

## HOUSE AMENDMENTS TO HOUSE BILL 3166

By COMMITTEE ON ENERGY AND ENVIRONMENT

April 17

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest of the line and delete  
2 lines 3 and 4 and insert “amending ORS 223.680, 291.445, 469.421, 470.050, 470.060, 470.080, 470.090,  
3 470.100, 470.110, 470.120, 470.130, 470.135, 470.140, 470.145, 470.150, 470.160, 470.170, 470.180, 470.190,  
4 470.200, 470.210, 470.230, 470.270, 470.300, 470.310, 470.810, 470.815 and 757.247; repealing ORS  
5 469.960, 469.961, 469.962, 469.963, 469.964, 469.965, 469.966, 470.070, 470.500, 470.505, 470.510, 470.515,  
6 470.520, 470.525, 470.530, 470.535, 470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575,  
7 470.580, 470.585, 470.590, 470.595, 470.600, 470.605, 470.610, 470.615, 470.620, 470.630, 470.635, 470.640,  
8 470.645, 470.650, 470.655, 470.660, 470.665, 470.670, 470.675, 470.680, 470.685, 470.690, 470.695, 470.700,  
9 470.710, 470.715, 470.720, 701.108 and 701.119; and prescribing an effective date.”.

10 Delete lines 6 through 22 and delete pages 2 through 10 and insert:

### “COST RECOVERY

11  
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13  
14 “**SECTION 1.** ORS 469.421, as amended by section 71, chapter 117, Oregon Laws 2016, is  
15 amended to read:

16 “469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent,  
17 a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370,  
18 a request for an expedited review under ORS 469.373, a request for the State Department of Energy  
19 to approve a pipeline under ORS 469.405 (3), an application for a site certificate or a request to  
20 amend a site certificate shall pay all expenses incurred by the Energy Facility Siting Council and  
21 the department related to the review and decision of the council. Expenses under this subsection  
22 may include:

23 “(a) Legal expenses;

24 “(b) Expenses incurred in processing and evaluating the application;

25 “(c) Expenses incurred in issuing a final order or site certificate;

26 “(d) Expenses incurred in commissioning an independent study under ORS 469.360;

27 “(e) Compensation paid to a state agency, a tribe or a local government pursuant to a written  
28 contract or agreement relating to compensation as provided for in ORS 469.360; or

29 “(f) Expenses incurred by the council in making rule changes that are specifically required and  
30 related to the particular site certificate.

31 “(2) Every person submitting a notice of intent to file for a site certificate, a request for ex-  
32 emption or a request for expedited review shall pay the fee required under the fee schedule estab-  
33 lished under ORS 469.441 to the department prior to submitting the notice or request to the council.  
34 To the extent possible, the full cost of the evaluation shall be paid from the fee paid under this  
35 subsection. However, if costs of the evaluation exceed the fee, the person submitting the notice or

1 request shall pay any excess costs shown in an itemized statement prepared by the council. In no  
2 event shall the council incur evaluation expenses in excess of 110 percent of the fee initially paid  
3 unless the council provides prior notification to the applicant and a detailed projected budget the  
4 council believes necessary to complete the project. If costs are less than the fee paid, the excess  
5 shall be refunded to the person submitting the notice or request.

6 “(3) Before submitting a site certificate application, the applicant shall request from the de-  
7 partment an estimate of the costs expected to be incurred in processing the application. The de-  
8 partment shall inform the applicant of that amount and require the applicant to make periodic  
9 payments of the costs pursuant to a cost reimbursement agreement. The cost reimbursement agree-  
10 ment shall provide for payment of 25 percent of the estimated costs when the applicant submits the  
11 application. If costs of the evaluation exceed the estimate, the applicant shall pay any excess costs  
12 shown in an itemized statement prepared by the council. In no event shall the council incur evalu-  
13 ation expenses in excess of 110 percent of the fee initially estimated unless the council provided  
14 prior notification to the applicant and a detailed projected budget the council believes is necessary  
15 to complete the project. If costs are less than the fee paid, the council shall refund the excess to the  
16 applicant.

17 “(4) Any person who is delinquent in the payment of fees under subsections (1) to (3) of this  
18 section shall be subject to the provisions of subsection (11) of this section.

19 “(5)(a) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual  
20 fee, due every July 1 following issuance of a site certificate.

21 “(b) For each fiscal year, upon approval of the department’s budget authorization by an odd-  
22 numbered year regular session of the Legislative Assembly or as revised by the Emergency Board  
23 meeting in an interim period or by the Legislative Assembly meeting in special session or in an  
24 even-numbered year regular session, the Director of the State Department of Energy promptly shall  
25 enter an order establishing an annual fee based on the amount of revenues that the director esti-  
26 mates is needed to fund:

27 “(A) The cost of ensuring that the facility is being operated consistently with the terms and  
28 conditions of the site certificate, any order issued by the department under ORS 469.405 (3) and any  
29 applicable health or safety standards; **and**

30 “(B) **The general costs of the council and the department incurred in the support of**  
31 **council activities that cannot be allocated to an individual, licensed facility or to a person for**  
32 **purposes of a notice of intent, request or application as described in subsection (1) of this**  
33 **section.**

34 “(c) In determining [*this cost*] **costs under paragraph (b) of this subsection**, the director shall  
35 include both:

36 “(A) The actual direct cost to be incurred by the council and the department to ensure that the  
37 facility is being operated consistently with the terms and conditions of the site certificate, any order  
38 issued by the department under ORS 469.405 (3) and any applicable health or safety standards[.]; and

39 “(B) The general costs to be incurred by the council and the department to ensure that all  
40 certificated facilities are being operated consistently with the terms and conditions of the site cer-  
41 tificates, any orders issued by the department under ORS 469.405 (3) and any applicable health or  
42 safety standards that cannot be allocated to an individual, licensed facility. [*Not more than 35 per-*  
43 *cent of the annual fee charged each facility shall be for the recovery of these general costs.*]

44 “(d) **The director shall:**

45 “(A) **Adopt by rule a formula for apportioning among holders of site certificates the**

1 **general costs of the council and the department described in paragraph (c)(B) of this sub-**  
2 **section; and**

3 **“(B) Calculate** the fees for direct costs [*shall reflect*] **in a manner that reflects** the size and  
4 complexity of the facility, the anticipated costs of ensuring compliance with site certificate condi-  
5 tions, the anticipated costs of conducting site inspections and compliance reviews as described in  
6 ORS 469.430, and the anticipated costs of compensating state agencies and local governments for  
7 participating in site inspection and compliance enforcement activities at the request of the council.

8 **“(6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for**  
9 **the remaining portion of the fiscal year. The amount of the fee shall be set at [*the cost of regulating***  
10 ***the facility during the remaining portion of the year determined in the same manner as the annual***  
11 ***fee.*] an amount necessary to fund the cost of ensuring that the facility is being operated**  
12 **consistently with the terms and conditions of the site certificate, any order issued by the**  
13 **department under ORS 469.405 (3) and any applicable health or safety standards.**

14 **“(7) When the actual costs of regulation incurred by the council and the department for the**  
15 **year, including that portion of the general regulation costs that have been allocated to a particular**  
16 **facility, are less than the annual fees for that facility, the unexpended balance shall be refunded to**  
17 **the site certificate holder. When the actual regulation costs incurred by the council and the de-**  
18 **partment for the year, including that portion of the general regulation costs that have been allo-**  
19 **cated to a particular facility, are projected to exceed the annual fee for that facility, the director**  
20 **may issue an order revising the annual fee.**

21 **“(8)(a) In addition to any other fees required by law, each energy resource supplier shall pay to**  
22 **the department annually its share of an assessment to fund the programs and activities of the**  
23 **council and the department.**

24 **“(b) Prior to filing an agency request budget under ORS 291.208 for purposes related to the**  
25 **compilation and preparation of the Governor’s budget under ORS 291.216, the director shall deter-**  
26 **mine the projected aggregate amount of revenue to be collected from energy resource suppliers un-**  
27 **der this subsection that will be necessary to fund the programs and activities of the council and the**  
28 **department for each fiscal year of the upcoming biennium. After making that determination, the di-**  
29 **rector shall convene a public meeting with representatives of energy resource suppliers and other**  
30 **interested parties for the purpose of providing energy resource suppliers with a full accounting of:**

31 **“(A) The projected revenue needed to fund each department program or activity; and**

32 **“(B) The projected allocation of moneys derived from the assessment imposed under this sub-**  
33 **section to each department program or activity.**

34 **“(c) Upon approval of the budget authorization of the council and the department by an odd-**  
35 **numbered year regular session of the Legislative Assembly, the director shall promptly enter an**  
36 **order establishing the amount of revenues required to be derived from an assessment pursuant to**  
37 **this subsection in order to fund programs and activities that the council and the department are**  
38 **charged with administering and authorized to conduct under the laws of this state, including those**  
39 **enumerated in ORS 469.030, for the first fiscal year of the forthcoming biennium. On or before June**  
40 **1 of each even-numbered year, the director shall enter an order establishing the amount of revenues**  
41 **required to be derived from an assessment pursuant to this subsection in order to fund the programs**  
42 **and activities that the council and the department are charged with administering and authorized**  
43 **to conduct under the laws of this state, including those enumerated in ORS 469.030, for the second**  
44 **fiscal year of the biennium. The order shall take into account any revisions to the biennial budget**  
45 **of the council and the department made by the Emergency Board meeting in an interim period or**

1 by the Legislative Assembly meeting in special session or in an even-numbered year regular session.

2 “(d) Each order issued by the director pursuant to paragraph (c) of this subsection shall allocate  
3 the aggregate assessment set forth in the order to energy resource suppliers in accordance with  
4 paragraph (e) of this subsection.

5 “(e) The amount assessed to an energy resource supplier shall be based on the ratio which that  
6 supplier’s annual gross operating revenue derived within this state in the preceding calendar year  
7 bears to the total gross operating revenue derived within this state during that year by all energy  
8 resource suppliers. The assessment against an energy resource supplier shall not exceed 0.375 per-  
9 cent of the supplier’s gross operating revenue derived within this state in the preceding calendar  
10 year. The director shall exempt from payment of an assessment any individual energy resource  
11 supplier whose calculated share of the annual assessment is less than [~~\$250~~] **\$2,500**.

12 “(f) The director shall send each energy resource supplier subject to assessment pursuant to this  
13 subsection a copy of each order issued by registered or certified mail or through use of an electronic  
14 medium with electronic receipt verification. The amount assessed to the energy resource supplier  
15 pursuant to the order shall be considered to the extent otherwise permitted by law a government-  
16 imposed cost and recoverable by the energy resource supplier as a cost included within the price  
17 of the service or product supplied.

18 “(g) The amounts assessed to individual energy resource suppliers pursuant to paragraph (e) of  
19 this subsection shall be paid to the department as follows:

20 “(A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days  
21 following adjournment sine die of the odd-numbered year regular session of the Legislative Assem-  
22 bly; and

23 “(B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July  
24 1 of each even-numbered year or 90 days following adjournment sine die of the even-numbered year  
25 regular session of the Legislative Assembly, whichever is later.

26 “(h) An energy resource supplier shall provide the director, on or before May 1 of each year,  
27 a verified statement showing its gross operating revenues derived within the state for the calendar  
28 or fiscal year that was used by the energy resource supplier for the purpose of reporting federal  
29 income taxes for the preceding calendar or fiscal year. The statement must be in the form prescribed  
30 by the director and is subject to audit by the director. The statement must include an entry showing  
31 the total operating revenue derived by petroleum suppliers from fuels sold that are subject to the  
32 requirements of Article IX, section 3a, of the Oregon Constitution, and ORS 319.020 with reference  
33 to aircraft fuel and motor vehicle fuel, and ORS 319.530. The director may grant an extension of not  
34 more than 15 days for the requirements of this subsection if:

35 “(A) The energy supplier makes a showing of hardship caused by the deadline;

36 “(B) The energy supplier provides reasonable assurance that the energy supplier can comply  
37 with the revised deadline; and

38 “(C) The extension of time does not prevent the council or the department from fulfilling its  
39 statutory responsibilities.

40 “(i) As used in this section:

41 “(A) ‘Energy resource supplier’ means an electric utility, natural gas utility or petroleum sup-  
42 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-  
43 ducts in Oregon.

44 “(B) ‘Gross operating revenue’ means gross receipts from sales or service made or provided  
45 within this state during the regular course of the energy supplier’s business, but does not include

1 either revenue derived from interutility sales within the state or revenue received by a petroleum  
2 supplier from the sale of fuels that are subject to the requirements of Article IX, section 3a, of the  
3 Oregon Constitution, or ORS 319.020 or 319.530.

4 “(C) ‘Petroleum supplier’ has the meaning given that term in ORS 469.020.

5 “(j) In determining the amount of revenues that must be derived from any class of energy re-  
6 source suppliers by assessment pursuant to this subsection, the director shall take into account all  
7 other known or readily ascertainable sources of revenue to the council and department, including,  
8 but not limited to, fees imposed under this section and federal funds, and may take into account any  
9 funds previously assessed pursuant to ORS 469.420 (1979 Replacement Part) or section 7, chapter  
10 792, Oregon Laws 1981.

11 “(k) Orders issued by the director pursuant to this section shall be subject to judicial review  
12 under ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an en-  
13 ergy resource supplier to pay amounts assessed to it on or before the statutory deadline.

14 “(9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal  
15 power plant or nuclear installation within this state shall pay to the department annually on July  
16 1 an assessment in an amount determined by the director to be necessary to fund the activities of  
17 the state and the counties associated with emergency preparedness for a nuclear fueled thermal  
18 power plant or nuclear installation. The assessment shall not exceed \$461,250 per year. Moneys  
19 collected as assessments under this subsection are continuously appropriated to the department for  
20 this purpose.

21 “(b) The department shall maintain and cause other state agencies and counties to maintain time  
22 and billing records for the expenditure of any fees collected from an operator of a nuclear fueled  
23 thermal power plant under paragraph (a) of this subsection.

24 “(10) Reactors operated by a college, university or graduate center for research purposes and  
25 electric utilities not connected to the Northwest Power Grid are exempt from the fee requirements  
26 of subsections (5), (8) and (9) of this section.

27 “(11)(a) All fees assessed by the director against holders of site certificates for facilities that  
28 have an installed capacity of 500 megawatts or greater may be paid in several installments, the  
29 schedule for which shall be negotiated between the director and the site certificate holder.

30 “(b) Energy resource suppliers or applicants or holders of a site certificate who fail to pay a fee  
31 provided under subsections (1) to (9) of this section after it is due and payable shall pay, in addition  
32 to that fee, a penalty of two percent of the fee a month for the period that the fee is past due. Any  
33 payment made according to the terms of a schedule negotiated under paragraph (a) of this sub-  
34 section shall not be considered past due. The director may bring an action to collect an unpaid fee  
35 or penalty in the name of the State of Oregon in a court of competent jurisdiction. The court may  
36 award reasonable attorney fees to the director if the director prevails in an action under this sub-  
37 section. The court may award reasonable attorney fees to a defendant who prevails in an action  
38 under this subsection if the court determines that the director had no objectively reasonable basis  
39 for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

40 “**SECTION 2. The amendments to ORS 469.421 by section 1 of this 2017 Act apply to an-**  
41 **annual fees due on or after July 1, 2018.**

42  
43 **“ENERGY FACILITY SITING TASK FORCE**

44  
45 **“SECTION 3. (1) The Energy Facility Siting Task Force is established.**

1       **“(2) The task force consists of nine members appointed as follows:**  
2       **“(a) The President of the Senate shall appoint two members from among members of the**  
3       **Senate.**  
4       **“(b) The Speaker of the House of Representatives shall appoint two members from among**  
5       **members of the House of Representatives.**  
6       **“(c) The Governor shall appoint five members who represent the interests of persons**  
7       **affected by the energy facility siting process.**  
8       **“(3) The task force shall:**  
9       **“(a) Review the statutes and regulations that govern the jurisdiction of the Energy Fa-**  
10       **ility Siting Council and, upon such review, develop recommendations regarding:**  
11       **“(A) Proposed changes to what constitutes an ‘energy facility,’ as that term is defined**  
12       **in ORS 469.300 (11)(a)(A)(iii), (D) and (J), that may serve to better align the jurisdiction of**  
13       **the council with the needs and interests of this state and local governments;**  
14       **“(B) Ways to improve public participation in the energy facility siting process; and**  
15       **“(C) Ways to expedite the process for receiving a site certificate for constructing or ex-**  
16       **anding an energy facility subject to the jurisdiction of the council; and**  
17       **“(b) Develop recommendations for defining or otherwise clarifying in statute the term**  
18       **‘single energy facility’ as related to energy facilities as defined in ORS 469.300 (11)(a)(D) and**  
19       **(J), in order to better clarify when an electric power generating plant that produces power**  
20       **from solar photovoltaic, geothermal or wind energy qualifies as an ‘energy facility’ for pur-**  
21       **poses of ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.**  
22       **“(4) Members of the Legislative Assembly appointed to the task force are nonvoting**  
23       **members of the task force and may act in an advisory capacity only.**  
24       **“(5) A majority of the voting members of the task force constitutes a quorum for the**  
25       **transaction of business.**  
26       **“(6) Official action by the task force requires the approval of a majority of the voting**  
27       **members of the task force.**  
28       **“(7) The task force shall elect one of its members to serve as chairperson.**  
29       **“(8) If there is a vacancy for any cause, the appointing authority shall make an appoint-**  
30       **ment to become immediately effective.**  
31       **“(9) The task force shall meet at times and places specified by the call of the chairperson**  
32       **or of a majority of the voting members of the task force.**  
33       **“(10) The task force may adopt rules necessary for the operation of the task force.**  
34       **“(11) The task force shall submit a report in the manner provided by ORS 192.245, and**  
35       **shall include recommendations for legislation, to an interim committee of the Legislative**  
36       **Assembly related to energy no later than September 15, 2018.**  
37       **“(12) The Legislative Policy and Research Director shall provide staff support to the task**  
38       **force.**  
39       **“(13) Notwithstanding ORS 171.072, members of the task force who are members of the**  
40       **Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volun-**  
41       **teers on the task force. Other members of the task force are not entitled to compensation**  
42       **or reimbursement for expenses and serve as volunteers on the task force.**  
43       **“(14) All agencies of state government, as defined in ORS 174.111, are directed to assist**  
44       **the task force in the performance of the task force’s duties and, to the extent permitted by**  
45       **laws relating to confidentiality, to furnish information and advice the members of the task**

1 force consider necessary to perform their duties.

2 **“SECTION 4.** Section 3 of this 2017 Act is repealed on December 31, 2018.

3  
4 **“TRANSFER OF DUTIES, FUNCTIONS AND POWERS**  
5 **RELATED TO SMALL SCALE LOCAL ENERGY PROJECTS**

6  
7 **“SECTION 5.** The duties, functions and powers of the State Department of Energy related  
8 to the issuance of loans for small scale local energy projects under ORS chapter 470 are  
9 imposed upon, transferred to and vested in the Oregon Business Development Department.

10  
11 **“RECORDS, PROPERTY, POSITIONS**

12  
13 **“SECTION 6.** (1) The Director of the State Department of Energy shall:

14 **“(a)** Deliver to the Oregon Business Development Department all records and property  
15 within the jurisdiction of the director that relate to the duties, functions and powers trans-  
16 ferred by section 5 of this 2017 Act; and

17 **“(b)** Transfer to the Oregon Business Development Department responsibility for those  
18 positions dedicated primarily to the exercise of the duties, functions and powers transferred  
19 by section 5 of this 2017 Act.

20 **“(2)** The Director of the Oregon Business Development Department shall take possession  
21 of the records and property and shall take responsibility for the positions dedicated to the  
22 exercise of the duties, functions and powers transferred by section 5 of this 2017 Act.

23 **“(3)** The Governor shall resolve any dispute between the State Department of Energy and  
24 the Oregon Business Development Department relating to transfers of records, property and  
25 positions under this section, and the Governor’s decision is final.

26  
27 **“UNEXPENDED REVENUES**

28  
29 **“SECTION 7.** (1) The unexpended balances of amounts authorized to be expended by the  
30 State Department of Energy for the biennium beginning July 1, 2017, from revenues dedi-  
31 cated, continuously appropriated, appropriated or otherwise made available for the purpose  
32 of administering and enforcing the duties, functions and powers transferred by section 5 of  
33 this 2017 Act are transferred to and are available for expenditure by the Oregon Business  
34 Development Department for the biennium beginning July 1, 2017, for the purpose of admin-  
35 istering and enforcing the duties, functions and powers transferred by section 5 of this 2017  
36 Act.

37 **“(2)** The expenditure classifications, if any, established by Acts authorizing or limiting  
38 expenditures by the State Department of Energy remain applicable to expenditures by the  
39 Oregon Business Development Department under this section.

40  
41 **“ACTION, PROCEEDING, PROSECUTION**

42  
43 **“SECTION 8.** The transfer of duties, functions and powers to the Oregon Business De-  
44 velopment Department by section 5 of this 2017 Act does not affect any action, proceeding  
45 or prosecution involving or with respect to the duties, functions and powers begun before

1 and pending at the time of the transfer, except that the Oregon Business Development De-  
2 partment is substituted for the State Department of Energy in the action, proceeding or  
3 prosecution.

4  
5 **“LIABILITY, DUTY, OBLIGATION**

6  
7 **“SECTION 9. (1) Nothing in sections 5 to 11 of this 2017 Act or in the amendments to**  
8 **statutes by sections 16 to 39 of this 2017 Act relieves a person of a liability, duty or obligation**  
9 **accruing under or with respect to the duties, functions and powers transferred by section 5**  
10 **of this 2017 Act. The Oregon Business Development Department may undertake the col-**  
11 **lection or enforcement of any such liability, duty or obligation.**

12 **“(2) The rights and obligations of the State Department of Energy legally incurred under**  
13 **contracts, leases and business transactions executed, entered into or begun before the op-**  
14 **erative date of section 5 of this 2017 Act accruing under or with respect to the duties, func-**  
15 **tions and powers transferred by section 5 of this 2017 Act are transferred to the Oregon**  
16 **Business Development Department. For the purpose of succession to these rights and obli-**  
17 **gations, the Oregon Business Development Department is a continuation of the State De-**  
18 **partment of Energy and not a new authority.**

19  
20 **“RULES**

21  
22 **“SECTION 10. Notwithstanding the transfer of duties, functions and powers by section 5**  
23 **of this 2017 Act, the rules of the State Department of Energy with respect to such duties,**  
24 **functions or powers that are in effect on the operative date of section 5 of this 2017 Act**  
25 **continue in effect until superseded or repealed by rules of the Oregon Business Development**  
26 **Department. References in the rules of the State Department of Energy to the State De-**  
27 **partment of Energy or an officer or employee of the State Department of Energy are con-**  
28 **sidered to be references to the Oregon Business Development Department or an officer or**  
29 **employee of the Oregon Business Development Department.**

30 **“SECTION 11. Whenever, in any uncodified law or resolution of the Legislative Assembly**  
31 **or in any rule, document, record or proceeding authorized by the Legislative Assembly, in**  
32 **the context of the duties, functions and powers transferred by section 5 of this 2017 Act,**  
33 **reference is made to the State Department of Energy, or an officer or employee of the State**  
34 **Department of Energy whose duties, functions or powers are transferred by section 5 of this**  
35 **2017 Act, the reference is considered to be a reference to the Oregon Business Development**  
36 **Department or an officer or employee of the Oregon Business Development Department who**  
37 **by this 2017 Act is charged with carrying out the duties, functions and powers.**

38  
39 **“NEEDS STUDY**

40  
41 **“SECTION 12. Section 13 of this 2017 Act is added to and made a part of ORS chapter 470.**

42 **“SECTION 13. (1) The Oregon Business Development Department shall conduct a study**  
43 **to determine the commercial needs in this state for loans for small scale local energy**  
44 **projects. The purposes of the study must be to identify the highest and best uses of funds**  
45 **available for the issuance of loans for small scale local energy projects.**





1 *ergy project that is repayable by means of:]*  
2 *“(a) A charge included with the participant’s utility customer account billing; or]*  
3 *“(b) An alternative repayment method identified by the department and the borrower and specified*  
4 *in the loan agreement.]*  
5 *“[(10) ‘Energy Project Bond Loan Fund’ means the fund established under ORS 470.580.]*  
6 *“[(11) ‘Energy Project Supplemental Fund’ means the fund established under ORS 470.570.]*  
7 *“[(12) ‘Energy Revenue Bond Repayment Fund’ means the fund established under ORS 470.585.]*  
8 *“[(13) ‘Energy savings projection’ means an examination of the energy performance and site char-*  
9 *acteristics of a property that, at a minimum, identifies:]*  
10 *“(a) A base efficiency package; and]*  
11 *“(b) Any additional optional measures that a customer is able to repay and that the sustainable*  
12 *energy project manager believes to be feasible for the site.]*  
13 *“[(14) ‘Jobs, Energy and Schools Fund’ means the fund established under ORS 470.575.]*  
14 *“[(15)] (6) ‘Loan’ includes the purchase or other acquisition of evidence of indebtedness and*  
15 *money used for the purchase or other acquisition of evidence of indebtedness.*  
16 *“[(16)] (7) ‘Loan contract’ means the evidence of indebtedness and all instruments used in the*  
17 *purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or*  
18 *municipal corporations that are tax exempt entities, a loan contract may include a lease purchase*  
19 *agreement with respect to personal property.*  
20 *“[(17) ‘Loan offset grant’ means moneys from the Jobs, Energy and Schools Fund that are used to*  
21 *help offset the initial project costs or loan payments for energy efficiency, renewable energy and energy*  
22 *conservation projects.]*  
23 *“[(18) ‘Loan repayment charge’ means an amount charged to a utility customer account through*  
24 *on-bill financing as a mechanism for the repayment of an energy efficiency and sustainable technology*  
25 *loan.]*  
26 *“[(19)] (8) ‘Municipal corporation’ has the meaning given in ORS 297.405 and also includes any*  
27 *Indian tribe or authorized Indian tribal organization or any combination of two or more of these*  
28 *tribes or organizations acting jointly in connection with a small scale local energy project.*  
29 *“[(20) ‘On-bill financing’ means a mechanism for collecting the repayment of an energy efficiency*  
30 *and sustainable technology loan through a utility customer account billing system.]*  
31 *“[(21) ‘Optional package’ means measures for promoting energy efficiency or the use of renewable*  
32 *energy:]*  
33 *“(a) That are in addition to the measures described in the customer’s base efficiency package;]*  
34 *“(b) For which a customer has the ability to repay; and]*  
35 *“(c) That the sustainable energy project manager believes to be feasible for the site.]*  
36 *“[(22)] (9) ‘Oregon business’ means a sole proprietorship, partnership, company, cooperative,*  
37 *corporation or other form of business entity that is organized or authorized to do business under*  
38 *Oregon law for profit.*  
39 *“[(23) ‘Primary contractor’ means a contractor that:]*  
40 *“(a) Has entered into a contract with an owner of property for which a proposed small scale local*  
41 *energy project will be located;]*  
42 *“(b) Is responsible for the completion of the small scale local energy project;]*  
43 *“(c) Undertakes to complete the small scale local energy project; and]*  
44 *“(d) Is responsible for any subcontractors performing work on the small scale local energy*  
45 *project.]*

1           “[(24) ‘Public Purpose Fund Administrator’ means the entity designated by the Public Utility  
2 Commission to administer moneys collected by a company through the public purpose charge described  
3 under ORS 757.612.]

4           “[(25)] (10) ‘Recycling project’ means a facility or equipment that converts waste into a new and  
5 usable product.

6           “[(26)] (11) ‘Small business’ means:

7           “(a) An Oregon business that is:

8           “(A) A retail or service business employing 50 or fewer persons at the time the loan is made;  
9 or

10           “(B) An industrial or manufacturing business employing 200 or fewer persons at the time the  
11 loan is made; or

12           “(b) An Oregon subsidiary of a sole proprietorship, partnership, company, cooperative, corpo-  
13 ration or other form of business entity for which the total number of employees for both the sub-  
14 sidiary and the parent sole proprietorship, partnership, company, cooperative, corporation or other  
15 form of business entity at the time the loan is made is:

16           “(A) Fifty or fewer persons if the subsidiary is a retail or service business; and

17           “(B) Two hundred or fewer if the subsidiary is an industrial or manufacturing business.

18           “[(27) ‘Small scale local energy program loan’ means a loan for a small scale local energy project  
19 other than an energy efficiency and sustainable technology loan.]

20           “[(28)] (12) ‘Small scale local energy project’ means any of the following:

21           “(a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or  
22 indirectly uses or enables the use of, by the applicant or another person, renewable resources in-  
23 cluding, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to  
24 produce energy, including heat, electricity and substitute fuels, to meet a local community or re-  
25 gional energy need in this state.

26           “(b) A system, mechanism or series of mechanisms located primarily in Oregon or providing  
27 substantial benefits to Oregon that directly or indirectly conserves energy or enables the conserva-  
28 tion of energy by the applicant or another person, including energy used in transportation.

29           “(c) A recycling project.

30           “(d) An alternative fuel project.

31           “(e) An improvement that increases the production or efficiency, or extends the operating life,  
32 of a system, mechanism, series of mechanisms or project otherwise described in this subsection, in-  
33 cluding but not limited to restarting a dormant project.

34           “(f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility  
35 that directly or indirectly reduces the amount of energy needed for the construction and operation  
36 of the facility and that meets [*the sustainable building practices standard established by the State  
37 Department of Energy*] **any applicable sustainable building practices standards identified by the  
38 Oregon Business Development Department** by rule. For purposes of this paragraph, ‘system,  
39 mechanism or series of mechanisms’ includes related and integrated upgrades to attain compliance  
40 with standards set in the State of Oregon Structural Specialty Code and Fire and Life Safety Code,  
41 and seismic safety upgrades.

42           “(g) A project described in paragraphs (a) to (f) of this subsection, whether or not the existing  
43 project was originally financed under this chapter, together with any refinancing necessary to re-  
44 move prior liens or encumbrances against the existing project.

45           “(h) A project described in paragraphs (a) to (g) of this subsection that conserves energy or

1 produces energy by generation or by processing or collection of a renewable resource.

2 “[~~(29)~~] (13) ‘Small Scale Local Energy Project Administration and Bond Sinking Fund’ means the  
3 fund created under ORS 470.300.

4 “[~~(30)~~] (14) ‘Small Scale Local Energy Project Loan Fund’ means the loan fund created by Arti-  
5 cle XI-J of the Oregon Constitution and appropriated to the [State] department [of Energy] under  
6 ORS 470.130.

7 “[~~(31)~~] ‘Sustainable energy project manager’ means the organization responsible for promoting the  
8 energy efficiency and sustainable technology loan program or the clean energy deployment program and  
9 related incentives for energy efficiency and renewable energy at the neighborhood and community  
10 level.]

11 “[~~(32)~~] ‘Utility service territory’ means the allocated territory in which a utility subject to this  
12 chapter provides a utility service. For the purposes of this subsection, ‘allocated territory’ and ‘utility  
13 service’ have the meanings given those terms in ORS 758.400.]

14 “**SECTION 17.** ORS 470.060 is amended to read:

15 “470.060. (1) The following may file with the [State Department of Energy] **Oregon Business**  
16 **Development Department** an application to obtain moneys for a small scale local energy project  
17 as provided in this chapter:

18 “(a) An individual who is an Oregon resident;

19 “(b) An Oregon business;

20 “(c) A nonprofit or public cooperative;

21 “(d) A nonprofit corporation;

22 “(e) An eligible federal agency;

23 “(f) An eligible state agency;

24 “(g) A public corporation created by this state;

25 “(h) An intergovernmental entity created pursuant to an intergovernmental agreement under  
26 ORS 190.003 to 190.130;

27 “(i) A special district;

28 “(j) A local improvement district;

29 “(k) A public university listed in ORS 352.002; or

30 “(L) A municipal corporation.

31 “(2) Applications to obtain financing for a small scale local energy project shall be made in  
32 writing on a form prescribed by the [State] department [of Energy]. Applications submitted to the  
33 [State] department [of Energy] shall:

34 “(a) Describe the nature and purpose of the proposed small scale local energy project.

35 “(b) State whether any purposes other than energy production, but consistent with energy pro-  
36 duction, will be served by the proposed small scale local energy project, and the nature of the other  
37 purposes, if any.

38 “(c) Include an evaluation of the potential of the small scale local energy project to meet local  
39 community energy needs.

40 “(d) Include an evaluation of the potential environmental impacts of the small scale local energy  
41 project.

42 “(e) State whether any moneys other than those in the loan fund are proposed to be used for the  
43 development of the proposed small scale local energy project, and whether any other moneys are  
44 available or have been sought for the project.

45 “(f) Describe the source of moneys for repayment of the loan applied for.

1 “(3) [If the application is for a loan other than an energy efficiency and sustainable technology loan  
2 to an individual,] A fee of **\$500 or** one-tenth of one percent of the amount of the loan applied for  
3 [or] **up to a fee of \$2,500**, whichever is [less] **more**, shall be submitted with each application. In  
4 addition, the applicant may be required to pay for costs incurred in connection with the application  
5 that exceed the application fee and which the Director of the [State Department of Energy] **Oregon**  
6 **Business Development Department** determines are incurred solely in connection with processing  
7 the application. The applicant shall be advised of any additional costs the applicant must pay before  
8 the costs are incurred.

9 “**SECTION 18.** ORS 470.080 is amended to read:

10 “470.080. (1) [After consultation with the Small Scale Local Energy Project Advisory Committee,  
11 the Director of the State Department of Energy] **As informed by the study conducted under sec-**  
12 **tion 13 of this 2017 Act, the Director of the Oregon Business Development Department** shall  
13 establish by rule standards and criteria for small scale local energy projects to be funded under this  
14 chapter. [other than projects funded through energy efficiency and sustainable technology loans. The  
15 standards and criteria shall operate to encourage diversity in projects funded, give preference to the  
16 maximum extent practical to projects proposed by individuals and small businesses, ensure acceptability  
17 of environmental impacts and shall require consideration of the potential contribution of a project if  
18 developed at other suitable locations to meeting the energy needs of this state. The standards and cri-  
19 teria shall give the least preference to projects proposed by an eligible federal agency.] **Standards and**  
20 **criteria adopted by rule under this subsection must include, but need not be limited to:**

21 “(a) **Credit underwriting standards and criteria, including credit eligibility criteria for**  
22 **small scale local energy projects to be funded under this chapter; and**

23 “(b) **Energy and energy policy standards and criteria, including but not limited to stan-**  
24 **dards and criteria for ensuring that:**

25 “(A) **Small scale local energy projects funded under this chapter are consistent with the**  
26 **preservation and enhancement of environmental quality;**

27 “(B) **A dwelling constructed before January 1, 1979, that will be served by a proposed**  
28 **space heating project is weatherized according to the standards established under ORS**  
29 **469.155; and**

30 “(C) **Except for a proposed space heating project for a dwelling under subparagraph (B)**  
31 **of this paragraph, a loan under this chapter does not finance any project for which the**  
32 **projected economic value of the energy savings of the project during the first year of the**  
33 **project is implemented is equal to or greater than the cost of the project.**

34 “(2) **Except as provided in subsection (4)(b) of this section,** all applications submitted under  
35 ORS 470.060 [shall] **must** be reviewed by the [State Department of Energy] **Oregon Business De-**  
36 **velopment Department.** The department may request that the applicant submit additional infor-  
37 mation or revise the application. The department shall:

38 “(a) Determine whether the application meets the standards and criteria adopted under sub-  
39 section (1) of this section; and

40 “(b) **Based on the department’s determination under paragraph (a) of this subsection,**  
41 **develop a recommendation to the Oregon Infrastructure Finance Authority Board, or a**  
42 **designee of the board, on the [recommend] approval or denial of the loan application[, and if ap-**  
43 **proval is recommended in what amount the loan should be made].**

44 “(3) After concluding its review, [unless the application meets the criteria established by the com-  
45 mittee under subsection (4) of this section,] the department shall refer the application and its findings

1 and recommendation to the [committee] **board** for [its] review. The department shall notify the ap-  
2 plicant of the date, time and place of any oral presentation to the [committee] **board** on the appli-  
3 cation. [The committee shall review the application and the department's findings and recommendations  
4 and advise the director whether the proposed small scale local energy project meets the criteria estab-  
5 lished by the director under subsection (1) of this section, whether the project should be financed with  
6 moneys from the Small Scale Local Energy Project Loan Fund and in what amount the loan should  
7 be made if approved.]

8 “[(4) The committee may provide for direct referral of an application by the department to the di-  
9 rector if the application meets criteria established by the committee.]

10 “(4) **The department may:**

11 “(a) **In adopting energy and energy policy standards and criteria under subsection (1)(b)**  
12 **of this section, consult as necessary with state or federal agencies or nongovernmental en-**  
13 **tities that have appropriate energy or energy policy expertise.**

14 “(b) **Contract for the review of applications under this section to determine whether the**  
15 **applications meet the energy and energy policy standards and criteria adopted under sub-**  
16 **section (1)(b) of this section.**

17 “**SECTION 19.** ORS 470.090 is amended to read:

18 “470.090. (1) After consideration of the recommendation of the [*Small Scale Local Energy Project*  
19 *Advisory Committee or the State Department of Energy*] **Oregon Business Development Depart-**  
20 **ment** as provided by ORS 470.080, the [*Director of the State Department of Energy*] **Oregon**  
21 **Infrastructure Finance Authority Board, or a designee of the board,** may approve or reject the  
22 financing of a small scale local energy project described in an application filed as provided in ORS  
23 470.060, using moneys in the Small Scale Local Energy Project Loan Fund. Approval of a loan by  
24 the [*director*] **board** shall include a certification of the amount of the loan.

25 “(2) The [*director's*] **board's** approval of a loan for a small scale local energy project shall be  
26 based on a finding that:

27 “(a) The proposed small scale local energy project meets established standards and criteria un-  
28 der ORS 470.080;

29 “(b) [*The proposed project is consistent with the preservation and enhancement of environmental*  
30 *quality;*] **The proposed small scale local energy project is secured by good and sufficient**  
31 **collateral;**

32 “(c) The proposed **small scale local energy** project is feasible and a reasonable risk from  
33 practical and economic standpoints;

34 “(d) The plan for development of the **small scale local energy** project is satisfactory;

35 “(e) The applicant is qualified, creditworthy and responsible and is willing and able to enter into  
36 a contract with the Director **of the Oregon Business Development Department** for development  
37 and repayment as provided in ORS 470.150 [*or 470.645*];

38 “(f) There is a need for the proposed small scale local energy project and the applicant's finan-  
39 cial resources are adequate to provide the working capital to maintain the project after completion;

40 “(g) Moneys in the loan fund are or will be available for the development of the proposed small  
41 scale local energy project; **and**

42 “[*(h) A dwelling constructed before January 1, 1979, that will be served by a proposed space*  
43 *heating project is weatherized according to the standards established under ORS 469.155;*]

44 “[*(i) Except for a proposed space heating project for a dwelling under paragraph (h) of this sub-*  
45 *section, the loan does not finance any project for which the projected economic value of the energy*

1 *savings of the project during the first year the project is implemented is equal to or greater than the*  
2 *cost of the project; and]*

3 “[(j)] **(h)** The loan will not preclude individuals and small businesses from access to loan moneys.

4 “(3) The [director] **Oregon Business Development Department** shall notify the applicant [and  
5 *the presiding officer of the committee of the director’s]* **of the board’s** action and of the reasons for  
6 that action. The [director] **department** shall inform the applicant of the review procedure estab-  
7 lished in ORS 470.100.

8 “**SECTION 20.** ORS 470.100 is amended to read:

9 “470.100. (1) If the [Director of the State Department of Energy] **Oregon Infrastructure Finance**  
10 **Authority Board, or a designee of the board,** rejects a loan application or approves a loan  
11 amount different than that requested by the applicant, the applicant may request that the [Small  
12 *Scale Local Energy Project Advisory Committee review the director’s action]* **board review the**  
13 **action.**

14 “(2) [The committee may review the director’s action on its own motion or at the request of the  
15 applicant. A majority of the members of the committee may authorize the presiding officer of the com-  
16 mittee to appeal the director’s action to the Governor.] **At the request of the applicant, the board**  
17 **may review the request and any new documentation that the applicant may provide that may**  
18 **support reconsideration. If, upon further consideration, a majority of the board determines**  
19 **that further action is necessary, the board may amend the previous action, approve or reject**  
20 **the loan or approve the loan for a different amount than previously approved.**

21 “(3) An appeal of the [director’s] **board’s** action may be initiated by the [presiding officer of the  
22 committee] **applicant** no later than 45 days after the date the applicant receives notice of the  
23 [director’s] **board’s** action under ORS 470.090.

24 “(4) The decision of the [Governor] **board** is final. If the [Governor] **board** fails to act within 30  
25 days after receiving the appeal, the appeal shall be considered to be denied.

26 “(5) Notwithstanding ORS chapter 183, a decision of the [director or the Governor] **board** on an  
27 application for financing under ORS 470.090 or this section is not subject to judicial review.

28 “**SECTION 21.** ORS 470.110 is amended to read:

29 “470.110. The Director of the [State Department of Energy] **Oregon Business Development**  
30 **Department** may accept gifts of money or other property from any source, given for the purposes  
31 of ORS 470.050 to 470.120, 470.140 (1) and 470.150 to 470.210. Money so received shall be paid into  
32 the Small Scale Local Energy Project Loan Fund. Money or other property so received shall be used  
33 for the purposes for which received.

34 “**SECTION 22.** ORS 470.120 is amended to read:

35 “470.120. If the applicant receives from any source other than the Small Scale Local Energy  
36 Project Loan Fund[, *the Energy Project Supplemental Fund or the Energy Project Bond Loan Fund*]  
37 any moneys to assist in the development of the **small scale local energy** project, the amount of the  
38 loan to the applicant from the Small Scale Local Energy Project Loan Fund[, *Energy Project Sup-*  
39 *plemental Fund or Energy Project Bond Loan Fund*] shall be limited to that amount necessary for  
40 the development of those portions of the project not funded by other sources.

41 “**SECTION 23.** ORS 470.130 is amended to read:

42 “470.130. All moneys in the Small Scale Local Energy Project Loan Fund created by Article XI-J  
43 of the Oregon Constitution are appropriated continuously to the [State Department of Energy]  
44 **Oregon Business Development Department** and shall be used for the purposes authorized under  
45 this chapter.

1       “**SECTION 24.** ORS 470.135 is amended to read:

2       “470.135. The duties of the Director of the Oregon Department of Administrative Services to  
3 establish, maintain and keep accounts of, and make disbursements or transfers out of, the funds and  
4 accounts established or identified in the two bond indentures, as supplemented, dated June 1, 1981,  
5 and September 1, 1985, that relate to the Small Scale Local Energy Project Loan Program estab-  
6 lished by Article XI-J of the Oregon Constitution and this chapter are transferred to the [*State De-*  
7 *partment of Energy*] **Oregon Business Development Department**. Notwithstanding the transfer of  
8 these fiscal functions to the [*State Department of Energy*] **Oregon Business Development Depart-**  
9 **ment**, in accordance with ORS 291.015 (2), the [*State Department of Energy's*] **Oregon Business**  
10 **Development Department's** performance of these fiscal functions shall remain subject to the con-  
11 trol of the Oregon Department of Administrative Services.

12       “**SECTION 25.** ORS 470.140 is amended to read:

13       “470.140. (1) In accordance with the applicable provisions of ORS chapter 183, the Director of  
14 the [*State Department of Energy*] **Oregon Business Development Department** may adopt rules  
15 considered necessary to carry out the purposes of this chapter.

16       “(2) The director shall submit to the Legislative Assembly and the Governor a biennial report  
17 of the transactions of the Small Scale Local Energy Project Loan Fund and the Small Scale Local  
18 Energy Project Administration and Bond Sinking Fund in such detail as will accurately indicate the  
19 condition of the funds.

20       “**SECTION 26.** ORS 470.145 is amended to read:

21       “470.145. The [*State Department of Energy*] **Oregon Business Development Department** shall  
22 develop, implement and periodically update a marketing plan to inform potential applicants of the  
23 availability of small scale local energy project loans. The first priority of the marketing plan shall  
24 be to inform individuals and small businesses that small scale local energy project loans are avail-  
25 able.

26       “**SECTION 27.** ORS 470.150 is amended to read:

27       “470.150. Except as provided in ORS 470.155 and 470.170, if the [*Director of the State Department*  
28 *of Energy*] **Oregon Infrastructure Finance Authority Board** approves the financing of a small  
29 scale local energy project, the Director **of the Oregon Business Development Department**, on  
30 behalf of the state, and the applicant may enter into a loan contract, secured by a first lien or by  
31 other good and sufficient collateral in the manner provided in ORS 470.155 to 470.210. For purposes  
32 of this section, the interest of the [*State Department of Energy*] **Oregon Business Development**  
33 **Department** under a lease purchase contract entered into with an eligible federal or state agency  
34 or a municipal corporation may constitute good and sufficient collateral. The contract:

35       “(1) May provide that the [*director*] **board**, on behalf of the state, must approve the arrange-  
36 ments made by the applicant for the development, operation and maintenance of the small scale local  
37 energy project, using moneys in the Small Scale Local Energy Project Loan Fund for the project  
38 development.

39       “(2) Shall provide a plan for repayment by the applicant of moneys borrowed from the loan fund  
40 used for the development of the small scale local energy project and interest on those moneys used  
41 at a rate of interest the [*director*] **board** determines is necessary to provide adequate funds to re-  
42 cover the administrative expenses incurred in connection with the loan. The [*director*] **board** shall  
43 set the interest rate at an incremental rate above the interest rate on the underlying bonds in an  
44 amount sufficient to recover all program-related costs including, but not limited to, implementation,  
45 financing, administration, **losses** and promotional costs for the program. The incremental rate for



1 projects proposed by an eligible federal agency shall be greater than the incremental rate charged  
2 to any other governmental borrower. The repayment plan, among other matters:

3 “(a) Shall provide for commencement of repayment by the applicant of moneys used for project  
4 development and interest thereon not later than two years after the date of the loan contract or at  
5 any other time as the [director] **board** may provide. *[In addition to any other prepayment option*  
6 *provided in a borrower’s loan agreement, the department shall provide a borrower the opportunity to*  
7 *prepay the borrower’s loan, without any additional premium, by defeasing such loan to the call date*  
8 *of the bond or bonds funding the applicable loan, or any refunding bonds linked to the loan, but such*  
9 *defeasance shall occur only if the director finds that after the defeasance, the sinking fund will have*  
10 *sufficient funds to make payments required under ORS 470.300 (1).]*

11 “(b) May provide for reasonable extension of the time for making any repayment in emergency  
12 or hardship circumstances, if approved by the [director] **board**.

13 “(c) Shall provide for evidence of debt assurance of and security for repayment by the applicant  
14 considered necessary or proper by the [director] **board**.

15 “(d) Shall set forth the period of loan, which may not exceed the usable life of the completed  
16 project, or 30 years from the date of the loan contract, whichever is less.

17 “(e) [May] **Shall** set forth a procedure for formal declaration of default of payment by the di-  
18 rector, including formal notification of all relevant federal, state and local agencies; and further, a  
19 procedure for notification of all relevant federal, state and local agencies that declaration of default  
20 has been rescinded when appropriate.

21 “(f) **Shall require the loan to be paid in full in the event that:**

22 “(A) **The director makes a formal declaration of default of payment pursuant to para-**  
23 **graph (e) of this subsection; or**

24 “(B) **The small scale local energy project fails to meet the standards and criteria estab-**  
25 **lished under ORS 470.080.**

26 “(3) May include provisions satisfactory to the [director] **board** for field inspection, the  
27 [director] **board** to be the final judge of completion of the project.

28 “(4) May provide that the liability of the state under the contract is contingent upon the avail-  
29 ability of moneys in the loan fund for use in the planning and development of the project.

30 “(5) May include further provisions the director considers necessary to ensure expenditure of  
31 the funds for the purposes set forth in the approved application.

32 “(6) May provide that the director may institute an appropriate action or suit to prevent use  
33 of the project financed by the loan fund by any person who is delinquent in the repayment of any  
34 moneys due the sinking fund.

35 “[7] *If the project is being financed by an energy efficiency and sustainable technology loan or*  
36 *small scale local energy program loan, in addition to the requirements of subsections (1) to (6) of this*  
37 *section, shall include:]*

38 “[a] *For an energy efficiency and sustainable technology loan that relies on an on-bill financing*  
39 *system for the collection of a loan repayment charge, an agreement by the applicant to notify a person*  
40 *acquiring ownership of, or an interest in, the property from the applicant that the loan repayment*  
41 *charge will be transferred to the utility customer account of the person acquiring the ownership or in-*  
42 *terest unless the loan is discharged before or at the time the ownership or interest transfers;]*

43 “[b] *A plainly worded acknowledgment by the applicant that failure to make payments as required*  
44 *under the loan agreement may result in the foreclosure of a property lien or other debt collection*  
45 *actions;]*

1 “[(c) A waiver stating that the applicant waives any jurisdictional or other irregularities or defects  
2 in:]

3 “[(A) The energy efficiency and sustainable technology loan program;]

4 “[(B) A small scale local energy project;]

5 “[(C) The small scale local energy program loan provisions;]

6 “[(D) This chapter; or]

7 “[(E) Department rules that relate in any way to the loan repayment charge, real property lien  
8 provisions or any form or combination of loan security or to the requirement to satisfy the loan obli-  
9 gation;]

10 “[(d) If the applicant is not the owner of the property to be burdened by the loan repayment charge,  
11 fixture filing or real property lien, provision for participation by the property owner as a party to the  
12 contract or a notarized authorization by the owner for the fixture filing and lien; and]

13 “[(e) A description of any other conditions required by the department.]

14 “**SECTION 28.** ORS 470.160 is amended to read:

15 “470.160. If the [Director of the State Department of Energy] **Oregon Infrastructure Finance**  
16 **Authority Board** approves a loan for a small scale local energy project, the State Treasurer shall  
17 pay moneys for such project from the Small Scale Local Energy Project Loan Fund [or Energy  
18 Project Bond Loan Fund] in accordance with the terms of the loan contract, as prescribed by the  
19 [director] **board and the Director of the Oregon Business Development Department under ORS**  
20 **470.150.**

21 “**SECTION 29.** ORS 470.170 is amended to read:

22 “470.170. [(1)(a)] (1) [Except as otherwise provided in this subsection,] When a loan is made under  
23 this chapter to an applicant other than a municipal corporation, the loan shall be secured pursuant  
24 to a mortgage, trust deed, security agreement, pledge, assignment or similar instrument, by a secu-  
25 rity interest or lien on real or personal property in the full amount of the loan or as the [Director  
26 of the State Department of Energy] **Oregon Infrastructure Finance Authority Board** shall require  
27 for adequate security, including but not limited to long-term leasehold interests or equitable inter-  
28 ests in real property or personal property. In lieu of, or in addition to, any of the collateral other-  
29 wise described in this [paragraph] **subsection**, the applicant may secure the loan by providing credit  
30 enhancement, including but not limited to a letter of credit or payment bond, or a guaranty ac-  
31 ceptable to the [director] **board.**

32 “[b) To the extent consistent with any declaration, pledge or agreement for bonds issued under  
33 ORS 470.220 to 470.290, an energy efficiency and sustainable technology loan shall be secured as pro-  
34 vided in ORS 470.680 or 470.685.]

35 “(2) When a loan is made to a municipal corporation for the development of a small scale local  
36 energy project under this chapter, the loan shall be secured as the [director] **board** shall require for  
37 adequate security. The security may be in the form of a lien, mortgage, interest under a lease-  
38 purchase contract or other form of security acceptable to the [director] **board** and the municipal  
39 corporation.

40 “(3) When a loan made under this chapter is secured by a lien on the real property of the ap-  
41 plicant, the Director of the **Oregon Business Development Department** shall perfect the lien by  
42 recording as provided by law.

43 “(4) Upon payment of all amounts loaned to an applicant pursuant to this chapter, the director  
44 shall file a satisfaction or release notice that indicates repayment of the loan.

45 “(5) The director may cause to be instituted appropriate proceedings to foreclose liens for de-

1 linquent loan payments, and shall pay the proceeds of any such foreclosure, less the director's ex-  
2 penses incurred in foreclosing, into the Small Scale Local Energy Project Administration and Bond  
3 Sinking Fund if the loan was issued from the Small Scale Local Energy Project Loan Fund[ *or into*  
4 *the Energy Project Bond Loan Fund if the loan was from the Energy Project Bond Loan Fund*]. In a  
5 foreclosure proceeding the [director] **Oregon Business Development Department** may bid on  
6 property offered for sale in the proceedings and may acquire title to the property on behalf of the  
7 state.

8 “(6) The director may take any action, make any disbursement, hold any funds or institute any  
9 action or proceeding necessary to protect the state's interest.

10 “(7) The director may settle, compromise or release, for reasons other than uncollectibility as  
11 provided in ORS 293.240, all or part of any loan obligation so long as the director's action is con-  
12 sistent with the purposes of this chapter and does not impair the ability to pay the administrative  
13 expenses of the [State Department of Energy] **Oregon Business Development Department** or the  
14 obligations of any bonds then outstanding.

15 “**SECTION 30.** ORS 470.180 is amended to read:

16 “470.180. In addition to any other remedy available to the [State Department of Energy,] **Oregon**  
17 **Business Development Department**, if a municipal corporation entitled by law to share in the  
18 apportionment of any state revenues or funds defaults on any payments due to the State of Oregon  
19 under a loan contract entered into under ORS 470.150, the [State Department of Energy] **Oregon**  
20 **Business Development Department** may certify that fact to the Oregon Department of Adminis-  
21 trative Services and the Oregon Department of Administrative Services shall withhold payment of  
22 any revenues or funds in the State Treasury to which the municipal corporation is entitled, in an  
23 amount not to exceed the balance owing on the loan, until the [State Department of Energy] **Oregon**  
24 **Business Development Department** certifies that the default has been remedied.

25 “**SECTION 31.** ORS 470.190 is amended to read:

26 “470.190. If an applicant fails to comply with a contract entered into with the Director of the  
27 [State Department of Energy] **Oregon Business Development Department** for development and  
28 repayment as provided in ORS 470.150 [*or 470.645*], the director, in addition to remedies provided in  
29 ORS 470.170 and 470.180, may seek other appropriate legal remedies to secure the loan and may  
30 contract as provided in ORS 470.150 with any other person for continuance of development and for  
31 repayment of moneys from the Small Scale Local Energy Project Loan Fund [*or from the Energy*  
32 *Project Bond Loan Fund*] used therefor and interest thereon.

33 “**SECTION 32.** ORS 470.200 is amended to read:

34 “470.200. If any small scale local energy project is refinanced or an additional grant or loan  
35 intended to finance the project development is obtained from other sources after the execution of  
36 the loan from the state, all such funds shall be used to repay the state unless the [Director of the  
37 State Department of Energy] **Oregon Infrastructure Finance Authority Board** finds that repay-  
38 ment of the state from the additional grant or loan would be contrary to public interest.

39 “**SECTION 33.** ORS 470.210 is amended to read:

40 “470.210. (1) Notwithstanding any other provision of law, a municipal corporation may enter into  
41 a loan contract with the [State Department of Energy] **Oregon Business Development Department**  
42 to finance a small scale local energy project.

43 “(2) In order to finance a small scale local energy project, the Director of the [State Department  
44 of Energy,] **Oregon Business Development Department**, on behalf of the state and in lieu of en-  
45 tering into a loan contract under subsection (1) of this section, may purchase or otherwise acquire

1 a municipal corporation's general obligations or revenue obligations, including but not limited to  
2 bonds, notes, certificates of participation, warrants or lease purchase agreements.

3 "**SECTION 34.** ORS 470.230 is amended to read:

4 "470.230. Except as provided in ORS 470.270, all moneys obtained from the sale of general obli-  
5 gation bonds under ORS 470.220 to 470.290 and Article XI-J of the Oregon Constitution shall be  
6 credited by the State Treasurer to the Small Scale Local Energy Project Loan Fund. Those moneys  
7 shall be used only for the purposes stated in Article XI-J of the Oregon Constitution, including  
8 payment of the costs of issuing the bonds and of obtaining credit enhancement for the bonds, and  
9 making payments of interest on bonds issued pursuant to the provisions of ORS 470.220 to 470.290  
10 if there are insufficient funds in the Small Scale Local Energy Project Administration and Bond  
11 Sinking Fund to make the payments referred to in ORS 470.300 (1). Moneys loaned to municipal  
12 corporations but withheld by the [*State Department of Energy*] **Oregon Business Development**  
13 **Department** for security or to pay for future project costs may remain in the loan fund. Pending  
14 the use of the moneys in the loan fund for the proper purposes, the moneys may be invested in the  
15 manner provided by law.

16 "**SECTION 35.** ORS 470.270 is amended to read:

17 "470.270. (1) After consultation with the State Treasurer, the Director of the [*State Department*  
18 *of Energy*] **Oregon Business Development Department** may issue general obligation refunding  
19 bonds for the purpose of refunding outstanding bonds issued under ORS 470.220 to 470.290 and Ar-  
20 ticle XI-J of the Oregon Constitution. The refunding bonds may be sold in the same manner as other  
21 bonds are sold under ORS 470.220 to 470.290. All moneys obtained from the sale of refunding bonds  
22 shall be credited by the State Treasurer to the Small Scale Local Energy Project Administration and  
23 Bond Sinking Fund. The refunding bonds may be issued to refund bonds previously issued for re-  
24 funding purposes. Pending the use of moneys obtained from the sale of refunding bonds for proper  
25 purposes, such moneys may be invested in the manner provided by law.

26 "(2) Notwithstanding any provision of ORS 470.150, if the [*State Department of Energy*] **Oregon**  
27 **Business Development Department** issues taxable refunding bonds at a lower interest rate to re-  
28 fund outstanding general obligation bonds, and is unable to allow loan recipients to receive a por-  
29 tion of the interest savings, the director shall allow the loan recipient to prepay the outstanding  
30 loan balance upon the request of the recipient. The director shall respond to such a request within  
31 30 days after receiving the request by specifying the outstanding principal balance after applying  
32 reserves held by the state for the borrower and the prepayment premium as listed in the bond doc-  
33 ument, loan document or bond purchase agreement.

34 "(3) The department shall pursue opportunities for refunding bonds to reduce interest sums  
35 payable by the department. When the department refunds a bond with tax-exempt bonds, the de-  
36 partment shall share, on an equitable basis, the savings from any refunding with the borrowers  
37 whose loans were made with the proceeds of the refunded bonds in an amount consistent with a  
38 finding by the director that the sinking fund has, and will continue to have, sufficient funds to make  
39 payments required under ORS 470.300 (1). The department may not refund tax-exempt bonds with  
40 taxable bonds, unless the department is able to share the savings associated with such a refunding  
41 with the borrowers whose loans are linked to such bonds. At least 120 days before the date on which  
42 the department intends to issue refunding bonds, the director shall notify each borrower whose loan  
43 was made from the proceeds of the bonds being refunded and shall offer the borrower the opportu-  
44 nity to prepay the borrower's loan. A borrower shall respond within 60 days of the date of the notice  
45 described in this subsection if the borrower intends to prepay the borrower's loan.

1       “**SECTION 36.** ORS 470.300 is amended to read:

2       “470.300. (1) There hereby is created the Small Scale Local Energy Project Administration and  
3 Bond Sinking Fund, separate and distinct from the General Fund, to provide for payment of:

4       “(a) Administrative expenses of the [*State Department of Energy and the Director of the State*  
5 *Department of Energy*] **Oregon Business Development Department and the Director of the**  
6 **Oregon Business Development Department** in processing applications, investigating potential  
7 small scale local energy projects and proposed loans and servicing and collecting outstanding loans  
8 made from the Small Scale Local Energy Project Loan Fund, if the expense is not paid directly by  
9 the applicant.

10       “(b) Administrative expenses of the State Treasurer in carrying out the duties, functions and  
11 powers imposed upon the State Treasurer by this chapter.

12       “(c) Principal, interest and redemption premium, if any, of all bonds issued pursuant to the  
13 provisions of ORS 470.220 to 470.290 and Article XI-J of the Oregon Constitution.

14       “(d) Net investment earnings on any funds loaned to municipal corporations but withheld as  
15 provided in ORS 470.230.

16       “(e) Costs of issuing the bonds and of obtaining credit enhancement for the bonds.

17       “(2) The fund created by subsection (1) of this section shall consist of:

18       “(a) Application fees required by ORS 470.060, unless the department requires the applicant to  
19 pay the fee directly for a cost incurred in connection with the application.

20       “(b) Repayment of moneys loaned to applicants from the Small Scale Local Energy Project Loan  
21 Fund, including interest on such moneys.

22       “(c) Such moneys as may be appropriated to the fund by the Legislative Assembly.

23       “(d) Moneys obtained from the sale of refunding bonds under ORS 470.220 to 470.290 and any  
24 accrued interest on such bonds.

25       “(e) Moneys received from ad valorem taxes levied pursuant to Article XI-J of the Oregon  
26 Constitution, and all moneys that the Legislative Assembly may provide in lieu of such taxes.

27       “(f) Interest earned on cash balances invested by the State Treasurer.

28       “(g) Moneys transferred from the loan fund.

29       “(h) Gifts, grants, donations or other moneys for promoting small scale local energy [*program*  
30 *loan purposes and goals.*] **projects.**

31       “(3) The director, with the approval of the State Treasurer, may transfer moneys from the  
32 sinking fund to the loan fund if:

33       “(a) A cash flow projection shows that, for the term of the bonds outstanding at the time the  
34 director transfers the moneys, remaining moneys in the sinking fund, together with expected loan  
35 contract payments and fund earnings, will improve the financial basis of the program and will con-  
36 tinue to be adequate to pay bond principal, interest, redemption premiums, if any, and administration  
37 costs; and

38       “(b) The transfer will not create the need for issuance of any bonds.

39       “(4) The director, with the approval of the State Treasurer, may establish separate and distinct  
40 accounts within the sinking fund to accomplish the purpose of this section.

41       “**SECTION 37.** ORS 470.310 is amended to read:

42       “470.310. (1) If there are insufficient funds in the Small Scale Local Energy Project Adminis-  
43 tration and Bond Sinking Fund to make the payments referred to in ORS 470.300 (1), the Director  
44 of the [*State Department of Energy*] **Oregon Business Development Department** may request the  
45 funds necessary for such payments from the Legislative Assembly or the Emergency Board.

1 “(2) When the director determines that moneys in sufficient amount are available in the sinking  
2 fund, the State Treasurer shall reimburse the General Fund without interest, in an amount equal to  
3 the amount allocated by the Legislative Assembly or the Emergency Board pursuant to subsection  
4 (1) of this section. The moneys used to reimburse the General Fund under this subsection shall not  
5 be considered a budget item on which a limitation is otherwise fixed by law, but shall be in addition  
6 to any specific appropriations or amounts authorized to be expended from continually appropriated  
7 moneys.

8 “**SECTION 38.** ORS 470.810 is amended to read:

9 “470.810. (1) The State Department of Energy shall establish the clean energy deployment pro-  
10 gram to provide grants and loans to support energy efficiency or clean energy projects in this state.  
11 The department shall establish criteria for qualifications of the projects by rule.

12 “(2)(a) The department may use funds from [*the Jobs, Energy and Schools Fund and*] the Clean  
13 Energy Deployment Fund to provide loans and grants to school districts that have projects to  
14 weatherize, upgrade and retrofit kindergarten through grade 12 public schools in this state, in order  
15 to improve energy efficiency.

16 “(b) A school district that finances a project through the clean energy deployment program may  
17 not self-perform work constituting more than five percent of the total cost of the project being fi-  
18 nanced.

19 “(c) All school projects financed pursuant to paragraph (a) of this subsection through the clean  
20 energy deployment program are deemed to be public works projects and are subject to the prevailing  
21 wage requirements of ORS 279C.800 to 279C.870.

22 “(3) The department may contract for the implementation of the clean energy deployment pro-  
23 gram [*in all or parts of this state with a sustainable energy project manager as defined in ORS*  
24 *470.050*].

25 “**SECTION 39.** ORS 470.815 is amended to read:

26 “470.815. (1) School districts that participate in the clean energy deployment program estab-  
27 lished in ORS 470.810 may finance projects to:

28 “(a) Weatherize, upgrade and retrofit kindergarten through grade 12 public schools;

29 “(b) Retrofit school bus fleets to operate on compressed natural gas or other alternative fuels  
30 such as propane or to operate with high-efficiency types of engines such as hybrid electric engines;  
31 or

32 “(c) Replace school bus fleets with school buses that operate on compressed natural gas or other  
33 alternative fuels such as propane or that operate with high-efficiency types of engines such as hybrid  
34 electric engines.

35 “(2) The projects described in subsection (1) of this section shall be designed to improve energy  
36 efficiency, decrease fuel costs, increase use of alternative fuels and decrease emissions of air con-  
37 taminants.

38 “(3) School districts may finance the projects described in subsection (1) of this section by:

39 “(a) Paying directly for the projects;

40 “(b) Receiving lower interest loans from the Clean Energy Deployment Fund or the Small Scale  
41 Local Energy Project Loan Fund, supported by:

42 “[*(A) Grant moneys from the Jobs, Energy and Schools Fund;*]

43 “[*(B)*] (A) Public purpose charges directed to a school district in areas served by investor-owned  
44 utilities under ORS 757.612;

45 “[*(C)*] (B) Qualified Energy Conservation Bonds issued under the Energy Improvement and Ex-

1 tension Act of 2008 or other federal loan programs; or

2 “[(D)] (C) Revenues generated by the savings in energy costs resulting from the energy effi-  
3 ciency improvements;

4 “(c) Issuing general obligation bonds, subject to the bond election requirements under ORS  
5 328.210; or

6 “(d) Using any other source of moneys.

7 “**SECTION 40.** ORS 223.680 is amended to read:

8 “223.680. (1) As used in this section:

9 “(a) ‘Energy improvements’ means energy efficiency and renewable energy improvements to  
10 qualifying real property authorized by:

11 “(A) A local government implementing a program established under this section; or

12 “(B) The [*State Department of Energy*] **Oregon Infrastructure Finance Authority Board** for  
13 a loan issued under subsection (10) of this section to a local government that establishes a program  
14 in cooperation with a local government described in subparagraph (A) of this paragraph.

15 “(b) ‘Local government’ means cities and counties.

16 “(c) ‘Qualifying real property’ means multifamily residential dwellings or commercial or indus-  
17 trial buildings that the local government has determined can be benefited by energy improvements.

18 “(2)(a) Subject to subsection (3) of this section, a local government may establish a program to  
19 assist owners of record of qualifying real property in financing cost-effective energy improvements  
20 to the qualifying real property.

21 “(b) A program established pursuant to this subsection may provide for the local government to:

22 “(A) Make loans to owners financed with the net proceeds and interest earnings of revenue  
23 bonds authorized by subsection (9) of this section;

24 “(B) Facilitate private financing by the owners; or

25 “(C) Make loans under subparagraph (A) of this paragraph and facilitate private financing under  
26 subparagraph (B) of this paragraph.

27 “(3) Before establishing a program under this section, the local government shall provide notice  
28 to utilities that distribute electric energy or natural gas within the areas in which the local gov-  
29 ernment will operate the program.

30 “(4) A local government that establishes a program under this section may:

31 “(a) Require performance of an energy audit on the qualifying real property before the local  
32 government approves a loan for energy improvements to the property;

33 “(b) Impose requirements intended to ensure that the costs of the improvements financed under  
34 this section do not exceed the cumulative energy cost savings of the improvements over the useful  
35 life of the improvements; and

36 “(c) Impose requirements and conditions on loans or financing agreements that are designed to  
37 ensure timely repayment.

38 “(5)(a) If the owner of record of qualifying real property requests financing pursuant to a pro-  
39 gram established under this section, subject to subsection (6) of this section, the local government  
40 implementing the program may:

41 “(A) Enter into a loan agreement with the owner, and any other person benefited by the loan;  
42 or

43 “(B) Facilitate a financing agreement for the owner, and any other person benefited by the fi-  
44 nancing.

45 “(b) A loan agreement or financing agreement entered into pursuant to paragraph (a) of this

1 subsection must be in a principal amount sufficient to pay:

2 “(A) The costs of energy improvements the local government determines will benefit the quali-

3 fying real property and the borrowers;

4 “(B) The costs of the energy audit; and

5 “(C) The costs and reserves of the program.

6 “(c) A local government acting pursuant to paragraph (a) of this subsection may:

7 “(A) If the local government makes a loan, charge the borrower an interest rate on the principal

8 amount that is sufficient to pay the financing costs of the loan program, including loan delinquen-

9 cies; and

10 “(B) Charge periodic fees to pay for program costs.

11 “(6) A local government may not enter into a loan agreement, or facilitate a financing agree-

12 ment, under subsection (5) of this section unless the owner has:

13 “(a) Provided written notice to all mortgagees of the qualifying real property that the owner

14 intends to enter into a loan agreement or financing agreement under this section; and

15 “(b) Received written consent from the mortgagees stating that the loan agreement or financing

16 agreement entered into under this section does not constitute an event of default or give rise to any

17 remedies under the terms of the mortgage loan agreements.

18 “(7) The local government implementing a program established under this section may:

19 “(a) Secure a loan or financing with a lien on the benefited qualifying real property in the

20 manner and with the same priority as a lien for assessments for local improvements authorized by

21 ORS 223.393.

22 “(b) Assess the benefited qualifying real property for the amounts due under a loan agreement

23 or financing agreement.

24 “(c) Enforce a lien and collect an assessment authorized by this section as provided in ORS

25 223.505 to 223.650.

26 “(d) Secure a loan or financing in any other manner that the local government determines is

27 reasonable.

28 “(8)(a) In lieu of enforcing liens and collecting assessments as provided in subsection (7) of this

29 section, a local government may certify the assessment, in the manner provided in ORS 310.060, to

30 the county assessor of each county in which benefited qualifying real property is located.

31 “(b) If the assessments are certified as provided in this subsection, the county assessor shall:

32 “(A) Enter the assessment upon the county assessment roll against the property described in the

33 certificate, in the manner that other local government assessments are entered;

34 “(B) Collect, account for and enforce the assessments in the manner that local government taxes

35 are collected, accounted for and enforced; and

36 “(C) Transfer, as provided by law, the assessments collected to the local government that im-

37 posed the assessment.

38 “(9) A local government may issue revenue bonds pursuant to ORS 287A.150 to finance the costs

39 of a program established under this section, including the costs of making loans for energy im-

40 provements.

41 “(10) The [*State Department of Energy*] **Oregon Business Development Department** may lend

42 money under the provisions of ORS 470.060 to 470.080 and 470.090 to a local government that es-

43 tablishes a program under this section in cooperation with a local government implementing a pro-

44 gram under this section.

45 “**SECTION 41.** ORS 291.445 is amended to read:



1 “291.445. (1) Before July 1 of each fiscal year, the Oregon Department of Administrative Ser-  
2 vices shall request from the appropriate state agency a certificate as prescribed in this section. The  
3 request shall be made by letter to the agency.

4 “(2) Each state agency authorized to issue general obligation bonds that are ordinarily to be  
5 repaid from other than General Fund appropriations shall, on or before August 15 of each fiscal  
6 year:

7 “(a) Certify to the Director of the Oregon Department of Administrative Services that the  
8 amounts available or that will become available during the current year to the bond program debt  
9 service fund to pay bond principal and interest that has accrued or will accrue during the current  
10 year are sufficient and will be sufficient to pay bond program principal and interest scheduled for  
11 payment during the current year; or

12 “(b) Certify to the Director of the Oregon Department of Administrative Services that the  
13 amounts available or that will become available during the current year to the bond program debt  
14 service fund will not be sufficient to pay bond program principal and interest scheduled for payment  
15 during the current year. A certificate issued under this paragraph shall specify the amount of the  
16 anticipated current year deficit. The Director of the Oregon Department of Administrative Services  
17 shall review and confirm the correctness of each certification made under this paragraph.

18 “(3) On or before August 15 of each fiscal year, the administrative division of the Oregon De-  
19 partment of Administrative Services that has primary responsibility for accounting for each general  
20 obligation bond program in which the bond principal and interest is ordinarily to be repaid from  
21 General Fund appropriations shall:

22 “(a) Certify to the Director of the Oregon Department of Administrative Services that the  
23 amounts available or that will become available during the current year from General Fund appro-  
24 priations to defray program bond principal and interest that has accrued or will accrue during the  
25 current year are sufficient and will be sufficient to pay program bond principal and interest sched-  
26 uled for payment during the current year; or

27 “(b) Certify to the Director of the Oregon Department of Administrative Services that the  
28 amounts available or that will become available during the current year from General Fund appro-  
29 priations will not be sufficient to pay program bond principal and interest scheduled for payment  
30 during the current year. A certificate issued under this paragraph shall specify the amount of the  
31 anticipated current year deficit.

32 “(4)(a) If a deficit in funds available to pay principal and interest in any general obligation bond  
33 program is certified and confirmed under subsection (2) or certified under subsection (3) of this  
34 section, the amount of the deficit, together with any deficit that is certified for any other general  
35 obligation bond program shall upon certification constitute a state tax levy on property that shall  
36 be apportioned among and charged to the several counties in that proportion which the total as-  
37 sessed value of all the taxable property in each county bears to the total assessed value of all the  
38 taxable property of the state as equalized.

39 “(b) If any agency fails to make the certification under subsection (2) or (3) of this section with  
40 respect to any general obligation bond fund program, the Oregon Department of Administrative  
41 Services shall determine the amount of revenue and other funds that are available and the amount  
42 of taxes, if any, that should be levied in addition to the revenues and funds, to pay bond principal  
43 and interest under the program for the fiscal year in question. The additional amount so determined  
44 shall thereupon constitute a state tax levy on property that shall be apportioned, certified, collected  
45 and distributed as if determined and certified as a deficit by the agency. The Oregon Department

1 of Administrative Services shall charge the agency for cost recovery for time spent on that agency's  
2 behalf.

3 “(5) Immediately after the department has determined the amount of a state tax levy on property  
4 in accordance with subsection (4) of this section, a certificate of levy, signed by the director of the  
5 department, shall be filed in the office of the department. If no state levy is required for the fiscal  
6 or tax year, a certificate so stating and signed by the director shall be filed in the office of the de-  
7 partment.

8 “(6) If, for any reason, after the close of any regular session of the Legislative Assembly, it be-  
9 comes necessary to reduce General Fund appropriations, General Fund appropriations for a debt  
10 service fund of a general obligation bond program described under subsection (3) of this section may  
11 not be reduced.

12 “(7) For purposes of this section:

13 “(a) State agencies that are authorized to issue general obligation bonds ordinarily to be repaid  
14 from other than General Fund appropriations include but are not limited to:

15 “(A) The Director of Veterans’ Affairs, as authorized by Article XI-A of the Oregon Constitution  
16 and ORS chapter 407 (veterans loans).

17 “(B) The Higher Education Coordinating Commission, for bonds authorized by Article XI-F(1)  
18 of the Oregon Constitution and ORS 286A.833 (higher education building projects).

19 “(C) The Department of Environmental Quality, as authorized by Article XI-H of the Oregon  
20 Constitution and ORS 468.195 to 468.260 (pollution control).

21 “(D) The Water Resources Commission and the Water Resources Director, as authorized by  
22 Article XI-I(1) of the Oregon Constitution and ORS 541.700 to 541.855 (water development).

23 “(E) The Housing and Community Services Department, as authorized by Article XI-I(2) of the  
24 Oregon Constitution and ORS 456.515 to 456.725 and 458.505 to 458.515 (housing).

25 “(F) The Director of the [*State Department of Energy*,] **Oregon Business Development De-**  
26 **partment** as authorized by Article XI-J of the Oregon Constitution and ORS 470.220 to 470.290  
27 (small scale energy projects).

28 “(G) Other agencies as required by the Oregon Department of Administrative Services by rule  
29 adopted using the criterion of this subsection.

30 “(b) Each agency authorized to issue general obligation bonds that are ordinarily to be repaid  
31 from other than General Fund appropriations shall determine the amount of revenues or other funds  
32 that are available and the amount of taxes, if any, that should be levied for the ensuing year in the  
33 manner required under rules adopted by the Oregon Department of Administrative Services and  
34 make the certification required under subsection (2) of this section.

35 “(8)(a) State agencies that are authorized to issue general obligation bonds that are ordinarily  
36 to be repaid from General Fund appropriations include but are not limited to:

37 “(A) The State Board of Forestry and the State Forester, as authorized by Article XI-E of the  
38 Oregon Constitution and ORS 530.210 to 530.280 (state reforestation).

39 “(B) The Higher Education Coordinating Commission, for bonds authorized by Article XI-G of  
40 the Oregon Constitution and ORS 286A.848 (higher education and community colleges).

41 “(C) Other agencies as required by the Oregon Department of Administrative Services by rule  
42 adopted using the criterion of this subsection.

43 “(b) Each agency authorized to issue general obligation bonds ordinarily to be repaid from  
44 General Fund appropriations shall furnish any data required by the Oregon Department of Admin-  
45 istrative Services to determine the amount of revenues or other funds that are available and the

1 amount of taxes, if any, that should be levied for the ensuing year and the administrative division  
2 of the Oregon Department of Administrative Services that has primary responsibility for accounting  
3 shall make the determination for purposes of the making of the certification required under sub-  
4 section (3) of this section.

5 “**SECTION 42.** ORS 757.247 is amended to read:

6 “757.247. (1) The Public Utility Commission may authorize a public utility, upon application of  
7 the utility, to file and place into effect a tariff schedule establishing rates or charges for the cost  
8 of energy resource measures provided to an individual property owner or customer pursuant to an  
9 agreement entered into between the individual property owner or customer and the public utility.  
10 Energy resource measures provided under this section may include:

11 “(a) The installation of renewable energy generation facilities on the property of property own-  
12 ers or the premises of customers;

13 “(b) The implementation of energy conservation measures, including measures that are not  
14 cost-effective;

15 “(c) The installation of equipment or devices or the implementation of measures that enable  
16 demand reduction, peak load reduction, improved integration of renewable energy generation or  
17 more effective utilization of energy resources;

18 “(d) Loans for the purposes described in paragraphs (a) to (c) of this subsection; and

19 “(e) Direct payments to third parties for the purposes described in paragraphs (a) to (c) of this  
20 subsection.

21 “(2) Subject to the agreement entered into between the individual property owner or customer  
22 and the public utility, a tariff schedule placed into effect under this section may include provisions  
23 for:

24 “(a) The payment of the rates or charges over a period of time;

25 “(b) Except as provided in subsection (5) of this section, a reasonable rate of return on any in-  
26 vestment made by the public utility;

27 “(c) The application of any payment obligation to successive owners of the property to which  
28 the energy resource measure is attached or to successive customers located at the premises to  
29 which the energy resource measure is attached; and

30 “(d) The application of the payment obligation to the current property owner or customer alone,  
31 secured by methods agreed to by the property owner or customer and the public utility.

32 “(3) Application of a tariff schedule under this section is subject to approval by the commission.

33 “(4) If a payment obligation applies to successive property owners or customers as described in  
34 subsection (2)(c) of this section, a public utility shall record a notice of the payment obligation in  
35 the records maintained by the county clerk under ORS 205.130. The commission may prescribe by  
36 rule other methods by which the public utility shall notify property owners or customers of such  
37 payment obligations.

38 “(5) A public utility may use moneys obtained through a rate established under ORS 757.603  
39 (2)(a) to provide a renewable energy generation facility to a property owner or customer under this  
40 section. A public utility may not charge interest to a property owner or customer for a renewable  
41 energy generation facility acquired with moneys obtained through a rate established under ORS  
42 757.603 (2)(a).

43 “[6] *Agreements entered into and tariff schedules placed into effect under this section are not*  
44 *subject to ORS 470.500 to 470.710, 757.612 or 757.689.*]

1   **“TRANSFER OF MONEYS AND APPROPRIATIONS**

2  
3           **“SECTION 43. (1) The following funds are abolished on the operative date specified in**  
4 **section 46 of this 2017 Act:**

- 5           **“(a) The Energy Project Supplemental Fund;**  
6           **“(b) The Energy Revenue Bond Repayment Fund;**  
7           **“(c) The Energy Project Bond Loan Fund;**  
8           **“(d) The Alternative Fuel Vehicle Revolving Fund; and**  
9           **“(e) The Jobs, Energy and Schools Fund.**

10          **“(2) Any moneys remaining in the funds specified in subsection (1)(a) to (d) of this section**  
11 **on the operative date specified in section 46 of this 2017 Act that are unexpended, unobligated**  
12 **and not subject to any conditions shall be transferred to the Small Scale Local Energy**  
13 **Project Administration and Bond Sinking Fund established under ORS 470.300.**

14          **“(3) Any moneys remaining in the fund specified in subsection (1)(e) of this section on**  
15 **the operative date specified in section 46 of this 2017 Act that are unexpended, unobligated**  
16 **and not subject to any conditions shall be transferred to the Clean Energy Deployment Fund**  
17 **established under ORS 470.800.**

18          **“SECTION 44. There is appropriated to the Oregon Business Development Department,**  
19 **for the biennium beginning July 1, 2017, out of the General Fund, the amount of \$3,000,000**  
20 **for the purpose of carrying out the provisions of sections 5 to 15 of this 2017 Act and the**  
21 **amendments to statutes by sections 16 to 42 of this 2017 Act.**

22  
23   **“REPEALS**

24  
25          **“SECTION 45. ORS 469.960, 469.961, 469.962, 469.963, 469.964, 469.965, 469.966, 470.070,**  
26 **470.500, 470.505, 470.510, 470.515, 470.520, 470.525, 470.530, 470.535, 470.540, 470.545, 470.550,**  
27 **470.555, 470.560, 470.565, 470.570, 470.575, 470.580, 470.585, 470.590, 470.595, 470.600, 470.605,**  
28 **470.610, 470.615, 470.620, 470.630, 470.635, 470.640, 470.645, 470.650, 470.655, 470.660, 470.665,**  
29 **470.670, 470.675, 470.680, 470.685, 470.690, 470.695, 470.700, 470.710, 470.715, 470.720, 701.108 and**  
30 **701.119 are repealed.**

31  
32   **“OPERATIVE DATE**

33  
34          **“SECTION 46. (1) Sections 2, 5 to 15, 43 and 44 of this 2017 Act, the amendments to**  
35 **statutes by sections 1 and 16 to 42 of this 2017 Act and the repeal of statutes by section 45**  
36 **of this 2017 Act become operative on January 1, 2018.**

37          **“(2) The Oregon Business Development Department and the State Department of Energy**  
38 **may take any action before the operative date specified in subsection (1) of this section that**  
39 **is necessary to enable the Oregon Business Development Department and the State Depart-**  
40 **ment of Energy to exercise, on and after the operative date specified in subsection (1) of this**  
41 **section, all the duties, functions and powers conferred on the Oregon Business Development**  
42 **Department and the State Department of Energy by sections 2, 5 to 15, 43 and 44 of this 2017**  
43 **Act, the amendments to statutes by sections 1 and 16 to 42 of this 2017 Act and the repeal**  
44 **of statutes by section 45 of this 2017 Act.**

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**“UNIT CAPTIONS**

**“SECTION 47. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.**

**“EFFECTIVE DATE**

**“SECTION 48. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.”.**

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