



To: House Committee on Revenue

From: Michael Kaplan, Director
Oregon Department of Energy

Date: March 13, 2017

Subject: HB 3032

INTRODUCTION

HB 3032 sets the present value rate to sell conservation and transportation tax credits at the time of the application for preliminary certification or at the time of final certification, whichever value is lower, for tax credits sold on or after the effective date of the bill.

HB 3032 would also automatically extend the competitive conservation tax credit program and the alternative fuel vehicle infrastructure and fleet transportation tax credit program for projects that receive preliminary certification prior to January 1, 2018.

The Department of Energy is neutral on the bill, however we support the natural sunset of the energy tax credit programs. The conservation tax credit program will sunset during the 2017 tax year so we oppose the portion of this bill that creates an extension.

BACKGROUND

The conservation and transportation tax credit programs were created by HB 3672 (2011) and amended by HB 4079 (2012). The conservation tax credit program provides incentives to businesses, organizations, public bodies, nonprofits, and tribes that make a capital investment in energy efficient devices, measures, or upgrades that yield a simple payback period greater than three years. The transportation tax credit program provides incentives to businesses, organizations, public bodies, nonprofits, and tribes that purchase alternative fuel vehicle infrastructure or purchase or convert alternative fuel fleet vehicles.

Generally, both programs require project owners to apply for a preliminary certificate prior to beginning construction or performance of the project. Once issued, the preliminary certificate is valid for three years or until the sunset of the program, whichever comes first. Project owners must complete and operate the project prior to applying for final tax credit certification. Currently, both programs sunset at the end of tax year 2017.

Conservation and transportation tax credits may be sold in exchange for a cash payment equal to the present value of the potential tax credit. ORS 469B.276 and 469B.323 directs ODOE to establish by rule a formula for determination of prices of credits transferred. In establishing the formula, ODOE is directed by statute to incorporate inflation projections and market real rate of return and recalculate quarterly. By rule, OAR 330-230-0130, ODOE adopted a formula and



recalculates the rate on a quarterly basis. See appendix 1 for the present value rates by quarter for the tax credit programs.

By rule, ODOE provides two processes for project owners to sell a tax credit: the pass-through process and the transfer process. For the pass-through process, ODOE holds the credit's certificate until a partner is located and may provide assistance finding a partner. For the transfer process, credits are issued to the project owner and ODOE does not help identify a buyer for the credit. Project owners must report the transfer to ODOE and ODOE will report to the Department of Revenue. The present value rate is the same for both processes to sell the tax credit.

PRESENT VALUE RATE

HB 3032 would set the present value rate for the sale of conservation and transportation tax credits at the time of the application for preliminary certification or at the time of final certification, whichever value is lower. Currently the rate is set at the time ODOE receives the application for preliminary certification allowing the project owner to identify from the start of the project the rate the tax credit may be sold at. Setting the present value rate at preliminary application, has caused barriers for some project owners who applied when present value rates for five-year tax credits were high, for example over 95 percent for a five-year tax credit.

HB 3032 provides an additional point in time during the application process to determine the present value rate for the sale of the tax credit. Similar to the current process, the project owner can identify the present value rate at the time of preliminary certification. However, the present value rate will be reduced at the time of final certification if the present value rate is lower at that point. The bill provides the project owner a rate set closer to the actual sale of the tax credit, but ensures the rate will not be greater than what was anticipated at the beginning of the project. Providing the opportunity to lower the rate, should make it easier for a project owner with a high rate based on preliminary application to sell the tax credit, however it may also require project owners to accept less than anticipated and potentially agreed upon for the sale of the tax credit.

PROGRAM EXTENSION

HB 3032 automatically extends the competitive conservation tax credit program and the alternative fuel vehicle infrastructure and fleet transportation tax credit program for projects that receive preliminary certification prior to January 1, 2018.

Under the current sunset of the program, project owners have to complete the project and submit the final application within three years of issuance of the preliminary certificate or before the sunset of the program, whichever comes first. The program currently sunsets at the end of tax year 2017, meaning some project owners have less than three years to complete a project. Additionally, a transferee purchasing a tax credit must pay for the credit prior to the end of the transferee's 2017 tax year. HB 3032 would allow project owners the full three years to complete a project and additional time to sell the credit once the final certificate is



approved. The sunset of the program, for these projects, would not be tied to a tax year but the issuance of the preliminary certificate.

The automatic extension of the program only applies to conservation and alternative fuel vehicle infrastructure and fleet transportation projects that receive a preliminary certificate prior to January 1, 2018. HB 3032 would not provide an extension for conservation Small Premium Projects under ORS 469B.285(5) where the director waives the preliminary certification requirement and allows by rule for projects with pre-determined technologies and certified project costs under \$20,000 to submit an informational filing to reserve the tax credit. These projects would still be subject to the current sunset of the program at the end of tax year 2017.

SUMMARY

HB 3032 will set the present value rate to sell conservation and transportation tax credits at the time of the application for preliminary certification or at the time of final certification, whichever value is lower, for tax credits sold on or after the effective date of the bill. The bill also extends the program automatically for the competitive conservation tax credit program and the alternative fuel vehicle infrastructure and fleet transportation tax credit program for projects receiving a preliminary certification prior to January 1, 2018.

The Department of Energy is neutral on HB 3032, however we oppose the creation of an extension for the conservation tax credit program and support the natural sunset of this program during the 2017 tax year.



Appendix 1: Incentive Program Present Value Rates

Date ODOE Received the Preliminary Application		5 year**	1 year**
2012	January-March	94.17%	98.14%
	April-June	90.63%	97.96%
	July-September	98.57%	97.72%
	October-December	97.71%	97.82%
2013	January-March	97.60%	97.81%
	April-June	95.02%	98.05%
	July-September	90.17%	98.40%
	October-December	83.38%	97.97%
2014	January-March	83.89%	98.27%
	April-June	83.89%	98.11%
	July-September	82.42%	97.88%
	October-December	82.24%	97.49%
2015	January-March	83.02%	97.90%
	April-June	83.41%	97.72%
	July-September	81.54%	97.65%
	October-December	83.46%	99.51%
2016	January-March	81.96%	99.12%
	April-June	84.24%	99.06%
	July-September	88.83%	99.52%
	October-December	87.74%	99.47%
2017	January-March	78.10%	98.67%

Notes Updated January 2017

* Rates change on the first of each quarter subject to public index availability.

** Calculation shows as a percent of the tax credit

<http://www.oregon.gov/energy/At-Work/Documents/EIP/General/2017%20EIP%20Present%20Value%20Rates.pdf>