to regulation by the Public  
2 Utility Commission, the director may consult with the commission prior to  
3 issuance of the certificate. The action of the director shall include certif-  
4 ication of the actual cost of the project. However, the director may not cer-  
5 tify an amount for tax credit purposes that is more than the amount  
6 approved in the preliminary certificate issued for the project.

7 “(5) If the director rejects an application for final certification, or certi-  
8 fies a lesser amount of credit than was claimed in the application, the di-  
9 rector shall send to the applicant written notice of the action, together with  
10 a statement of the findings and reasons for the action, by certified mail, be-  
11 fore the 60th day after the filing of the application. Failure of the director  
12 to act constitutes rejection of the application.

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

17 “(7) The director may establish by rule timelines and intermediate dead-  
18 lines for submission of application materials.

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

23 In line 8, delete “2” and insert “24”.

24