



**To:** Senate Committee on Finance and Revenue

**From:** Michael Kaplan, Director  
Oregon Department of Energy

**Date:** June 9, 2015

**Subject:** HB 2448 B-Engrossed – Energy Incentives Program

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## **INTRODUCTION**

The Oregon Department of Energy supports HB 2448B. HB 2448B modifies the Energy Incentives Program (EIP) by providing 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.

## **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. This bill modifies the Energy Conservation tax credit program.

The Energy Conservation tax credit program spurs investment in cost-effective energy savings. 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.

Energy Conservation tax credits projects are eligible for a tax credit of up to 35 percent of the eligible project costs limited to \$3.5 million for each project with a total biennial cap of \$28 million.



To apply for an incentive, projects submit an application for preliminary certification and ODOE performs a completeness, competitive and technical review process. If successful, conservation projects are awarded a preliminary certificate.

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 a tax credit. All projects issued a tax credit 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 Energy Conservation tax credit program 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 conservation program.

## **DISCUSSION**

HB 2448B modifies the EIP by requiring conservation projects with \$1 million or more in eligible project costs to annually recertify their tax credit.

To ensure greater tax credit accountability for larger projects, HB 2448B 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 18 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 2448B 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 2448B 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 2448B 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 2448B, 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 2448B allows ODOE to collect a fee for each recertification application.

## **SUMMARY**

HB 2448B 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 Oregon Department of Energy asks for your support of HB 2448B.