

## HOUSE AMENDMENTS TO HOUSE BILL 2072

By COMMITTEE ON ENERGY AND ENVIRONMENT

April 7

1 In line 2 of the printed bill, after the semicolon delete the rest of the line and insert “creating  
2 new provisions; amending ORS 315.141 and 315.144 and section 6, chapter 739, Oregon Laws 2007;  
3 and prescribing an effective date.”.

4 After line 13, insert:

5 “**SECTION 2.** ORS 315.141 is amended to read:

6 “315.141. (1) As used in this section:

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

9 “(b) ‘Biofuel’ means liquid, gaseous or solid fuels, derived from biomass, that have been con-  
10 verted into a processed fuel ready for use as energy by a biofuel producer’s customers or for direct  
11 biomass energy use at the biofuel producer’s site.

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

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

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

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

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

18 “(A) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest  
19 or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

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

21 “(C) Agricultural residues;

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

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

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

25 “(G) Wastewater solids; or

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

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

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

32 “(g) ‘Canola’ means plants of the genus Brassica:

33 “(A) In which seeds having a high oil content are the primary economically valuable product;  
34 and

35 “(B) That have a high erucic acid content suitable for industrial uses or a low erucic acid con-

1 tent suitable for edible oils.

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

4 “(i) ‘Willamette Valley’ means Clackamas, Linn, Marion, Multnomah, Polk, Washington and  
5 Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast  
6 Range.

7 “(2)(a) The Director of the State Department of Energy may adopt rules to define criteria, only  
8 as the criteria apply to organic biomass **other than woody biomass**, to determine additional char-  
9 acteristics of biomass for purposes of this section.

10 “(b) **The State Forester may adopt rules to define criteria, only as the criteria apply to**  
11 **woody biomass, to determine additional characteristics of biomass for purposes of this sec-**  
12 **tion.**

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

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

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

20 “(b) A credit under this section may be claimed in the tax year in which the credit is certified  
21 under subsection (5) **or (6)** of this section.

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

25 “(d) A credit under this section may be claimed only once for each unit of biomass.

26 “(e) Notwithstanding paragraph (a) of this subsection, a tax credit:

27 “(A) Is not allowed for canola grown, collected or produced in the Willamette Valley; and

28 “(B) Is not allowed for grain corn, but a tax credit shall be allowed for other corn material.

29 “(4) The amount of the credit shall equal the amount certified under subsection (5) **or (6)** of this  
30 section, **but may not exceed the tax liability of the taxpayer.**

31 “[5)(a) *The State Department of Energy may establish by rule procedures and criteria for deter-*  
32 *mining the amount of the tax credit to be certified under this section, consistent with ORS 469B.403.*  
33 *The department shall provide written certification to taxpayers that are eligible to claim the credit un-*  
34 *der this section.]*

35 “[b) *The State Department of Energy may charge and collect a fee from taxpayers for certification*  
36 *of credits under this section. The fee may not exceed the cost to the department of determining the*  
37 *amount of certified cost.]*

38 “[c) *The State Department of Energy shall provide to the Department of Revenue a list, by tax*  
39 *year, of taxpayers for which a credit is certified under this section, upon request of the Department of*  
40 *Revenue.]*

41 “[6) *The amount of the credit claimed under this section for any tax year may not exceed the tax*  
42 *liability of the taxpayer.]*

43 “(5) **The State Department of Energy:**

44 “(a) **May establish by rule procedures and criteria for determining the amount of the tax**  
45 **credit to be certified under this section, other than credits for woody biomass, consistent**

1 with ORS 469B.403.

2 “(b) Shall provide written certification to taxpayers that are eligible to claim the credit  
3 under this section.

4 “(c) May charge and collect a fee from taxpayers for certification of credits under this  
5 section, not to exceed the cost to the department of determining the amount of certified  
6 cost.

7 “(d) Shall provide to the Department of Revenue a list, by tax year, of taxpayers for  
8 which a credit is certified under this section, upon request of the Department of Revenue.

9 “(6) The State Forestry Department:

10 “(a) May establish by rule procedures and criteria for determining the amount of the tax  
11 credit to be certified under this section, for credits allowed for woody biomass, consistent  
12 with ORS 469B.403.

13 “(b) Shall provide written certification to taxpayers that are eligible to claim the credit  
14 under this section.

15 “(c) May charge and collect a fee from taxpayers for certification of credits under this  
16 section, not to exceed the cost to the department of determining the amount of certified  
17 cost.

18 “(d) Shall provide to the Department of Revenue a list, by tax year, of taxpayers for  
19 which a credit is certified under this section, upon request of the Department of Revenue.

20 “(7) The total amount certified for tax credits for the collection of woody biomass may  
21 not exceed \$600,000 for all taxpayers for the tax year in which the certification is made.

22 “[7] (8) Each agricultural producer or biomass collector shall maintain the written documen-  
23 tation of the amount certified for tax credit under this section in its records for a period of at least  
24 five years after the tax year in which the credit is claimed and provide the written documentation  
25 to the Department of Revenue upon request.

26 “[8] (9) The credit shall be claimed on a form prescribed by the Department of Revenue that  
27 contains the information required by the department.

28 “[9] (10) Any tax credit otherwise allowable under this section that is not used by the taxpayer  
29 in a particular tax year may be carried forward and offset against the taxpayer’s tax liability for  
30 the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be  
31 carried forward and used in the second succeeding tax year, and likewise any credit not used in that  
32 second succeeding tax year may be carried forward and used in the third succeeding tax year, and  
33 any credit not used in that third succeeding tax year may be carried forward and used in the fourth  
34 succeeding tax year, but may not be carried forward for any tax year thereafter.

35 “[10] (11) In the case of a credit allowed under this section:

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

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

41 “(c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if  
42 the department terminates the taxpayer’s taxable year under ORS 314.440, the credit allowed under  
43 this section shall be prorated or computed in a manner consistent with ORS 314.085.

44 “**SECTION 3.** ORS 315.144 is amended to read:

45 “315.144. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit

1 to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

2 “(2) A tax credit allowed under ORS 315.141 may be transferred on or before the date on which  
3 the return is due for the tax year in which the credit may first be claimed. After that date, no  
4 portion of a credit allowed under ORS 315.141 may be transferred.

5 “(3) To transfer the tax credit, the taxpayer earning the credit and the taxpayer that will claim  
6 the credit shall, on or before the date prescribed in subsection (2) of this section, jointly file a notice  
7 of tax credit transfer with the Department of Revenue. The notice shall be given on a form pre-  
8 scribed by the department that contains all of the following:

9 “(a) The name and address of the transferor and transferee;

10 “(b) The amount of the tax credit that is being transferred;

11 “(c) The amount of the tax credit that is being retained by the transferor; and

12 “(d) Any other information required by the department.

13 “(4) The State Department of Energy may establish by rule a minimum discounted value of a tax  
14 credit, **other than a credit allowed for woody biomass**, under this section.

15 “(5) **The State Forestry Department may establish by rule a minimum discounted value  
16 of a tax credit allowed under this section for woody biomass.**

17 “[5] (6) The Department of Revenue, in consultation with the State Department of Energy, **or  
18 the State Forestry Department, in the case of a credit allowed for woody biomass**, may by  
19 rule establish procedures for the transfer of tax credits provided by this section.

20 “**SECTION 4. The amendments to ORS 315.141 and 315.144 by sections 2 and 3 of this 2017  
21 Act apply to tax years beginning on or after January 1, 2018, and to applications for certi-  
22 fication under ORS 315.141 filed after January 1, 2018.**

23 “**SECTION 5. This 2017 Act takes effect on the 91st day after the date on which the 2017  
24 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**”.