



To: House Committee on Revenue

From: Anthony L. Buckley, Chief Financial Officer
Oregon Department of Energy

Date: April 7, 2015

Subject: HB 2448 A-Engrossed – Energy Incentives Program

INTRODUCTION

The Oregon Department of Energy supports HB 2448A. HB 2448A modifies the Energy Incentives Program (EIP) in two ways. First, HB 2448A provides that conservation projects with \$1 million or more in project costs annually recertify the tax credit to ensure greater tax credit accountability. The bill also creates a new fee set by rule to cover the costs associated with tax credit recertification. Second, HB 2448A extends the sunset date for conservation, alternative fuel vehicle infrastructure and fleets, and renewable energy development programs.

BACKGROUND

The Energy Incentives Program was created in 2011 to provide incentives to businesses, organizations, non-profits, tribes and public bodies that invest in energy conservation, renewable energy resources and cleaner transportation fuels. The program includes grants for renewable energy development projects and tax credits for energy conservation and transportation projects.

The Energy Incentives Program spurs investment in cost-effective energy savings and resource acquisition. Tax credits are an inducement for businesses to invest in energy conservation projects that exceed a three-year simple payback, but deliver a payback in energy savings within the life of the device installed. Complimentary to other programs and incentives in the state, tax credits are part of a set of tools that support a regional energy plan that acquires low cost resource, save energy and dollars, and improve building performance.

EIP projects are eligible for a tax credit or grant of up to 35 percent of the eligible project costs.

- Renewable grants are limited to \$250,000 for each project with a total biennial cap of \$3 million.



- Conservation tax credits are limited to \$3.5 million for each project with a total biennial cap of \$28 million.
- Transportation projects have a total biennial cap of \$20 million.

To apply for an incentive, projects submit an application for preliminary certification and ODOE performs a completeness and competitive review process for conservation and renewable energy development projects. Alternative fuel projects are processed on a first come, first serve basis. In the last phase of the initial review, technical aspects of the application are reviewed. If successful, conservation or alternative fuel projects are awarded a preliminary certificate or a performance agreement for renewable projects.

Qualifying conservation projects under \$20,000, known as Small Premium Projects, are exempt from the preliminary certification process and only complete an informational filing to reserve the tax credit. Informational filings for this segment of projects are provided on a first come, first serve basis as funds are available.

Once complete, projects submit a final application which ODOE reviews and then issues either a tax credit or grant depending on the type of project. All projects issued a tax credit or grant must remain in operation for at least five years. ODOE may inspect a project prior to issuing a final certificate and through the required five year period of operation.

Since the EIP began accepting applications in 2012, ODOE has received more than 1,000 applications. There are currently more than 800 active and complete projects throughout the program.

DISCUSSION

HB 2448A modifies the EIP by requiring conservation projects with \$1 million or more in eligible project costs to annually recertify their tax credit and extends the program's sunset.

Recertification of Tax Credit

To ensure greater tax credit accountability for larger projects, HB 2448A authorizes ODOE to tie the use of conservation tax credits to a performance agreement and create a process for annually recertifying tax credits with eligible project costs of at least \$1 million. To date, about 14 out of approximately 90 competitive conservation projects would fall under this



requirement. Projects over \$1 million that submit a final application after September 2015, will be subject to the recertification and performance agreement requirements.

HB 2448A authorizes ODOE to enter into a performance agreement with any conservation tax credit project owner as part of the final certification process. These performance agreements may contain project requirements for operations, energy savings and standard language relating to processes, timeframes and failure of performance.

Additionally, after final certification HB 2448A authorizes ODOE to withhold a tax credit for a conservation project with eligible costs of at least \$1 million and require the project owner to annually recertify the tax credit three times to receive the complete tax credit. The recertification requirement would tie the use of the conservation tax credit to project performance. A performance agreement would contain project specific operation and reporting requirements. Attachment 1 chart describes the HB 2448A process to recertify the tax credit.

If a project owner is unable to recertify the tax credit, the project owner would lose that year's portion of the tax credit. The project owner may come back the following year and recertify the remaining tax credit portions, if the project is able to meet operating requirements. The data collected during recertification would be used for reporting, ensuring project operation and developing future incentive requirements.

The statutory mechanisms to revoke and recover a tax credit can be complex. As proposed in HB 2448A, a method in which the tax credit is withheld annually until a project provides actual performance and operational data would ensure greater tax credit accountability for larger projects.

The Energy Incentives Program is funded through fees for initial applications, technical reviews and final reviews. HB 2448A allows ODOE to collect a fee for each recertification application.

Extending Sunset

HB 2448A proposes to extend the sunset for the EIP programs from 2018 to 2022. EIP is a cost-effective way to spur increased investments in energy efficiency, renewable energy and clean transportation fuels. These investments will be needed to help meet the goals for energy efficiency established by state and regional energy plans. These investments may also be



needed to help meet proposed federal regulations for greenhouse gas emissions from the power system that are planned to phase-in beginning in 2018.

Extending EIP now from 2018 to 2022 for an additional four years instead of waiting until the 2017 Legislative Session would provide predictability and continuity in the marketplace for applicants, contractors and retailers. ODOE learned from the Business Energy Tax Credit program, that preparing to close or continue the program within six months of the sunset is inefficient. Large energy projects can span several years from planning to completion. Putting EIP on the cycle to review the extension two years prior to the sunset would provide predictability and continuity and allow ODOE to make longer range plans for the program, staff and administration.

SUMMARY

HB 2448A requires conservation projects with eligible costs of at least \$1 million to annually recertify the tax credit to ensure greater tax credit accountability for larger projects and creates a new fee to cover the additional costs associated with recertification. The bill also extends the program's sunset to Jan. 1, 2022. The Oregon Department of Energy asks for your support of HB 2448A.



Attachment 1: Energy Incentive Program: Conservation Tax Credit HB 2448A Recertification Process

The following table shows the recertification process provided in HB 2448A. Tax credit projects subject to the recertification process:

- Energy conservation tax credits projects,
- With eligible costs of \$1 million or more, and
- 5-year tax credits with 3 recertification periods.

Tax Credit Year	Year 1 Tax Credit	Year 2 Tax Credit	Year 3 Tax Credit	Year 4 Tax Credit	Year 5 Tax Credit
Certification Period	Final Application Period	Recertification Period 1	Recertification Period 2	Recertification Period 3	
Amount of Credit	10% of certified cost	10% of certified cost	5% of certified cost	5% of certified cost	5% of certified cost
Application Type	Final Application	Recertification Application	Recertification Application	Recertification Application	
Requirements	Applicant completes project as described in preliminary certificate. Project begins operating.	In first year of operation, project operates and performs as described in the performance agreement.	In second year of operation, project operates and performs as described in the performance agreement.	In third year of operation, project operates and performs as described in the performance agreement.	
Application Review	Project review and inspection to set the baseline for operations and reporting outlined in a performance agreement.	Compare operation and performance data to requirements of performance agreement, may inspect project.			
Tax credit certificate issued	One-year tax credit for 10% of certified costs.	One-year tax credit for 10% of certified costs.	One-year tax credit for 5% of certified costs.	Two one-year tax credits each for 5% of certified costs. This credit must be used in two increments representing the two years for which the credit was issued.	
Failure to Submit or Approve Application	No tax credits issued.	No tax credit certificate will be issued for this portion of the credit, this portion is deemed revoked. Applicant may submit a subsequent recertification applications if recertification periods remain.			
Transferability of Tax Credit	Each credit issued is a one-year tax credit transferable to a transferee through the EIP pass-through or transfer process.				