

Requested by Representative HELM

**PROPOSED AMENDMENTS TO
HOUSE BILL 3166**

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest
2 of the line and delete lines 3 and 4 and insert “amending ORS 223.680,
3 291.445, 469.421, 470.050, 470.060, 470.080, 470.090, 470.100, 470.110, 470.120,
4 470.130, 470.135, 470.140, 470.145, 470.150, 470.160, 470.170, 470.180, 470.190,
5 470.200, 470.210, 470.230, 470.270, 470.300, 470.310, 470.810, 470.815 and 757.247;
6 repealing ORS 469.960, 469.961, 469.962, 469.963, 469.964, 469.965, 469.966,
7 470.070, 470.500, 470.505, 470.510, 470.515, 470.520, 470.525, 470.530, 470.535,
8 470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575, 470.580,
9 470.585, 470.590, 470.595, 470.600, 470.605, 470.610, 470.615, 470.620, 470.630,
10 470.635, 470.640, 470.645, 470.650, 470.655, 470.660, 470.665, 470.670, 470.675,
11 470.680, 470.685, 470.690, 470.695, 470.700, 470.710, 470.715, 470.720, 701.108 and
12 701.119; and prescribing an effective date.”.

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

14

15

“COST RECOVERY

16

17 **“SECTION 1.** ORS 469.421, as amended by section 71, chapter 117, Oregon
18 Laws 2016, is amended to read:

19 “469.421. (1) Subject to the provisions of ORS 469.441, any person sub-
20 mitting a notice of intent, a request for exemption under ORS 469.320, a re-
21 quest for an expedited review under ORS 469.370, a request for an expedited

1 review under ORS 469.373, a request for the State Department of Energy to
2 approve a pipeline under ORS 469.405 (3), an application for a site certificate
3 or a request to amend a site certificate shall pay all expenses incurred by
4 the Energy Facility Siting Council and the department related to the review
5 and decision of the council. Expenses under this subsection may include:

6 “(a) Legal expenses;

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

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

9 “(d) Expenses incurred in commissioning an independent study under ORS
10 469.360;

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

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

16 “(2) Every person submitting a notice of intent to file for a site certifi-
17 cate, a request for exemption or a request for expedited review shall pay the
18 fee required under the fee schedule established under ORS 469.441 to the
19 department prior to submitting the notice or request to the council. To the
20 extent possible, the full cost of the evaluation shall be paid from the fee paid
21 under this subsection. However, if costs of the evaluation exceed the fee, the
22 person submitting the notice or request shall pay any excess costs shown in
23 an itemized statement prepared by the council. In no event shall the council
24 incur evaluation expenses in excess of 110 percent of the fee initially paid
25 unless the council provides prior notification to the applicant and a detailed
26 projected budget the council believes necessary to complete the project. If
27 costs are less than the fee paid, the excess shall be refunded to the person
28 submitting the notice or request.

29 “(3) Before submitting a site certificate application, the applicant shall
30 request from the department an estimate of the costs expected to be incurred

1 in processing the application. The department shall inform the applicant of
2 that amount and require the applicant to make periodic payments of the
3 costs pursuant to a cost reimbursement agreement. The cost reimbursement
4 agreement shall provide for payment of 25 percent of the estimated costs
5 when the applicant submits the application. If costs of the evaluation exceed
6 the estimate, the applicant shall pay any excess costs shown in an itemized
7 statement prepared by the council. In no event shall the council incur eval-
8 uation expenses in excess of 110 percent of the fee initially estimated unless
9 the council provided prior notification to the applicant and a detailed
10 projected budget the council believes is necessary to complete the project.
11 If costs are less than the fee paid, the council shall refund the excess to the
12 applicant.

13 “(4) Any person who is delinquent in the payment of fees under sub-
14 sections (1) to (3) of this section shall be subject to the provisions of sub-
15 section (11) of this section.

16 “(5)(a) Subject to the provisions of ORS 469.441, each holder of a certifi-
17 cate shall pay an annual fee, due every July 1 following issuance of a site
18 certificate.

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

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

30 “(B) **The general costs of the council and the department incurred**

1 **in the support of council activities that cannot be allocated to an in-**
2 **dividual, licensed facility or to a person for purposes of a notice of**
3 **intent, request or application as described in subsection (1) of this**
4 **section.**

5 “(c) In determining [*this cost*] **costs under paragraph (b) of this sub-**
6 **section**, the director shall include both:

7 “(A) The actual direct cost to be incurred by the council and the de-
8 partment to ensure that the facility is being operated consistently with the
9 terms and conditions of the site certificate, any order issued by the depart-
10 ment under ORS 469.405 (3) and any applicable health or safety
11 standards[,] and

12 “(B) The general costs to be incurred by the council and the department
13 to ensure that all certificated facilities are being operated consistently with
14 the terms and conditions of the site certificates, any orders issued by the
15 department under ORS 469.405 (3) and any applicable health or safety stan-
16 dards that cannot be allocated to an individual, licensed facility. [*Not more*
17 *than 35 percent of the annual fee charged each facility shall be for the recovery*
18 *of these general costs.*]

19 “(d) **The director shall:**

20 “(A) **Adopt by rule a formula for apportioning among holders of site**
21 **certificates the general costs of the council and the department de-**
22 **scribed in paragraph (c)(B) of this subsection; and**

23 “(B) **Calculate** the fees for direct costs [*shall reflect*] **in a manner that**
24 **reflects** the size and complexity of the facility, the anticipated costs of en-
25 suring compliance with site certificate conditions, the anticipated costs of
26 conducting site inspections and compliance reviews as described in ORS
27 469.430, and the anticipated costs of compensating state agencies and local
28 governments for participating in site inspection and compliance enforcement
29 activities at the request of the council.

30 “(6) Each holder of a site certificate executed after July 1 of any fiscal

1 year shall pay a fee for the remaining portion of the **fiscal** year. The amount
2 of the fee shall be set at [*the cost of regulating the facility during the re-*
3 *maining portion of the year determined in the same manner as the annual*
4 *fee.*] **an amount necessary to fund the cost of ensuring that the facility**
5 **is being operated consistently with the terms and conditions of the site**
6 **certificate, any order issued by the department under ORS 469.405 (3)**
7 **and any applicable health or safety standards.**

8 “(7) When the actual costs of regulation incurred by the council and the
9 department for the year, including that portion of the general regulation
10 costs that have been allocated to a particular facility, are less than the an-
11 nual fees for that facility, the unexpended balance shall be refunded to the
12 site certificate holder. When the actual regulation costs incurred by the
13 council and the department for the year, including that portion of the gen-
14 eral regulation costs that have been allocated to a particular facility, are
15 projected to exceed the annual fee for that facility, the director may issue
16 an order revising the annual fee.

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

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

30 “(A) The projected revenue needed to fund each department program or

1 activity; and

2 “(B) The projected allocation of moneys derived from the assessment im-
3 posed under this subsection to each department program or activity.

4 “(c) Upon approval of the budget authorization of the council and the
5 department by an odd-numbered year regular session of the Legislative As-
6 sembly, the director shall promptly enter an order establishing the amount
7 of revenues required to be derived from an assessment pursuant to this sub-
8 section in order to fund programs and activities that the council and the
9 department are charged with administering and authorized to conduct under
10 the laws of this state, including those enumerated in ORS 469.030, for the
11 first fiscal year of the forthcoming biennium. On or before June 1 of each
12 even-numbered year, the director shall enter an order establishing the
13 amount of revenues required to be derived from an assessment pursuant to
14 this subsection in order to fund the programs and activities that the council
15 and the department are charged with administering and authorized to con-
16 duct under the laws of this state, including those enumerated in ORS 469.030,
17 for the second fiscal year of the biennium. The order shall take into account
18 any revisions to the biennial budget of the council and the department made
19 by the Emergency Board meeting in an interim period or by the Legislative
20 Assembly meeting in special session or in an even-numbered year regular
21 session.

22 “(d) Each order issued by the director pursuant to paragraph (c) of this
23 subsection shall allocate the aggregate assessment set forth in the order to
24 energy resource suppliers in accordance with paragraph (e) of this sub-
25 section.

26 “(e) The amount assessed to an energy resource supplier shall be based
27 on the ratio which that supplier’s annual gross operating revenue derived
28 within this state in the preceding calendar year bears to the total gross op-
29 erating revenue derived within this state during that year by all energy re-
30 source suppliers. The assessment against an energy resource supplier shall

1 not exceed 0.375 percent of the supplier's gross operating revenue derived
2 within this state in the preceding calendar year. The director shall exempt
3 from payment of an assessment any individual energy resource supplier
4 whose calculated share of the annual assessment is less than [~~\$250~~] **\$2,500**.

5 “(f) The director shall send each energy resource supplier subject to as-
6 sessment pursuant to this subsection a copy of each order issued by regis-
7 tered or certified mail or through use of an electronic medium with
8 electronic receipt verification. The amount assessed to the energy resource
9 supplier pursuant to the order shall be considered to the extent otherwise
10 permitted by law a government-imposed cost and recoverable by the energy
11 resource supplier as a cost included within the price of the service or prod-
12 uct supplied.

13 “(g) The amounts assessed to individual energy resource suppliers pursu-
14 ant to paragraph (e) of this subsection shall be paid to the department as
15 follows:

16 “(A) Amounts assessed for the first fiscal year of a biennium shall be paid
17 not later than 90 days following adjournment sine die of the odd-numbered
18 year regular session of the Legislative Assembly; and

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

23 “(h) An energy resource supplier shall provide the director, on or before
24 May 1 of each year, a verified statement showing its gross operating reve-
25 nues derived within the state for the calendar or fiscal year that was used
26 by the energy resource supplier for the purpose of reporting federal income
27 taxes for the preceding calendar or fiscal year. The statement must be in the
28 form prescribed by the director and is subject to audit by the director. The
29 statement must include an entry showing the total operating revenue derived
30 by petroleum suppliers from fuels sold that are subject to the requirements

1 of Article IX, section 3a, of the Oregon Constitution, and ORS 319.020 with
2 reference to aircraft fuel and motor vehicle fuel, and ORS 319.530. The di-
3 rector may grant an extension of not more than 15 days for the requirements
4 of this subsection if:

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

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

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

11 “(i) As used in this section:

12 “(A) ‘Energy resource supplier’ means an electric utility, natural gas
13 utility or petroleum supplier supplying, generating, transmitting or distrib-
14 uting electricity, natural gas or petroleum products in Oregon.

15 “(B) ‘Gross operating revenue’ means gross receipts from sales or service
16 made or provided within this state during the regular course of the energy
17 supplier’s business, but does not include either revenue derived from interu-
18 tility sales within the state or revenue received by a petroleum supplier from
19 the sale of fuels that are subject to the requirements of Article IX, section
20 3a, of the Oregon Constitution, or ORS 319.020 or 319.530.

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

22 “(j) In determining the amount of revenues that must be derived from any
23 class of energy resource suppliers by assessment pursuant to this subsection,
24 the director shall take into account all other known or readily ascertainable
25 sources of revenue to the council and department, including, but not limited
26 to, fees imposed under this section and federal funds, and may take into ac-
27 count any funds previously assessed pursuant to ORS 469.420 (1979 Replace-
28 ment Part) or section 7, chapter 792, Oregon Laws 1981.

29 “(k) Orders issued by the director pursuant to this section shall be subject
30 to judicial review under ORS 183.484. The taking of judicial review shall not

1 operate to stay the obligation of an energy resource supplier to pay amounts
2 assessed to it on or before the statutory deadline.

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

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

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

19 “(11)(a) All fees assessed by the director against holders of site certifi-
20 cates for facilities that have an installed capacity of 500 megawatts or
21 greater may be paid in several installments, the schedule for which shall be
22 negotiated between the director and the site certificate holder.

23 “(b) Energy resource suppliers or applicants or holders of a site certifi-
24 cate who fail to pay a fee provided under subsections (1) to (9) of this sec-
25 tion after it is due and payable shall pay, in addition to that fee, a penalty
26 of two percent of the fee a month for the period that the fee is past due. Any
27 payment made according to the terms of a schedule negotiated under para-
28 graph (a) of this subsection shall not be considered past due. The director
29 may bring an action to collect an unpaid fee or penalty in the name of the
30 State of Oregon in a court of competent jurisdiction. The court may award

1 reasonable attorney fees to the director if the director prevails in an action
2 under this subsection. The court may award reasonable attorney fees to a
3 defendant who prevails in an action under this subsection if the court de-
4 termines that the director had no objectively reasonable basis for asserting
5 the claim or no reasonable basis for appealing an adverse decision of the
6 trial court.

7 **“SECTION 2. The amendments to ORS 469.421 by section 1 of this**
8 **2017 Act apply to annual fees due on or after July 1, 2018.**

9

10 **“ENERGY FACILITY SITING TASK FORCE**

11

12 **“SECTION 3. (1) The Energy Facility Siting Task Force is estab-**
13 **lished.**

14 **“(2) The task force consists of nine members appointed as follows:**

15 **“(a) The President of the Senate shall appoint two members from**
16 **among members of the Senate.**

17 **“(b) The Speaker of the House of Representatives shall appoint two**
18 **members from among members of the House of Representatives.**

19 **“(c) The Governor shall appoint five members who represent the**
20 **interests of persons affected by the energy facility siting process.**

21 **“(3) The task force shall:**

22 **“(a) Review the statutes and regulations that govern the jurisdic-**
23 **tion of the Energy Facility Siting Council and, upon such review, de-**
24 **velop recommendations regarding:**

25 **“(A) Proposed changes to what constitutes an ‘energy facility,’ as**
26 **that term is defined in ORS 469.300 (11)(a)(A)(iii), (D) and (J), that may**
27 **serve to better align the jurisdiction of the council with the needs and**
28 **interests of this state and local governments;**

29 **“(B) Ways to improve public participation in the energy facility**
30 **siting process; and**

1 **“(C) Ways to expedite the process for receiving a site certificate for**
2 **constructing or expanding an energy facility subject to the jurisdiction**
3 **of the council; and**

4 **“(b) Develop recommendations for defining or otherwise clarifying**
5 **in statute the term ‘single energy facility’ as related to energy facili-**
6 **ties as defined in ORS 469.300 (11)(a)(D) and (J), in order to better**
7 **clarify when an electric power generating plant that produces power**
8 **from solar photovoltaic, geothermal or wind energy qualifies as an**
9 **‘energy facility’ for purposes of ORS 469.300 to 469.563, 469.590 to**
10 **469.619, 469.930 and 469.992.**

11 **“(4) Members of the Legislative Assembly appointed to the task**
12 **force are nonvoting members of the task force and may act in an ad-**
13 **visory capacity only.**

14 **“(5) A majority of the voting members of the task force constitutes**
15 **a quorum for the transaction of business.**

16 **“(6) Official action by the task force requires the approval of a**
17 **majority of the voting members of the task force.**

18 **“(7) The task force shall elect one of its members to serve as**
19 **chairperson.**

20 **“(8) If there is a vacancy for any cause, the appointing authority**
21 **shall make an appointment to become immediately effective.**

22 **“(9) The task force shall meet at times and places specified by the**
23 **call of the chairperson or of a majority of the voting members of the**
24 **task force.**

25 **“(10) The task force may adopt rules necessary for the operation**
26 **of the task force.**

27 **“(11) The task force shall submit a report in the manner provided**
28 **by ORS 192.245, and shall include recommendations for legislation, to**
29 **an interim committee of the Legislative Assembly related to energy**
30 **no later than September 15, 2018.**

1 “(12) The Legislative Policy and Research Director shall provide
2 staff support to the task force.

3 “(13) Notwithstanding ORS 171.072, members of the task force who
4 are members of the Legislative Assembly are not entitled to mileage
5 expenses or a per diem and serve as volunteers on the task force.
6 Other members of the task force are not entitled to compensation or
7 reimbursement for expenses and serve as volunteers on the task force.

8 “(14) All agencies of state government, as defined in ORS 174.111,
9 are directed to assist the task force in the performance of the task
10 force’s duties and, to the extent permitted by laws relating to
11 confidentiality, to furnish information and advice the members of the
12 task force consider necessary to perform their duties.

13 “SECTION 4. Section 3 of this 2017 Act is repealed on December 31,
14 2018.

15
16 “TRANSFER OF DUTIES, FUNCTIONS AND POWERS
17 RELATED TO SMALL SCALE LOCAL ENERGY PROJECTS

18
19 “SECTION 5. The duties, functions and powers of the State De-
20 partment of Energy related to the issuance of loans for small scale
21 local energy projects under ORS chapter 470 are imposed upon, trans-
22 ferred to and vested in the Oregon Business Development Department.

23
24 “RECORDS, PROPERTY, POSITIONS

25
26 “SECTION 6. (1) The Director of the State Department of Energy
27 shall:

28 “(a) Deliver to the Oregon Business Development Department all
29 records and property within the jurisdiction of the director that relate
30 to the duties, functions and powers transferred by section 5 of this 2017

1 Act; and

2 “(b) Transfer to the Oregon Business Development Department re-
3 sponsibility for those positions dedicated primarily to the exercise of
4 the duties, functions and powers transferred by section 5 of this 2017
5 Act.

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

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

14

15

“UNEXPENDED REVENUES

16

17 “SECTION 7. (1) The unexpended balances of amounts authorized
18 to be expended by the State Department of Energy for the biennium
19 beginning July 1, 2017, from revenues dedicated, continuously appro-
20 priated, appropriated or otherwise made available for the purpose of
21 administering and enforcing the duties, functions and powers trans-
22 ferred by section 5 of this 2017 Act are transferred to and are available
23 for expenditure by the Oregon Business Development Department for
24 the biennium beginning July 1, 2017, for the purpose of administering
25 and enforcing the duties, functions and powers transferred by section
26 5 of this 2017 Act.

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

1 **“ACTION, PROCEEDING, PROSECUTION**

2
3 **“SECTION 8. The transfer of duties, functions and powers to the**
4 **Oregon Business Development Department by section 5 of this 2017**
5 **Act does not affect any action, proceeding or prosecution involving or**
6 **with respect to the duties, functions and powers begun before and**
7 **pending at the time of the transfer, except that the Oregon Business**
8 **Development Department is substituted for the State Department of**
9 **Energy in the action, proceeding or prosecution.**

10
11 **“LIABILITY, DUTY, OBLIGATION**

12
13 **“SECTION 9. (1) Nothing in sections 5 to 11 of this 2017 Act or in**
14 **the amendments to statutes by sections 16 to 39 of this 2017 Act re-**
15 **lieves a person of a liability, duty or obligation accruing under or with**
16 **respect to the duties, functions and powers transferred by section 5**
17 **of this 2017 Act. The Oregon Business Development Department may**
18 **undertake the collection or enforcement of any such liability, duty or**
19 **obligation.**

20 **“(2) The rights and obligations of the State Department of Energy**
21 **legally incurred under contracts, leases and business transactions ex-**
22 **ecuted, entered into or begun before the operative date of section 5**
23 **of this 2017 Act accruing under or with respect to the duties, functions**
24 **and powers transferred by section 5 of this 2017 Act are transferred to**
25 **the Oregon Business Development Department. For the purpose of**
26 **succession to these rights and obligations, the Oregon Business De-**
27 **velopment Department is a continuation of the State Department of**
28 **Energy and not a new authority.**

29
30 **“RULES**

1 for the issuance of loans for small scale local energy projects.

2 “(2) The Director of the Oregon Business Development Department
3 shall utilize the information developed through the study required by
4 this section in adopting rules under ORS 470.080.

5 “(3) The department may periodically update the information de-
6 veloped through the study required by this section, as necessary, to
7 account for changes in the commercial needs in this state for loans
8 for small scale local energy projects.

9 “SECTION 14. The Oregon Business Development Department shall
10 initially complete the study required by section 13 of this 2017 Act, and
11 shall report the findings of the study to the Governor and to the ap-
12 propriate interim committees of the Legislative Assembly in the
13 manner required under ORS 192.245, no later than September 15, 2018.

14 “SECTION 15. Section 14 of this 2017 Act is repealed on December
15 31, 2018.

16
17 “AMENDMENTS TO STATUTES
18

19 “SECTION 16. ORS 470.050 is amended to read:

20 “470.050. As used in this chapter, unless the context requires otherwise:

21 “(1) ‘Alternative fuel project’ means:

22 “(a) Equipment, including vehicles that are not used primarily for per-
23 sonal, family or household purposes, that is modified or acquired directly
24 from a factory and that:

25 “(A) Uses an alternative fuel, including **but not limited to** electricity,
26 biofuel, gasohol with at least 20 percent denatured alcohol content, hydro-
27 gen, hythane, methane, methanol, natural gas[,], **or** propane [*or any other fuel*
28 *approved by the Director of the State Department of Energy*]; and

29 “(B) Produces lower exhaust emissions or is more energy efficient than
30 equivalent equipment fueled by gasoline or diesel; and

1 “(b) A facility, including a fueling station, or equipment necessary to
2 produce alternative fuel or operate equipment that uses an alternative fuel.

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

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

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

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

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

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

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

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

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

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

1 “[(10) ‘Energy Project Bond Loan Fund’ means the fund established under
2 ORS 470.580.]

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

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

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

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

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

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

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

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

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

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

30 “[(19)] (8) ‘Municipal corporation’ has the meaning given in ORS 297.405

1 and also includes any Indian tribe or authorized Indian tribal organization
2 or any combination of two or more of these tribes or organizations acting
3 jointly in connection with a small scale local energy project.

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

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

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

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

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

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

17 “[**(23)** *‘Primary contractor’ means a contractor that:]*

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

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

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

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

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

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

30 “[**(26)**] **(11)** *‘Small business’ means:*

1 “(a) An Oregon business that is:

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

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

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

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

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

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

18 “[(28)] **(12)** ‘Small scale local energy project’ means any of the following:

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

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

29 “(c) A recycling project.

30 “(d) An alternative fuel project.

1 “(e) An improvement that increases the production or efficiency, or ex-
2 tends the operating life, of a system, mechanism, series of mechanisms or
3 project otherwise described in this subsection, including but not limited to
4 restarting a dormant project.

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

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

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

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

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

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

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

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

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

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

11 “(b) An Oregon business;

12 “(c) A nonprofit or public cooperative;

13 “(d) A nonprofit corporation;

14 “(e) An eligible federal agency;

15 “(f) An eligible state agency;

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

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

19 “(i) A special district;

20 “(j) A local improvement district;

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

22 “(L) A municipal corporation.

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

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

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

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

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

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

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

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

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

21 “470.080. (1) *[After consultation with the Small Scale Local Energy Project*
22 *Advisory Committee, the Director of the State Department of Energy]* **As in-**
23 **formed by the study conducted under section 13 of this 2017 Act, the**
24 **Director of the Oregon Business Development Department** shall estab-
25 lish by rule standards and criteria for small scale local energy projects to
26 be funded under this chapter. *[other than projects funded through energy ef-*
27 *iciency and sustainable technology loans. The standards and criteria shall*
28 *operate to encourage diversity in projects funded, give preference to the maxi-*
29 *imum extent practical to projects proposed by individuals and small businesses,*
30 *ensure acceptability of environmental impacts and shall require consideration*

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

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

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

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

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

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

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

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

29 **“(b) Based on the department’s determination under paragraph (a)**
30 **of this subsection, develop a recommendation to the Oregon**

1 **Infrastructure Finance Authority Board, or a designee of the board,**
2 **on the** *[recommend]* approval or denial of the loan application[, *and if ap-*
3 *proval is recommended in what amount the loan should be made*].

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

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

18 “(4) **The department may:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ORS 470.090.

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

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

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

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

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

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

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

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

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

1 “470.135. The duties of the Director of the Oregon Department of Admin-
2 istrative Services to establish, maintain and keep accounts of, and make
3 disbursements or transfers out of, the funds and accounts established or
4 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
6 Loan Program established by Article XI-J of the Oregon Constitution and
7 this chapter are transferred to the [*State Department of Energy*] **Oregon**
8 **Business Development Department**. Notwithstanding the transfer of these
9 fiscal functions to the [*State Department of Energy*] **Oregon Business De-**
10 **velopment Department**, in accordance with ORS 291.015 (2), the [*State*
11 *Department of Energy’s*] **Oregon Business Development Department’s**
12 performance of these fiscal functions shall remain subject to the control of
13 the Oregon Department of Administrative Services.

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

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

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

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

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

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

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

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

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

30 “(a) Shall provide for commencement of repayment by the applicant of

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

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

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

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

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

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

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

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

30 “(3) May include provisions satisfactory to the [director] **board** for field

1 inspection, the [*director*] **board** to be the final judge of completion of the
2 project.

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

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

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

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

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

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

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

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

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

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

30 “[*(D) This chapter; or]*

1 “[(E) Department rules that relate in any way to the loan repayment charge,
2 real property lien provisions or any form or combination of loan security or to
3 the requirement to satisfy the loan obligation;]

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

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

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

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

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

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

1 “[*b*) To the extent consistent with any declaration, pledge or agreement for
2 bonds issued under ORS 470.220 to 470.290, an energy efficiency and
3 sustainable technology loan shall be secured as provided in ORS 470.680 or
4 470.685.]

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

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

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

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

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

30 “(7) The director may settle, compromise or release, for reasons other

1 than uncollectibility as provided in ORS 293.240, all or part of any loan ob-
2 ligation so long as the director's action is consistent with the purposes of
3 this chapter and does not impair the ability to pay the administrative ex-
4 penses of the [*State Department of Energy*] **Oregon Business Development**
5 **Department** or the obligations of any bonds then outstanding.

6 **SECTION 30.** ORS 470.180 is amended to read:

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

19 **SECTION 31.** ORS 470.190 is amended to read:

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

29 **SECTION 32.** ORS 470.200 is amended to read:

30 "470.200. If any small scale local energy project is refinanced or an addi-

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

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

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

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

19 **“SECTION 34.** ORS 470.230 is amended to read:

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

1 *Energy*] **Oregon Business Development Department** for security or to pay
2 for future project costs may remain in the loan fund. Pending the use of the
3 moneys in the loan fund for the proper purposes, the moneys may be invested
4 in the manner provided by law.

5 **“SECTION 35.** ORS 470.270 is amended to read:

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

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

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

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

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

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

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

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

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

1 “(d) Net investment earnings on any funds loaned to municipal corpo-
2 rations but withheld as provided in ORS 470.230.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 “(b) A school district that finances a project through the clean energy
30 deployment program may not self-perform work constituting more than five

1 percent of the total cost of the project being financed.

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

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

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

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

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

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

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

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

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

25 “(a) Paying directly for the projects;

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

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

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

1 “[C] **(B)** Qualified Energy Conservation Bonds issued under the Energy
2 Improvement and Extension Act of 2008 or other federal loan programs; or

3 “[D] **(C)** Revenues generated by the savings in energy costs resulting
4 from the energy efficiency improvements;

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

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

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

9 “223.680. (1) As used in this section:

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

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

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

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

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

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

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

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

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

30 “(C) Make loans under subparagraph (A) of this paragraph and facilitate

1 private financing under subparagraph (B) of this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 “(8)(a) In lieu of enforcing liens and collecting assessments as provided
30 in subsection (7) of this section, a local government may certify the assess-

1 ment, in the manner provided in ORS 310.060, to the county assessor of each
2 county in which benefited qualifying real property is located.

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

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

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

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

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

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

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

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

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

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

1 and interest that has accrued or will accrue during the current year are
2 sufficient and will be sufficient to pay bond program principal and interest
3 scheduled for payment during the current year; or

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

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

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

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

29 “(4)(a) If a deficit in funds available to pay principal and interest in any
30 general obligation bond program is certified and confirmed under subsection

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

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

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

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

30 “(7) For purposes of this section:

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

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

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

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

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

15 “(E) The Housing and Community Services Department, as authorized by
16 Article XI-I(2) of the Oregon Constitution and ORS 456.515 to 456.725 and
17 458.505 to 458.515 (housing).

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

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

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

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

1 bonds that are ordinarily to be repaid from General Fund appropriations in-
2 clude but are not limited to:

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

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

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

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

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

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

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

30 “(b) The implementation of energy conservation measures, including

1 measures that are not cost-effective;

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

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

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

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

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

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

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

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

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

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

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

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

9

10 **“TRANSFER OF MONEYS AND APPROPRIATIONS**

11

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

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

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

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

17 **“(d) The Alternative Fuel Vehicle Revolving Fund; and**

18 **“(e) The Jobs, Energy and Schools Fund.**

19 **“(2) Any moneys remaining in the funds specified in subsection**
20 **(1)(a) to (d) of this section on the operative date specified in section**
21 **46 of this 2017 Act that are unexpended, unobligated and not subject**
22 **to any conditions shall be transferred to the Small Scale Local Energy**
23 **Project Administration and Bond Sinking Fund established under ORS**
24 **470.300.**

25 **“(3) Any moneys remaining in the fund specified in subsection (1)(e)**
26 **of this section on the operative date specified in section 46 of this 2017**
27 **Act that are unexpended, unobligated and not subject to any condi-**
28 **tions shall be transferred to the Clean Energy Deployment Fund es-**
29 **tablished under ORS 470.800.**

30 **“SECTION 44. There is appropriated to the Oregon Business Devel-**

1 opment Department, for the biennium beginning July 1, 2017, out of
2 the General Fund, the amount of \$3,000,000 for the purpose of carrying
3 out the provisions of sections 5 to 15 of this 2017 Act and the amend-
4 ments to statutes by sections 16 to 42 of this 2017 Act.

5
6 **“REPEALS**

7
8 **“SECTION 45. ORS 469.960, 469.961, 469.962, 469.963, 469.964, 469.965,**
9 **469.966, 470.070, 470.500, 470.505, 470.510, 470.515, 470.520, 470.525, 470.530,**
10 **470.535, 470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575,**
11 **470.580, 470.585, 470.590, 470.595, 470.600, 470.605, 470.610, 470.615, 470.620,**
12 **470.630, 470.635, 470.640, 470.645, 470.650, 470.655, 470.660, 470.665, 470.670,**
13 **470.675, 470.680, 470.685, 470.690, 470.695, 470.700, 470.710, 470.715, 470.720,**
14 **701.108 and 701.119 are repealed.**

15
16 **“OPERATIVE DATE**

17
18 **“SECTION 46. (1) Sections 2, 5 to 15, 43 and 44 of this 2017 Act, the**
19 **amendments to statutes by sections 1 and 16 to 42 of this 2017 Act and**
20 **the repeal of statutes by section 45 of this 2017 Act become operative**
21 **on January 1, 2018.**

22 **“(2) The Oregon Business Development Department and the State**
23 **Department of Energy may take any action before the operative date**
24 **specified in subsection (1) of this section that is necessary to enable**
25 **the Oregon Business Development Department and the State Depart-**
26 **ment of Energy to exercise, on and after the operative date specified**
27 **in subsection (1) of this section, all the duties, functions and powers**
28 **conferred on the Oregon Business Development Department and the**
29 **State Department of Energy by sections 2, 5 to 15, 43 and 44 of this 2017**
30 **Act, the amendments to statutes by sections 1 and 16 to 42 of this 2017**

1 **Act and the repeal of statutes by section 45 of this 2017 Act.**

2

3

“UNIT CAPTIONS

4

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

9

10

“EFFECTIVE DATE

11

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

15
