

Requested by HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT

**PROPOSED AMENDMENTS TO
HOUSE BILL 2756**

- 1 On page 1 of the printed bill, line 3, delete “470.070,”.
2 In line 5, after “ORS” insert “470.070,”.
3 Delete lines 12 through 25 and delete pages 2 through 23 and insert:

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

7
8 **“SECTION 1. The duties, functions and powers of the State De-**
9 **partment of Energy related to the issuance of loans for small scale**
10 **local energy projects under ORS chapter 470 are imposed upon, trans-**
11 **ferred to and vested in the Oregon Business Development Department.**

12
13 **“RECORDS, PROPERTY, POSITIONS**

14
15 **“SECTION 2. (1) The Director of the State Department of Energy**
16 **shall:**

17 **“(a) Deliver to the Oregon Business Development Department all**
18 **records and property within the jurisdiction of the director that relate**
19 **to the duties, functions and powers transferred by section 1 of this 2017**
20 **Act; and**

21 **“(b) Transfer to the Oregon Business Development Department re-**

1 sponibility for those positions dedicated primarily to the exercise of
2 the duties, functions and powers transferred by section 1 of this 2017
3 Act.

4 “(2) The Director of the Oregon Business Development Department
5 shall take possession of the records and property and shall take re-
6 sponsibility for the positions dedicated to the exercise of the duties,
7 functions and powers transferred by section 1 of this 2017 Act.

8 “(3) The Governor shall resolve any dispute between the State De-
9 partment of Energy and the Oregon Business Development Depart-
10 ment relating to transfers of records, property and positions under this
11 section, and the Governor’s decision is final.

12
13 **“UNEXPENDED REVENUES**

14
15 **“SECTION 3. (1) The unexpended balances of amounts authorized**
16 **to be expended by the State Department of Energy for the biennium**
17 **beginning July 1, 2017, from revenues dedicated, continuously appro-**
18 **riated, appropriated or otherwise made available for the purpose of**
19 **administering and enforcing the duties, functions and powers trans-**
20 **ferred by section 1 of this 2017 Act are transferred to and are available**
21 **for expenditure by the Oregon Business Development Department for**
22 **the biennium beginning July 1, 2017, for the purpose of administering**
23 **and enforcing the duties, functions and powers transferred by section**
24 **1 of this 2017 Act.**

25 “(2) The expenditure classifications, if any, established by Acts au-
26 thorizing or limiting expenditures by the State Department of Energy
27 remain applicable to expenditures by the Oregon Business Develop-
28 ment Department under this section.

29
30 **“ACTION, PROCEEDING, PROSECUTION**

1 **“SECTION 4. The transfer of duties, functions and powers to the**
2 **Oregon Business Development Department by section 1 of this 2017**
3 **Act does not affect any action, proceeding or prosecution involving or**
4 **with respect to the duties, functions and powers begun before and**
5 **pending at the time of the transfer, except that the Oregon Business**
6 **Development Department is substituted for the State Department of**
7 **Energy in the action, proceeding or prosecution.**

8
9 **“LIABILITY, DUTY, OBLIGATION**

10
11 **“SECTION 5. (1) Nothing in sections 1 to 7 of this 2017 Act or in the**
12 **amendments to statutes by sections 12 to 35 of this 2017 Act relieves**
13 **a person of a liability, duty or obligation accruing under or with re-**
14 **spect to the duties, functions and powers transferred by section 1 of**
15 **this 2017 Act. The Oregon Business Development Department may**
16 **undertake the collection or enforcement of any such liability, duty or**
17 **obligation.**

18 **“(2) The rights and obligations of the State Department of Energy**
19 **legally incurred under contracts, leases and business transactions ex-**
20 **ecuted, entered into or begun before the operative date of section 1**
21 **of this 2017 Act accruing under or with respect to the duties, functions**
22 **and powers transferred by section 1 of this 2017 Act are transferred to**
23 **the Oregon Business Development Department. For the purpose of**
24 **succession to these rights and obligations, the Oregon Business De-**
25 **velopment Department is a continuation of the State Department of**
26 **Energy and not a new authority.**

27
28 **“RULES**

29
30 **“SECTION 6. Notwithstanding the transfer of duties, functions and**

1 powers by section 1 of this 2017 Act, the rules of the State Department
2 of Energy with respect to such duties, functions or powers that are in
3 effect on the operative date of section 1 of this 2017 Act continue in
4 effect until superseded or repealed by rules of the Oregon Business
5 Development Department. References in the rules of the State De-
6 partment of Energy to the State Department of Energy or an officer
7 or employee of the State Department of Energy are considered to be
8 references to the Oregon Business Development Department or an of-
9 ficer or employee of the Oregon Business Development Department.

10 **“SECTION 7.** Whenever, in any uncodified law or resolution of the
11 Legislative Assembly or in any rule, document, record or proceeding
12 authorized by the Legislative Assembly, in the context of the duties,
13 functions and powers transferred by section 1 of this 2017 Act, refer-
14 ence is made to the State Department of Energy, or an officer or em-
15 ployee of the State Department of Energy whose duties, functions or
16 powers are transferred by section 1 of this 2017 Act, the reference is
17 considered to be a reference to the Oregon Business Development De-
18 partment or an officer or employee of the Oregon Business Develop-
19 ment Department who by this 2017 Act is charged with carrying out
20 the duties, functions and powers.

21
22 **“NEEDS STUDY**

23
24 **“SECTION 8.** Section 9 of this 2017 Act is added to and made a part
25 of ORS chapter 470.

26 **“SECTION 9.** (1) The Oregon Business Development Department
27 shall conduct a study to determine the commercial needs in this state
28 for loans for small scale local energy projects. The purposes of the
29 study must be to identify the highest and best uses of funds available
30 for the issuance of loans for small scale local energy projects.

1 produce alternative fuel or operate equipment that uses an alternative fuel.

2 “(2) ‘Applicant’ means an applicant for a loan to construct a small scale
3 local energy project.

4 “[3] ‘Base efficiency package’ means the package of energy efficiency up-
5 grades or renewable energy projects for a property that, when energy savings,
6 project repayment costs, tax or other incentives, loan offset grants and other
7 relevant economic factors are considered, is estimated to not increase the utility
8 bill of the customer over the loan repayment term.]

9 “[4] ‘Committee’ means the Small Scale Local Energy Project Advisory
10 Committee created under ORS 470.070.]

11 “[5] (3) ‘Cooperative’ means a cooperative corporation organized under
12 ORS chapter 62.

13 “[6] ‘Director’ means the Director of the State Department of Energy ap-
14 pointed under ORS 469.040.]

15 “[7] (4) ‘Eligible federal agency’ means a federal agency or public cor-
16 poration created by the federal government that proposes to use a loan for
17 a small scale local energy project. ‘Eligible federal agency’ does not include
18 a federal agency or public corporation created by the federal government
19 that proposes to use a loan for a small scale local energy project to generate
20 electricity for sale.

21 “[8] (5) ‘Eligible state agency’ means a state officer, board, commission,
22 department, institution, branch or agency of the state whose costs are paid
23 wholly or in part from funds held in the State Treasury.

24 “[9] ‘Energy efficiency and sustainable technology loan’ means a loan for
25 a small scale local energy project that is repayable by means of:]

26 “[a] A charge included with the participant’s utility customer account
27 billing; or]

28 “[b] An alternative repayment method identified by the department and the
29 borrower and specified in the loan agreement.]

30 “[10] ‘Energy Project Bond Loan Fund’ means the fund established under

1 ORS 470.580.]

2 “[~~(11)~~ ‘Energy Project Supplemental Fund’ means the fund established un-
3 der ORS 470.570.]

4 “[~~(12)~~ ‘Energy Revenue Bond Repayment Fund’ means the fund established
5 under ORS 470.585.]

6 “[~~(13)~~ ‘Energy savings projection’ means an examination of the energy per-
7 formance and site characteristics of a property that, at a minimum,
8 identifies:]

9 “[~~(a)~~ A base efficiency package; and]

10 “[~~(b)~~ Any additional optional measures that a customer is able to repay and
11 that the sustainable energy project manager believes to be feasible for the
12 site.]

13 “[~~(14)~~ ‘Jobs, Energy and Schools Fund’ means the fund established under
14 ORS 470.575.]

15 “[~~(15)~~] **(6)** ‘Loan’ includes the purchase or other acquisition of evidence
16 of indebtedness and money used for the purchase or other acquisition of ev-
17 idence of indebtedness.

18 “[~~(16)~~] **(7)** ‘Loan contract’ means the evidence of indebtedness and all in-
19 struments used in the purchase or acquisition of the evidence of indebt-
20 edness. For eligible federal or state agencies or municipal corporations that
21 are tax exempt entities, a loan contract may include a lease purchase
22 agreement with respect to personal property.

23 “[~~(17)~~ ‘Loan offset grant’ means moneys from the Jobs, Energy and Schools
24 Fund that are used to help offset the initial project costs or loan payments for
25 energy efficiency, renewable energy and energy conservation projects.]

26 “[~~(18)~~ ‘Loan repayment charge’ means an amount charged to a utility cus-
27 tomer account through on-bill financing as a mechanism for the repayment of
28 an energy efficiency and sustainable technology loan.]

29 “[~~(19)~~] **(8)** ‘Municipal corporation’ has the meaning given in ORS 297.405
30 and also includes any Indian tribe or authorized Indian tribal organization

1 or any combination of two or more of these tribes or organizations acting
2 jointly in connection with a small scale local energy project.

3 “[20] *‘On-bill financing’ means a mechanism for collecting the repayment*
4 *of an energy efficiency and sustainable technology loan through a utility cus-*
5 *tomers account billing system.]*

6 “[21] *‘Optional package’ means measures for promoting energy efficiency*
7 *or the use of renewable energy:]*

8 “[a] *That are in addition to the measures described in the customer’s base*
9 *efficiency package;]*

10 “[b] *For which a customer has the ability to repay; and]*

11 “[c] *That the sustainable energy project manager believes to be feasible for*
12 *the site.]*

13 “[22] **(9)** *‘Oregon business’ means a sole proprietorship, partnership,*
14 *company, cooperative, corporation or other form of business entity that is*
15 *organized or authorized to do business under Oregon law for profit.*

16 “[23] *‘Primary contractor’ means a contractor that:]*

17 “[a] *Has entered into a contract with an owner of property for which a*
18 *proposed small scale local energy project will be located;]*

19 “[b] *Is responsible for the completion of the small scale local energy*
20 *project;]*

21 “[c] *Undertakes to complete the small scale local energy project; and]*

22 “[d] *Is responsible for any subcontractors performing work on the small*
23 *scale local energy project.]*

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

27 “[25] **(10)** *‘Recycling project’ means a facility or equipment that converts*
28 *waste into a new and usable product.*

29 “[26] **(11)** *‘Small business’ means:*

30 *“(a) An Oregon business that is:*

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

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

5 “(b) An Oregon subsidiary of a sole proprietorship, partnership, company,
6 cooperative, corporation or other form of business entity for which the total
7 number of employees for both the subsidiary and the parent sole
8 proprietorship, partnership, company, cooperative, corporation or other form
9 of business entity at the time the loan is made is:

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

12 “(B) Two hundred or fewer if the subsidiary is an industrial or manufac-
13 turing business.

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

17 “[(28)] **(12)** ‘Small scale local energy project’ means any of the following:

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

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

28 “(c) A recycling project.

29 “(d) An alternative fuel project.

30 “(e) An improvement that increases the production or efficiency, or ex-

1 tends the operating life, of a system, mechanism, series of mechanisms or
2 project otherwise described in this subsection, including but not limited to
3 restarting a dormant project.

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

14 “(g) A project described in paragraphs (a) to (f) of this subsection,
15 whether or not the existing project was originally financed under this chap-
16 ter, together with any refinancing necessary to remove prior liens or
17 encumbrances against the existing project.

18 “(h) A project described in paragraphs (a) to (g) of this subsection that
19 conserves energy or produces energy by generation or by processing or col-
20 lection of a renewable resource.

21 “[~~(29)~~] **(13)** ‘Small Scale Local Energy Project Administration and Bond
22 Sinking Fund’ means the fund created under ORS 470.300.

23 “[~~(30)~~] **(14)** ‘Small Scale Local Energy Project Loan Fund’ means the loan
24 fund created by Article XI-J of the Oregon Constitution and appropriated to
25 the [*State*] department [*of Energy*] under ORS 470.130.

26 “[~~(31)~~] ‘*Sustainable energy project manager*’ means the organization respon-
27 sible for promoting the energy efficiency and sustainable technology loan pro-
28 gram or the clean energy deployment program and related incentives for energy
29 efficiency and renewable energy at the neighborhood and community level.]

30 “[~~(32)~~] ‘*Utility service territory*’ means the allocated territory in which a

1 utility subject to this chapter provides a utility service. For the purposes of this
2 subsection, ‘allocated territory’ and ‘utility service’ have the meanings given
3 those terms in ORS 758.400.]

4 **“SECTION 13.** ORS 470.060 is amended to read:

5 “470.060. (1) The following may file with the [*State Department of*
6 *Energy*] **Oregon Business Development Department** an application to
7 obtain moneys for a small scale local energy project as provided in this
8 chapter:

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

10 “(b) An Oregon business;

11 “(c) A nonprofit or public cooperative;

12 “(d) A nonprofit corporation;

13 “(e) An eligible federal agency;

14 “(f) An eligible state agency;

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

16 “(h) An intergovernmental entity created pursuant to an intergovern-
17 mental agreement under ORS 190.003 to 190.130;

18 “(i) A special district;

19 “(j) A local improvement district;

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

21 “(L) A municipal corporation.

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

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

27 “(b) State whether any purposes other than energy production, but con-
28 sistent with energy production, will be served by the proposed small scale
29 local energy project, and the nature of the other purposes, if any.

30 “(c) Include an evaluation of the potential of the small scale local energy

1 project to meet local community energy needs.

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

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

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

9 “(3) *[If the application is for a loan other than an energy efficiency and*
10 *sustainable technology loan to an individual,]* A fee of **\$500 or** one-tenth of
11 one percent of the amount of the loan applied for [*or*] **up to a fee of \$2,500,**
12 whichever is [*less*] **more**, shall be submitted with each application. In addi-
13 tion, the applicant may be required to pay for costs incurred in connection
14 with the application that exceed the application fee and which the Director
15 of the [*State Department of Energy*] **Oregon Business Development De-**
16 **partment** determines are incurred solely in connection with processing the
17 application. The applicant shall be advised of any additional costs the ap-
18 plicant must pay before the costs are incurred.

19 **“SECTION 14.** ORS 470.080 is amended to read:

20 “470.080. (1) [*After consultation with the Small Scale Local Energy Project*
21 *Advisory Committee, the Director of the State Department of Energy]* **As in-**
22 **formed by the study conducted under section 9 of this 2017 Act, the**
23 **Director of the Oregon Business Development Department** shall estab-
24 lish by rule standards and criteria for small scale local energy projects to
25 be funded under this chapter. [*other than projects funded through energy ef-*
26 *iciency and sustainable technology loans. The standards and criteria shall*
27 *operate to encourage diversity in projects funded, give preference to the maxi-*
28 *mum extent practical to projects proposed by individuals and small businesses,*
29 *ensure acceptability of environmental impacts and shall require consideration*
30 *of the potential contribution of a project if developed at other suitable locations*

1 *to meeting the energy needs of this state. The standards and criteria shall give*
2 *the least preference to projects proposed by an eligible federal agency.] Stan-*
3 **dards and criteria adopted by rule under this subsection must include,**
4 **but need not be limited to:**

5 **“(a) Credit underwriting standards and criteria, including credit el-**
6 **igibility criteria for small scale local energy projects to be funded un-**
7 **der this chapter; and**

8 **“(b) Energy and energy policy standards and criteria, including but**
9 **not limited to standards and criteria for ensuring that:**

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

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

16 **“(C) Except for a proposed space heating project for a dwelling un-**
17 **der subparagraph (B) of this paragraph, a loan under this chapter does**
18 **not finance any project for which the projected economic value of the**
19 **energy savings of the project during the first year of the project is**
20 **implemented is equal to or greater than the cost of the project.**

21 **“(2) Except as provided in subsection (4)(b) of this section, all appli-**
22 **cations submitted under ORS 470.060 [shall] must be reviewed by the [State**
23 **Department of Energy] Oregon Business Development Department. The**
24 **department may request that the applicant submit additional information or**
25 **revise the application. The department shall:**

26 **“(a) Determine whether the application meets the standards and criteria**
27 **adopted under subsection (1) of this section; and**

28 **“(b) Based on the department’s determination under paragraph (a)**
29 **of this subsection, develop a recommendation to the Oregon**
30 **Infrastructure Finance Authority Board, or a designee of the board,**

1 **on the** *[recommend]* approval or denial of the loan application[, *and if ap-*
2 *proval is recommended in what amount the loan should be made.*]

3 “(3) After concluding its review, *[unless the application meets the criteria*
4 *established by the committee under subsection (4) of this section,]* the depart-
5 ment shall refer the application and its findings and recommendation to the
6 *[committee]* **board** for *[its]* review. The department shall notify the applicant
7 of the date, time and place of any oral presentation to the *[committee]* **board**
8 on the application. *[The committee shall review the application and the*
9 *department’s findings and recommendations and advise the director whether*
10 *the proposed small scale local energy project meets the criteria established by*
11 *the director under subsection (1) of this section, whether the project should be*
12 *financed with moneys from the Small Scale Local Energy Project Loan Fund*
13 *and in what amount the loan should be made if approved.]*

14 “[*(4) The committee may provide for direct referral of an application by the*
15 *department to the director if the application meets criteria established by the*
16 *committee.*]

17 “(4) **The department may:**

18 “(a) **In adopting energy and energy policy standards and criteria**
19 **under subsection (1)(b) of this section, consult as necessary with state**
20 **or federal agencies or nongovernmental entities that have appropriate**
21 **energy or energy policy expertise.**

22 “(b) **Contract for the review of applications under this section to**
23 **determine whether the applications meet the energy and energy policy**
24 **standards and criteria adopted under subsection (1)(b) of this section.**

25 “**SECTION 15.** ORS 470.090 is amended to read:

26 “470.090. (1) After consideration of the recommendation of the *[Small*
27 *Scale Local Energy Project Advisory Committee or the State Department of*
28 *Energy]* **Oregon Business Development Department** as provided by ORS
29 470.080, the *[Director of the State Department of Energy]* **Oregon**
30 **Infrastructure Finance Authority Board, or a designee of the board,**

1 may approve or reject the financing of a small scale local energy project
2 described in an application filed as provided in ORS 470.060, using moneys
3 in the Small Scale Local Energy Project Loan Fund. Approval of a loan by
4 the [*director*] **board** shall include a certification of the amount of the loan.

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

7 “(a) The proposed small scale local energy project meets established
8 standards and criteria under ORS 470.080;

9 “(b) [*The proposed project is consistent with the preservation and enhance-*
10 *ment of environmental quality;*] **The proposed small scale local energy**
11 **project is secured by good and sufficient collateral;**

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

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

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

20 “(f) There is a need for the proposed small scale local energy project and
21 the applicant’s financial resources are adequate to provide the working cap-
22 ital to maintain the project after completion;

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

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

28 “[*i*] *Except for a proposed space heating project for a dwelling under par-*
29 *agraph (h) of this subsection, the loan does not finance any project for which*
30 *the projected economic value of the energy savings of the project during the*

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

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

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

10 **“SECTION 16.** ORS 470.100 is amended to read:

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

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

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

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

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

7 “**SECTION 17.** ORS 470.110 is amended to read:

8 “470.110. The Director of the [*State Department of Energy*] **Oregon Busi-**
9 **ness Development Department** may accept gifts of money or other prop-
10 erty from any source, given for the purposes of ORS 470.050 to 470.120,
11 470.140 (1) and 470.150 to 470.210. Money so received shall be paid into the
12 Small Scale Local Energy Project Loan Fund. Money or other property so
13 received shall be used for the purposes for which received.

14 “**SECTION 18.** ORS 470.120 is amended to read:

15 “470.120. If the applicant receives from any source other than the Small
16 Scale Local Energy Project Loan Fund[, *the Energy Project Supplemental*
17 *Fund or the Energy Project Bond Loan Fund*] any moneys to assist in the
18 development of the **small scale local energy** project, the amount of the loan
19 to the applicant from the Small Scale Local Energy Project Loan Fund[,
20 *Energy Project Supplemental Fund or Energy Project Bond Loan Fund*] shall
21 be limited to that amount necessary for the development of those portions
22 of the project not funded by other sources.

23 “**SECTION 19.** ORS 470.130 is amended to read:

24 “470.130. All moneys in the Small Scale Local Energy Project Loan Fund
25 created by Article XI-J of the Oregon Constitution are appropriated contin-
26 uously to the [*State Department of Energy*] **Oregon Business Development**
27 **Department** and shall be used for the purposes authorized under this chap-
28 ter.

29 “**SECTION 20.** ORS 470.135 is amended to read:

30 “470.135. The duties of the Director of the Oregon Department of Admin-

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

13 **SECTION 21.** ORS 470.140 is amended to read:

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

18 "(2) The director shall submit to the Legislative Assembly and the Gov-
19 ernor a biennial report of the transactions of the Small Scale Local Energy
20 Project Loan Fund and the Small Scale Local Energy Project Administration
21 and Bond Sinking Fund in such detail as will accurately indicate the condi-
22 tion of the funds.

23 **SECTION 22.** ORS 470.145 is amended to read:

24 "470.145. The [*State Department of Energy*] **Oregon Business Develop-**
25 **ment Department** shall develop, implement and periodically update a mar-
26 keting plan to inform potential applicants of the availability of small scale
27 local energy project loans. The first priority of the marketing plan shall be
28 to inform individuals and small businesses that small scale local energy
29 project loans are available.

30 **SECTION 23.** ORS 470.150 is amended to read:

1 “470.150. Except as provided in ORS 470.155 and 470.170, if the [*Director*
2 *of the State Department of Energy*] **Oregon Infrastructure Finance Au-**
3 **thority Board** approves the financing of a small scale local energy project,
4 the Director **of the Oregon Business Development Department**, on behalf
5 of the state, and the applicant may enter into a loan contract, secured by a
6 first lien or by other good and sufficient collateral in the manner provided
7 in ORS 470.155 to 470.210. For purposes of this section, the interest of the
8 [*State Department of Energy*] **Oregon Business Development Department**
9 under a lease purchase contract entered into with an eligible federal or state
10 agency or a municipal corporation may constitute good and sufficient
11 collateral. The contract:

12 “(1) May provide that the [*director*] **board**, on behalf of the state, must
13 approve the arrangements made by the applicant for the development, oper-
14 ation and maintenance of the small scale local energy project, using moneys
15 in the Small Scale Local Energy Project Loan Fund for the project develop-
16 ment.

17 “(2) Shall provide a plan for repayment by the applicant of moneys bor-
18 rowed from the loan fund used for the development of the small scale local
19 energy project and interest on those moneys used at a rate of interest the
20 [*director*] **board** determines is necessary to provide adequate funds to recover
21 the administrative expenses incurred in connection with the loan. The [*di-*
22 *rector*] **board** shall set the interest rate at an incremental rate above the
23 interest rate on the underlying bonds in an amount sufficient to recover all
24 program-related costs including, but not limited to, implementation, financ-
25 ing, administration, **losses** and promotional costs for the program. The in-
26 cremental rate for projects proposed by an eligible federal agency shall be
27 greater than the incremental rate charged to any other governmental bor-
28 rower. The repayment plan, among other matters:

29 “(a) Shall provide for commencement of repayment by the applicant of
30 moneys used for project development and interest thereon not later than two

1 years after the date of the loan contract or at any other time as the
2 [director] **board** may provide. [*In addition to any other prepayment option*
3 *provided in a borrower's loan agreement, the department shall provide a bor-*
4 *rower the opportunity to prepay the borrower's loan, without any additional*
5 *premium, by defeasing such loan to the call date of the bond or bonds funding*
6 *the applicable loan, or any refunding bonds linked to the loan, but such*
7 *defeasance shall occur only if the director finds that after the defeasance, the*
8 *sinking fund will have sufficient funds to make payments required under ORS*
9 *470.300 (1).]*

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

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

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

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

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

25 “(A) **The director makes a formal declaration of default of payment**
26 **pursuant to paragraph (e) of this subsection; or**

27 “(B) **The small scale local energy project fails to meet the standards**
28 **and criteria established under ORS 470.080.**

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

1 project.

2 “(4) May provide that the liability of the state under the contract is
3 contingent upon the availability of moneys in the loan fund for use in the
4 planning and development of the project.

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

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

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

14 “[*(a) For an energy efficiency and sustainable technology loan that relies
15 on an on-bill financing system for the collection of a loan repayment charge,
16 an agreement by the applicant to notify a person acquiring ownership of, or
17 an interest in, the property from the applicant that the loan repayment charge
18 will be transferred to the utility customer account of the person acquiring the
19 ownership or interest unless the loan is discharged before or at the time the
20 ownership or interest transfers;*]

21 “[*(b) A plainly worded acknowledgment by the applicant that failure to
22 make payments as required under the loan agreement may result in the fore-
23 closure of a property lien or other debt collection actions;*]

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

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

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

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

29 “[*(D) This chapter; or*]

30 “[*(E) Department rules that relate in any way to the loan repayment charge,*

1 *real property lien provisions or any form or combination of loan security or to*
2 *the requirement to satisfy the loan obligation;]*

3 “[*d*] *If the applicant is not the owner of the property to be burdened by the*
4 *loan repayment charge, fixture filing or real property lien, provision for par-*
5 *ticipation by the property owner as a party to the contract or a notarized au-*
6 *thorization by the owner for the fixture filing and lien; and]*

7 “[*e*] *A description of any other conditions required by the department.]*

8 “**SECTION 24.** ORS 470.160 is amended to read:

9 “470.160. If the [*Director of the State Department of Energy*] **Oregon**
10 **Infrastructure Finance Authority Board** approves a loan for a small scale
11 local energy project, the State Treasurer shall pay moneys for such project
12 from the Small Scale Local Energy Project Loan Fund [*or Energy Project*
13 *Bond Loan Fund*] in accordance with the terms of the loan contract, as
14 prescribed by the [*director*] **board and the Director of the Oregon Busi-**
15 **ness Development Department under ORS 470.150.**

16 “**SECTION 25.** ORS 470.170 is amended to read:

17 “470.170. [(1)(a)] **(1)** [*Except as otherwise provided in this subsection,*]
18 When a loan is made under this chapter to an applicant other than a mu-
19 nicipal corporation, the loan shall be secured pursuant to a mortgage, trust
20 deed, security agreement, pledge, assignment or similar instrument, by a se-
21 curity interest or lien on real or personal property in the full amount of the
22 loan or as the [*Director of the State Department of Energy*] **Oregon**
23 **Infrastructure Finance Authority Board** shall require for adequate secu-
24 rity, including but not limited to long-term leasehold interests or equitable
25 interests in real property or personal property. In lieu of, or in addition to,
26 any of the collateral otherwise described in this [*paragraph*] **subsection**, the
27 applicant may secure the loan by providing credit enhancement, including
28 but not limited to a letter of credit or payment bond, or a guaranty accept-
29 able to the [*director*] **board.**

30 “[*b*] *To the extent consistent with any declaration, pledge or agreement for*

1 *bonds issued under ORS 470.220 to 470.290, an energy efficiency and*
2 *sustainable technology loan shall be secured as provided in ORS 470.680 or*
3 *470.685.]*

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

10 “(3) When a loan made under this chapter is secured by a lien on the real
11 property of the applicant, the Director **of the Oregon Business Develop-**
12 **ment Department** shall perfect the lien by recording as provided by law.

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

16 “(5) The director may cause to be instituted appropriate proceedings to
17 foreclose liens for delinquent loan payments, and shall pay the proceeds of
18 any such foreclosure, less the director’s expenses incurred in foreclosing,
19 into the Small Scale Local Energy Project Administration and Bond Sinking
20 Fund if the loan was issued from the Small Scale Local Energy Project Loan
21 Fund[, *or into the Energy Project Bond Loan Fund if the loan was from the*
22 *Energy Project Bond Loan Fund*]. In a foreclosure proceeding the [*director*]
23 **Oregon Business Development Department** may bid on property offered
24 for sale in the proceedings and may acquire title to the property on behalf
25 of the state.

26 “(6) The director may take any action, make any disbursement, hold any
27 funds or institute any action or proceeding necessary to protect the state’s
28 interest.

29 “(7) The director may settle, compromise or release, for reasons other
30 than uncollectibility as provided in ORS 293.240, all or part of any loan ob-

1 ligation so long as the director's action is consistent with the purposes of
2 this chapter and does not impair the ability to pay the administrative ex-
3 penses of the [*State Department of Energy*] **Oregon Business Development**
4 **Department** or the obligations of any bonds then outstanding.

5 **“SECTION 26.** ORS 470.180 is amended to read:

6 “470.180. In addition to any other remedy available to the [*State Depart-*
7 *ment of Energy,*] **Oregon Business Development Department**, if a munic-
8 ipal corporation entitled by law to share in the apportionment of any state
9 revenues or funds defaults on any payments due to the State of Oregon under
10 a loan contract entered into under ORS 470.150, the [*State Department of*
11 *Energy*] **Oregon Business Development Department** may certify that fact
12 to the Oregon Department of Administrative Services and the Oregon De-
13 partment of Administrative Services shall withhold payment of any revenues
14 or funds in the State Treasury to which the municipal corporation is enti-
15 tled, in an amount not to exceed the balance owing on the loan, until the
16 [*State Department of Energy*] **Oregon Business Development Department**
17 certifies that the default has been remedied.

18 **“SECTION 27.** ORS 470.190 is amended to read:

19 “470.190. If an applicant fails to comply with a contract entered into with
20 the Director of the [*State Department of Energy*] **Oregon Business Devel-**
21 **opment Department** for development and repayment as provided in ORS
22 470.150 [*or 470.645*], the director, in addition to remedies provided in ORS
23 470.170 and 470.180, may seek other appropriate legal remedies to secure the
24 loan and may contract as provided in ORS 470.150 with any other person for
25 continuance of development and for repayment of moneys from the Small
26 Scale Local Energy Project Loan Fund [*or from the Energy Project Bond*
27 *Loan Fund*] used therefor and interest thereon.

28 **“SECTION 28.** ORS 470.200 is amended to read:

29 “470.200. If any small scale local energy project is refinanced or an addi-
30 tional grant or loan intended to finance the project development is obtained

1 from other sources after the execution of the loan from the state, all such
2 funds shall be used to repay the state unless the [*Director of the State De-*
3 *partment of Energy*] **Oregon Infrastructure Finance Authority Board**
4 finds that repayment of the state from the additional grant or loan would
5 be contrary to public interest.

6 **“SECTION 29.** ORS 470.210 is amended to read:

7 “470.210. (1) Notwithstanding any other provision of law, a municipal
8 corporation may enter into a loan contract with the [*State Department of*
9 *Energy*] **Oregon Business Development Department** to finance a small
10 scale local energy project.

11 “(2) In order to finance a small scale local energy project, the Director
12 of the [*State Department of Energy,*] **Oregon Business Development De-**
13 **partment,** on behalf of the state and in lieu of entering into a loan contract
14 under subsection (1) of this section, may purchase or otherwise acquire a
15 municipal corporation’s general obligations or revenue obligations, including
16 but not limited to bonds, notes, certificates of participation, warrants or
17 lease purchase agreements.

18 **“SECTION 30.** ORS 470.230 is amended to read:

19 “470.230. Except as provided in ORS 470.270, all moneys obtained from the
20 sale of general obligation bonds under ORS 470.220 to 470.290 and Article
21 XI-J of the Oregon Constitution shall be credited by the State Treasurer to
22 the Small Scale Local Energy Project Loan Fund. Those moneys shall be
23 used only for the purposes stated in Article XI-J of the Oregon Constitution,
24 including payment of the costs of issuing the bonds and of obtaining credit
25 enhancement for the bonds, and making payments of interest on bonds issued
26 pursuant to the provisions of ORS 470.220 to 470.290 if there are insufficient
27 funds in the Small Scale Local Energy Project Administration and Bond
28 Sinking Fund to make the payments referred to in ORS 470.300 (1). Moneys
29 loaned to municipal corporations but withheld by the [*State Department of*
30 *Energy*] **Oregon Business Development Department** for security or to pay

1 for future project costs may remain in the loan fund. Pending the use of the
2 moneys in the loan fund for the proper purposes, the moneys may be invested
3 in the manner provided by law.

4 **“SECTION 31.** ORS 470.270 is amended to read:

5 “470.270. (1) After consultation with the State Treasurer, the Director of
6 the [*State Department of Energy*] **Oregon Business Development Depart-**
7 **ment** may issue general obligation refunding bonds for the purpose of re-
8 funding outstanding bonds issued under ORS 470.220 to 470.290 and Article
9 XI-J of the Oregon Constitution. The refunding bonds may be sold in the
10 same manner as other bonds are sold under ORS 470.220 to 470.290. All
11 moneys obtained from the sale of refunding bonds shall be credited by the
12 State Treasurer to the Small Scale Local Energy Project Administration and
13 Bond Sinking Fund. The refunding bonds may be issued to refund bonds
14 previously issued for refunding purposes. Pending the use of moneys ob-
15 tained from the sale of refunding bonds for proper purposes, such moneys
16 may be invested in the manner provided by law.

17 “(2) Notwithstanding any provision of ORS 470.150, if the [*State Depart-*
18 *ment of Energy*] **Oregon Business Development Department** issues taxable
19 refunding bonds at a lower interest rate to refund outstanding general obli-
20 gation bonds, and is unable to allow loan recipients to receive a portion of
21 the interest savings, the director shall allow the loan recipient to prepay the
22 outstanding loan balance upon the request of the recipient. The director
23 shall respond to such a request within 30 days after receiving the request
24 by specifying the outstanding principal balance after applying reserves held
25 by the state for the borrower and the prepayment premium as listed in the
26 bond document, loan document or bond purchase agreement.

27 “(3) The department shall pursue opportunities for refunding bonds to
28 reduce interest sums payable by the department. When the department re-
29 funds a bond with tax-exempt bonds, the department shall share, on an eq-
30 uitable basis, the savings from any refunding with the borrowers whose loans

1 were made with the proceeds of the refunded bonds in an amount consistent
2 with a finding by the director that the sinking fund has, and will continue
3 to have, sufficient funds to make payments required under ORS 470.300 (1).
4 The department may not refund tax-exempt bonds with taxable bonds, unless
5 the department is able to share the savings associated with such a refunding
6 with the borrowers whose loans are linked to such bonds. At least 120 days
7 before the date on which the department intends to issue refunding bonds,
8 the director shall notify each borrower whose loan was made from the pro-
9 ceeds of the bonds being refunded and shall offer the borrower the opportu-
10 nity to prepay the borrower's loan. A borrower shall respond within 60 days
11 of the date of the notice described in this subsection if the borrower intends
12 to prepay the borrower's loan.

13 **“SECTION 32.** ORS 470.300 is amended to read:

14 “470.300. (1) There hereby is created the Small Scale Local Energy Project
15 Administration and Bond Sinking Fund, separate and distinct from the Gen-
16 eral Fund, to provide for payment of:

17 “(a) Administrative expenses of the [*State Department of Energy and the*
18 *Director of the State Department of Energy*] **Oregon Business Development**
19 **Department and the Director of the Oregon Business Development**
20 **Department** in processing applications, investigating potential small scale
21 local energy projects and proposed loans and servicing and collecting out-
22 standing loans made from the Small Scale Local Energy Project Loan Fund,
23 if the expense is not paid directly by the applicant.

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

27 “(c) Principal, interest and redemption premium, if any, of all bonds is-
28 sued pursuant to the provisions of ORS 470.220 to 470.290 and Article XI-J
29 of the Oregon Constitution.

30 “(d) Net investment earnings on any funds loaned to municipal corpo-

1 rations but withheld as provided in ORS 470.230.

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

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

5 “(a) Application fees required by ORS 470.060, unless the department re-
6 quires the applicant to pay the fee directly for a cost incurred in connection
7 with the application.

8 “(b) Repayment of moneys loaned to applicants from the Small Scale Lo-
9 cal Energy Project Loan Fund, including interest on such moneys.

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

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

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

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

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

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

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

23 “(a) A cash flow projection shows that, for the term of the bonds out-
24 standing at the time the director transfers the moneys, remaining moneys in
25 the sinking fund, together with expected loan contract payments and fund
26 earnings, will improve the financial basis of the program and will continue
27 to be adequate to pay bond principal, interest, redemption premiums, if any,
28 and administration costs; and

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

30 “(4) The director, with the approval of the State Treasurer, may establish

1 separate and distinct accounts within the sinking fund to accomplish the
2 purpose of this section.

3 **“SECTION 33.** ORS 470.310 is amended to read:

4 “470.310. (1) If there are insufficient funds in the Small Scale Local En-
5 ergy Project Administration and Bond Sinking Fund to make the payments
6 referred to in ORS 470.300 (1), the Director of the [*State Department of En-*
7 *ergy*] **Oregon Business Development Department** may request the funds
8 necessary for such payments from the Legislative Assembly or the Emer-
9 gency Board.

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

18 **“SECTION 34.** ORS 470.810 is amended to read:

19 “470.810. (1) The State Department of Energy shall establish the clean
20 energy deployment program to provide grants and loans to support energy
21 efficiency or clean energy projects in this state. The department shall es-
22 tablish criteria for qualifications of the projects by rule.

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

28 “(b) A school district that finances a project through the clean energy
29 deployment program may not self-perform work constituting more than five
30 percent of the total cost of the project being financed.

1 “(c) All school projects financed pursuant to paragraph (a) of this sub-
2 section through the clean energy deployment program are deemed to be
3 public works projects and are subject to the prevailing wage requirements
4 of ORS 279C.800 to 279C.870.

5 “(3) The department may contract for the implementation of the clean
6 energy deployment program [*in all or parts of this state with a sustainable*
7 *energy project manager as defined in ORS 470.050*].

8 **“SECTION 35.** ORS 470.815 is amended to read:

9 “470.815. (1) School districts that participate in the clean energy deploy-
10 ment program established in ORS 470.810 may finance projects to:

11 “(a) Weatherize, upgrade and retrofit kindergarten through grade 12 pub-
12 lic schools;

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

16 “(c) Replace school bus fleets with school buses that operate on com-
17 pressed natural gas or other alternative fuels such as propane or that operate
18 with high-efficiency types of engines such as hybrid electric engines.

19 “(2) The projects described in subsection (1) of this section shall be de-
20 signed to improve energy efficiency, decrease fuel costs, increase use of al-
21 ternative fuels and decrease emissions of air contaminants.

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

24 “(a) Paying directly for the projects;

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

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

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

30 “[*(C)*] **(B)** Qualified Energy Conservation Bonds issued under the Energy

1 Improvement and Extension Act of 2008 or other federal loan programs; or
2 “[D)] (C) Revenues generated by the savings in energy costs resulting
3 from the energy efficiency improvements;

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

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

7 **“SECTION 36.** 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
10 improvements to qualifying real property authorized by:

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

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

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

18 “(c) ‘Qualifying real property’ means multifamily residential dwellings or
19 commercial or industrial buildings that the local government has determined
20 can be benefited by energy improvements.

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

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

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

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

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

1 “(3) Before establishing a program under this section, the local govern-
2 ment shall provide notice to utilities that distribute electric energy or na-
3 tural gas within the areas in which the local government will operate the
4 program.

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

7 “(a) Require performance of an energy audit on the qualifying real prop-
8 erty before the local government approves a loan for energy improvements
9 to the property;

10 “(b) Impose requirements intended to ensure that the costs of the im-
11 provements financed under this section do not exceed the cumulative energy
12 cost savings of the improvements over the useful life of the improvements;
13 and

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

16 “(5)(a) If the owner of record of qualifying real property requests financ-
17 ing pursuant to a program established under this section, subject to sub-
18 section (6) of this section, the local government implementing the program
19 may:

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

22 “(B) Facilitate a financing agreement for the owner, and any other person
23 benefited by the financing.

24 “(b) A loan agreement or financing agreement entered into pursuant to
25 paragraph (a) of this subsection must be in a principal amount sufficient to
26 pay:

27 “(A) The costs of energy improvements the local government determines
28 will benefit the qualifying real property and the borrowers;

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

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

1 “(c) A local government acting pursuant to paragraph (a) of this sub-
2 section may:

3 “(A) If the local government makes a loan, charge the borrower an in-
4 terest rate on the principal amount that is sufficient to pay the financing
5 costs of the loan program, including loan delinquencies; and

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

7 “(6) A local government may not enter into a loan agreement, or facilitate
8 a financing agreement, under subsection (5) of this section unless the owner
9 has:

10 “(a) Provided written notice to all mortgagees of the qualifying real
11 property that the owner intends to enter into a loan agreement or financing
12 agreement under this section; and

13 “(b) Received written consent from the mortgagees stating that the loan
14 agreement or financing agreement entered into under this section does not
15 constitute an event of default or give rise to any remedies under the terms
16 of the mortgage loan agreements.

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

19 “(a) Secure a loan or financing with a lien on the benefited qualifying
20 real property in the manner and with the same priority as a lien for assess-
21 ments for local improvements authorized by ORS 223.393.

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

24 “(c) Enforce a lien and collect an assessment authorized by this section
25 as provided in ORS 223.505 to 223.650.

26 “(d) Secure a loan or financing in any other manner that the local gov-
27 ernment determines is reasonable.

28 “(8)(a) In lieu of enforcing liens and collecting assessments as provided
29 in subsection (7) of this section, a local government may certify the assess-
30 ment, in the manner provided in ORS 310.060, to the county assessor of each

1 county in which benefited qualifying real property is located.

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

4 “(A) Enter the assessment upon the county assessment roll against the
5 property described in the certificate, in the manner that other local govern-
6 ment assessments are entered;

7 “(B) Collect, account for and enforce the assessments in the manner that
8 local government taxes are collected, accounted for and enforced; and

9 “(C) Transfer, as provided by law, the assessments collected to the local
10 government that imposed the assessment.

11 “(9) A local government may issue revenue bonds pursuant to ORS
12 287A.150 to finance the costs of a program established under this section,
13 including the costs of making loans for energy improvements.

14 “(10) The [*State Department of Energy*] **Oregon Business Development**
15 **Department** may lend money under the provisions of ORS 470.060 to 470.080
16 and 470.090 to a local government that establishes a program under this
17 section in cooperation with a local government implementing a program un-
18 der this section.

19 **“SECTION 37.** ORS 291.445 is amended to read:

20 “291.445. (1) Before July 1 of each fiscal year, the Oregon Department of
21 Administrative Services shall request from the appropriate state agency a
22 certificate as prescribed in this section. The request shall be made by letter
23 to the agency.

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

27 “(a) Certify to the Director of the Oregon Department of Administrative
28 Services that the amounts available or that will become available during the
29 current year to the bond program debt service fund to pay bond principal
30 and interest that has accrued or will accrue during the current year are

1 sufficient and will be sufficient to pay bond program principal and interest
2 scheduled for payment during the current year; or

3 “(b) Certify to the Director of the Oregon Department of Administrative
4 Services that the amounts available or that will become available during the
5 current year to the bond program debt service fund will not be sufficient to
6 pay bond program principal and interest scheduled for payment during the
7 current year. A certificate issued under this paragraph shall specify the
8 amount of the anticipated current year deficit. The Director of the Oregon
9 Department of Administrative Services shall review and confirm the cor-
10 rectness of each certification made under this paragraph.

11 “(3) On or before August 15 of each fiscal year, the administrative divi-
12 sion of the Oregon Department of Administrative Services that has primary
13 responsibility for accounting for each general obligation bond program in
14 which the bond principal and interest is ordinarily to be repaid from General
15 Fund appropriations shall:

16 “(a) Certify to the Director of the Oregon Department of Administrative
17 Services that the amounts available or that will become available during the
18 current year from General Fund appropriations to defray program bond
19 principal and interest that has accrued or will accrue during the current
20 year are sufficient and will be sufficient to pay program bond principal and
21 interest scheduled for payment during the current year; or

22 “(b) Certify to the Director of the Oregon Department of Administrative
23 Services that the amounts available or that will become available during the
24 current year from General Fund appropriations will not be sufficient to pay
25 program bond principal and interest scheduled for payment during the cur-
26 rent year. A certificate issued under this paragraph shall specify the amount
27 of the anticipated current year deficit.

28 “(4)(a) If a deficit in funds available to pay principal and interest in any
29 general obligation bond program is certified and confirmed under subsection
30 (2) or certified under subsection (3) of this section, the amount of the deficit,

1 together with any deficit that is certified for any other general obligation
2 bond program shall upon certification constitute a state tax levy on property
3 that shall be apportioned among and charged to the several counties in that
4 proportion which the total assessed value of all the taxable property in each
5 county bears to the total assessed value of all the taxable property of the
6 state as equalized.

7 “(b) If any agency fails to make the certification under subsection (2) or
8 (3) of this section with respect to any general obligation bond fund program,
9 the Oregon Department of Administrative Services shall determine the
10 amount of revenue and other funds that are available and the amount of
11 taxes, if any, that should be levied in addition to the revenues and funds, to
12 pay bond principal and interest under the program for the fiscal year in
13 question. The additional amount so determined shall thereupon constitute a
14 state tax levy on property that shall be apportioned, certified, collected and
15 distributed as if determined and certified as a deficit by the agency. The
16 Oregon Department of Administrative Services shall charge the agency for
17 cost recovery for time spent on that agency’s behalf.

18 “(5) Immediately after the department has determined the amount of a
19 state tax levy on property in accordance with subsection (4) of this section,
20 a certificate of levy, signed by the director of the department, shall be filed
21 in the office of the department. If no state levy is required for the fiscal or
22 tax year, a certificate so stating and signed by the director shall be filed in
23 the office of the department.

24 “(6) If, for any reason, after the close of any regular session of the Leg-
25 islative Assembly, it becomes necessary to reduce General Fund appropri-
26 ations, General Fund appropriations for a debt service fund of a general
27 obligation bond program described under subsection (3) of this section may
28 not be reduced.

29 “(7) For purposes of this section:

30 “(a) State agencies that are authorized to issue general obligation bonds

1 ordinarily to be repaid from other than General Fund appropriations include
2 but are not limited to:

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

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

8 “(C) The Department of Environmental Quality, as authorized by Article
9 XI-H of the Oregon Constitution and ORS 468.195 to 468.260 (pollution con-
10 trol).

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

14 “(E) The Housing and Community Services Department, as authorized by
15 Article XI-I(2) of the Oregon Constitution and ORS 456.515 to 456.725 and
16 458.505 to 458.515 (housing).

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

20 “(G) Other agencies as required by the Oregon Department of Adminis-
21 trative Services by rule adopted using the criterion of this subsection.

22 “(b) Each agency authorized to issue general obligation bonds that are
23 ordinarily to be repaid from other than General Fund appropriations shall
24 determine the amount of revenues or other funds that are available and the
25 amount of taxes, if any, that should be levied for the ensuing year in the
26 manner required under rules adopted by the Oregon Department of Admin-
27 istrative Services and make the certification required under subsection (2)
28 of this section.

29 “(8)(a) State agencies that are authorized to issue general obligation
30 bonds that are ordinarily to be repaid from General Fund appropriations in-

1 clude but are not limited to:

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

5 “(B) The Higher Education Coordinating Commission, for bonds author-
6 ized by Article XI-G of the Oregon Constitution and ORS 286A.848 (higher
7 education and community colleges).

8 “(C) Other agencies as required by the Oregon Department of Adminis-
9 trative Services by rule adopted using the criterion of this subsection.

10 “(b) Each agency authorized to issue general obligation bonds ordinarily
11 to be repaid from General Fund appropriations shall furnish any data re-
12 quired by the Oregon Department of Administrative Services to determine
13 the amount of revenues or other funds that are available and the amount of
14 taxes, if any, that should be levied for the ensuing year and the administra-
15 tive division of the Oregon Department of Administrative Services that has
16 primary responsibility for accounting shall make the determination for pur-
17 poses of the making of the certification required under subsection (3) of this
18 section.

19 **“SECTION 38.** ORS 757.247 is amended to read:

20 “757.247. (1) The Public Utility Commission may authorize a public util-
21 ity, upon application of the utility, to file and place into effect a tariff
22 schedule establishing rates or charges for the cost of energy resource meas-
23 ures provided to an individual property owner or customer pursuant to an
24 agreement entered into between the individual property owner or customer
25 and the public utility. Energy resource measures provided under this section
26 may include:

27 “(a) The installation of renewable energy generation facilities on the
28 property of property owners or the premises of customers;

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

1 “(c) The installation of equipment or devices or the implementation of
2 measures that enable demand reduction, peak load reduction, improved inte-
3 gration of renewable energy generation or more effective utilization of en-
4 ergy resources;

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

7 “(e) Direct payments to third parties for the purposes described in para-
8 graphs (a) to (c) of this subsection.

9 “(2) Subject to the agreement entered into between the individual prop-
10 erty owner or customer and the public utility, a tariff schedule placed into
11 effect under this section may include provisions for:

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

13 “(b) Except as provided in subsection (5) of this section, a reasonable rate
14 of return on any investment made by the public utility;

15 “(c) The application of any payment obligation to successive owners of
16 the property to which the energy resource measure is attached or to succes-
17 sive customers located at the premises to which the energy resource measure
18 is attached; and

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

22 “(3) Application of a tariff schedule under this section is subject to ap-
23 proval by the commission.

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

30 “(5) A public utility may use moneys obtained through a rate established

1 under ORS 757.603 (2)(a) to provide a renewable energy generation facility
2 to a property owner or customer under this section. A public utility may not
3 charge interest to a property owner or customer for a renewable energy
4 generation facility acquired with moneys obtained through a rate established
5 under ORS 757.603 (2)(a).

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

8

9

“TRANSFER OF MONEYS AND APPROPRIATIONS

10

11 **“SECTION 39. (1) The following funds are abolished on the operative**
12 **date specified in section 43 of this 2017 Act:**

13 **“(a) The Energy Project Supplemental Fund;**

14 **“(b) The Energy Revenue Bond Repayment Fund;**

15 **“(c) The Energy Project Bond Loan Fund; and**

16 **“(d) The Jobs, Energy and Schools Fund.**

17 **“(2) Any moneys remaining in the funds specified in subsection**
18 **(1)(a) to (c) of this section on the operative date specified in section**
19 **43 of this 2017 Act that are unexpended, unobligated and not subject**
20 **to any conditions shall be transferred to the Small Scale Local Energy**
21 **Project Administration and Bond Sinking Fund established under ORS**
22 **470.300.**

23 **“(3) Any moneys remaining in the fund specified in subsection (1)(d)**
24 **of this section on the operative date specified in section 43 of this 2017**
25 **Act that are unexpended, unobligated and not subject to any condi-**
26 **tions shall be transferred to the Clean Energy Deployment Fund es-**
27 **tablished under ORS 470.800.**

28 **“SECTION 40. On the operative date specified in section 43 of this**
29 **2017 Act, notwithstanding ORS 469.961, the balance in the Alternative**
30 **Fuel Vehicle Revolving Fund is transferred to the Small Scale Local**

1 Energy Project Administration and Bond Sinking Fund established
2 under ORS 470.300. Amounts transferred under this section may be
3 used for the purposes specified under ORS chapter 470.

4 **“SECTION 41.** There is appropriated to the Oregon Business Devel-
5 opment Department, for the biennium beginning July 1, 2017, out of
6 the General Fund, the amount of \$3,000,000 for the purpose of carrying
7 out the provisions of sections 1 to 11 of this 2017 Act and the amend-
8 ments to statutes by sections 12 to 38 of this 2017 Act.

9
10 **“REPEALS**

11
12 **“SECTION 42.** ORS 470.070, 470.500, 470.505, 470.510, 470.515, 470.520,
13 470.525, 470.530, 470.535, 470.540, 470.545, 470.550, 470.555, 470.560, 470.565,
14 470.570, 470.575, 470.580, 470.585, 470.590, 470.595, 470.600, 470.605, 470.610,
15 470.615, 470.620, 470.630, 470.635, 470.640, 470.645, 470.650, 470.655, 470.660,
16 470.665, 470.670, 470.675, 470.680, 470.685, 470.690, 470.695, 470.700, 470.710,
17 470.715, 470.720, 701.108 and 701.119 are repealed.

18
19 **“OPERATIVE DATE**

20
21 **“SECTION 43.** (1) Sections 1 to 11 and 39 to 41 of this 2017 Act, the
22 amendments to statutes by sections 12 to 38 of this 2017 Act and the
23 repeal of statutes by section 42 of this 2017 Act become operative on
24 January 1, 2018.

25 **“(2)** The Oregon Business Development Department and the State
26 Department of Energy may take any action before the operative date
27 specified in subsection (1) of this section that is necessary to enable
28 the Oregon Business Development Department and the State Depart-
29 ment of Energy to exercise, on and after the operative date specified
30 in subsection (1) of this section, all the duties, functions and powers

1 conferred on the Oregon Business Development Department and the
2 State Department of Energy by sections 1 to 11 and 39 to 41 of this 2017
3 Act, the amendments to statutes by sections 12 to 38 of this 2017 Act
4 and the repeal of statutes by section 42 of this 2017 Act.

5
6

“UNIT CAPTIONS

7

8 **“SECTION 44. The unit captions used in this 2017 Act are provided**
9 **only for the convenience of the reader and do not become part of the**
10 **statutory law of this state or express any legislative intent in the**
11 **enactment of this 2017 Act.**

12

13

“EFFECTIVE DATE

14

15 **“SECTION 45. This 2017 Act takes effect on the 91st day after the**
16 **date on which the 2017 regular session of the Seventy-ninth Legislative**
17 **Assembly adjourns sine die.”.**

18
