

# D R A F T

## SUMMARY

Requires value of transferable tax credit to be lower of value determined at time of application for preliminary certification or at time of final certification.

Applies to tax credits transferred on or after effective date of Act.

Extends availability of tax credit on basis of date by which taxpayer receives preliminary certification.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to transferable energy tax credits; creating new provisions; amend-  
3 ing ORS 469B.276 and 469B.323 and sections 36 and 54, chapter 730,  
4 Oregon Laws 2011; and prescribing an effective date.

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

6 **SECTION 1.** ORS 469B.276 is amended to read:

7 469B.276. (1) The owner of a project may transfer a tax credit for the  
8 project in exchange for a cash payment equal to the present value of the  
9 potential tax credit, as determined at the time of the application for prelim-  
10 inary certification, **or at the time of final certification, whichever value**  
11 **is lower.** If the tax credit is subject to recertification, only that portion of  
12 the tax credit that has been recertified may be transferred.

13 (2) The State Department of Energy shall establish by rule a formula to  
14 be employed in the determination of prices of credits transferred under this  
15 section. In establishing the formula the department shall incorporate in-  
16 flation projections and market real rate of return.

17 (3) The department shall recalculate credit transfer prices quarterly, em-  
18 ploying the formula established under subsection (2) of this section.

**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       **SECTION 2.** ORS 469B.323 is amended to read:

2       469B.323. (1) The owner of a transportation project may transfer a tax  
3 credit for the project in exchange for a cash payment equal to the present  
4 value of the tax credit, **as determined at the time of the application for**  
5 **preliminary certification, or at the time of final certification, which-**  
6 **ever value is lower.**

7       (2) The State Department of Energy shall establish by rule a formula to  
8 be employed in the determination of prices of credits transferred under this  
9 section. In establishing the formula the department shall incorporate in-  
10 flation projections and market real rate of return.

11       (3) The department shall recalculate credit transfer prices quarterly, em-  
12 ploying the formula established under subsection (2) of this section.

13       **SECTION 3.** **The amendments to ORS 469B.276 and 469B.323 by**  
14 **sections 1 and 2 of this 2017 Act apply to tax credits transferred on or**  
15 **after the effective date of this 2017 Act.**

16       **SECTION 4.** Section 36, chapter 730, Oregon Laws 2011, is amended to  
17 read:

18       **Sec. 36.** (1) **Unless a taxpayer has received preliminary certification**  
19 **under ORS 469B.288 prior to January 1, 2018, the** taxpayer may not be  
20 allowed a credit under [*section 35 of this 2011 Act*] **ORS 315.331** if the first  
21 tax year for which the credit would otherwise be allowed, with respect to  
22 an energy conservation project certified under [*section 45 of this 2011 Act*]  
23 **ORS 469B.291**, begins on or after January 1, 2018.

24       (2) A taxpayer may not be allowed a credit for an energy conservation  
25 project that is a cogeneration facility as that term is defined in ORS 758.505  
26 for a tax year that begins before January 1, 2013.

27       **SECTION 5.** Section 54, chapter 730, Oregon Laws 2011, as amended by  
28 section 16, chapter 774, Oregon Laws 2013, is amended to read:

29       **Sec. 54.** (1) A taxpayer may not be allowed a credit for a transportation  
30 project, other than an alternative fuel vehicle project, certified under ORS  
31 469B.332 if the first tax year for which the credit would otherwise be allowed

1 begins on or after January 1, 2016.

2 (2) **Unless a taxpayer has received preliminary certification under**  
3 **ORS 469B.288 prior to January 1, 2018, the** taxpayer may not be allowed  
4 a credit for an alternative fuel vehicle project certified under ORS 469B.332  
5 if the first tax year for which the credit would otherwise be allowed begins  
6 on or after January 1, 2018.

7 **SECTION 6. This 2017 Act takes effect on the 91st day after the date**  
8 **on which the 2017 regular session of the Seventy-ninth Legislative**  
9 **Assembly adjourns sine die.**

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