

# House Bill 2759

Sponsored by Representative HOLVEY, Senator BEYER

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits transfer of energy-related tax credit held by tax-exempt or governmental entity. Provides for purchase by State Department of Energy of credit held by tax-exempt or governmental entity.

Applies to tax years beginning on or after January 1, 2017.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to state purchase of transferable tax credits; creating new provisions; amending ORS  
3 285C.549, 315.053, 469B.148, 469B.276 and 469B.323; and prescribing an effective date.

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

5 **SECTION 1.** ORS 315.053 is amended to read:

6 315.053. (1) **Except as provided in subsection (2) of this section**, an income tax credit allowed  
7 under ORS 315.141, 315.331, 315.336, 315.341 or 315.354 or section 12, chapter 855, Oregon Laws  
8 2007, may be transferred or sold only to one or more of the following:

9 *[(1)]* (a) A C corporation.

10 *[(2)]* (b) An S corporation.

11 *[(3)]* (c) A personal income taxpayer.

12 (2)(a) **A tax-exempt entity or a governmental entity holding an income tax credit allowed**  
13 **under ORS 315.141, 315.331, 315.336, 315.341 or 315.354 may not transfer the tax credit to a**  
14 **taxpayer.**

15 (b) **An entity holding a tax credit described in this subsection may sell the credit to the**  
16 **State Department of Energy. The department shall make a cash payment to the entity for**  
17 **the price recalculated by the department for the quarter in which the entity applies to the**  
18 **department to sell the credit.**

19 **SECTION 2.** ORS 285C.549 is amended to read:

20 285C.549. (1) **Except as provided in ORS 315.053 (2)**, the owner, contract purchaser or lessee  
21 of a renewable energy resource equipment manufacturing facility may transfer a tax credit for the  
22 facility in exchange for a cash payment equal to the present value of the tax credit.

23 (2) The Director of the Oregon Business Development Department shall establish by rule a for-  
24 mula to be employed in the determination of prices of credits transferred under this section. In  
25 establishing the formula the department shall incorporate inflation projections and market real rate  
26 of return.

27 (3) The director shall recalculate credit transfer prices quarterly, employing the formula estab-  
28 lished under subsection (2) of this section.

29 **SECTION 3.** ORS 469B.148 is amended to read:

30 469B.148. (1) **Except as provided in ORS 315.053 (2)**, the owner of a facility may transfer a tax

**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 credit for the facility in exchange for a cash payment equal to the present value of the potential tax  
 2 credit, as determined at the time of the application for preliminary certification.

3 (2) The State Department of Energy shall establish by rule a formula to be employed in the de-  
 4 termination of prices of credits transferred under this section. In establishing the formula the de-  
 5 partment shall incorporate inflation projections and market real rate of return.

6 (3) The department shall recalculate credit transfer prices quarterly, employing the formula es-  
 7 tablished under subsection (2) of this section.

8 (4) Notwithstanding any other provision of law, a tax credit transferred pursuant to this section  
 9 does not decrease the amount of taxes required to be reported by a public utility.

10 **SECTION 4.** ORS 469B.276 is amended to read:

11 469B.276. (1) **Except as provided in ORS 315.053 (2)**, the owner of a project may transfer a tax  
 12 credit for the project in exchange for a cash payment equal to the present value of the potential tax  
 13 credit, as determined at the time of the application for preliminary certification. If the tax credit is  
 14 subject to recertification, only that portion of the tax credit that has been recertified may be  
 15 transferred.

16 (2) The State Department of Energy shall establish by rule a formula to be employed in the de-  
 17 termination of prices of credits transferred under this section. In establishing the formula the de-  
 18 partment shall incorporate inflation projections and market real rate of return.

19 (3) The department shall recalculate credit transfer prices quarterly, employing the formula es-  
 20 tablished under subsection (2) of this section.

21 **SECTION 5.** ORS 469B.323 is amended to read:

22 469B.323. (1) **Except as provided in ORS 315.053 (2)**, the owner of a transportation project may  
 23 transfer a tax credit for the project in exchange for a cash payment equal to the present value of  
 24 the tax credit.

25 (2) The State Department of Energy shall establish by rule a formula to be employed in the de-  
 26 termination of prices of credits transferred under this section. In establishing the formula the de-  
 27 partment shall incorporate inflation projections and market real rate of return.

28 (3) The department shall recalculate credit transfer prices quarterly, employing the formula es-  
 29 tablished under subsection (2) of this section.

30 **SECTION 6.** **The amendments to ORS 285C.549, 315.053, 469B.148, 469B.276 and 469B.323**  
 31 **by sections 1 to 5 of this 2017 Act apply to tax years beginning on or after January 1, 2017.**

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