

# A-Engrossed Senate Bill 1519

Ordered by the Senate February 16  
Including Senate Amendments dated February 16

Sponsored by Senators OLSEN, BEYER (Pre-session filed.)

## SUMMARY

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

Creates Oregon Energy Commission as policy and rulemaking body for State Department of Energy. Transfers certain duties of State Department of Energy and Director of State Department of Energy to commission.

Modifies state energy policy.

Modifies general duties of department.

Requires department to develop statewide strategic energy *[report]* **plan**. Requires commission to adopt *[report]* **plan** no later than January 1, 2021. Requires department to present draft *[report]* **plan** to Legislative Assembly no later than September 15, 2020. Requires commission to periodically review and *[update report]* **revise plan**. **Provides that plan and any periodic revisions may not go into effect until January 1 following legislative session at which commission submits plan or revision to Legislative Assembly.**

Modifies biennial comprehensive energy report requirements.

Transfers certain State Department of Energy programs to other agencies. Repeals certain State Department of Energy programs.

Reduces, to *[0.1]* **0.15** percent, percentage of energy resource supplier's gross operating revenue that annual energy resource supplier assessment may not exceed. Changes calculated share of annual energy resource supplier assessment below which energy resource supplier is exempt from payment of assessment from \$250 to \$2,500. Modifies definition of "gross operating revenue" for purposes of energy resource supplier assessment. Applies to annual fees due on or after July 1, 2019.

Requires State Department of Energy to study further restructuring of department. Requires department to present results of study to interim committee of Legislative Assembly no later than September 15, 2019. Sunsets study requirement on December 31, 2019.

Becomes operative July 1, 2019.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

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Relating to State Department of Energy; creating new provisions; amending ORS 183.530, 223.680, 244.050, 276.910, 276.915, 279C.528, 286A.630, 286A.718, 315.141, 315.144, 315.326, 315.329, 316.116, 317.112, 469.010, 469.030, 469.040, 469.059, 469.085, 469.110, 469.120, 469.150, 469.155, 469.255, 469.261, 469.310, 469.410, 469.421, 469.424, 469.533, 469.534, 469.605, 469.703, 469.754, 469.756, 469.880, 469.885, 469.890, 469A.020, 469A.025, 469B.103, 469B.106, 469B.112, 469B.130, 469B.136, 469B.139, 469B.145, 469B.148, 469B.154, 469B.157, 469B.161, 469B.164, 469B.253, 469B.256, 469B.259, 469B.262, 469B.265, 469B.273, 469B.276, 469B.279, 469B.285, 469B.288, 469B.291, 469B.294, 469B.303, 469B.306, 469B.323, 469B.326, 469B.329, 469B.332, 469B.335, 469B.347, 469B.400, 470.050, 470.060, 470.070, 470.080, 470.090, 470.110, 470.120, 470.130, 470.135, 470.140, 470.145, 470.150, 470.160, 470.170, 470.180, 470.190, 470.200, 470.210, 470.230, 470.270, 470.300, 470.310, 470.800, 470.805, 470.810, 470.815, 701.532, 757.247, 757.528, 757.533, 757.538, 757.600 and 757.612; repealing ORS 470.100, 470.500, 470.505, 470.510, 470.515, 470.520, 470.525, 470.530, 470.535, 470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575, 470.580, 470.585, 470.590, 470.595, 470.600, 470.605, 470.610, 470.615, 470.620, 470.630, 470.635, 470.640, 470.645,

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 470.650, 470.655, 470.660, 470.665, 470.670, 470.675, 470.680, 470.685, 470.690, 470.695, 470.700,  
2 470.710, 470.715, 470.720, 701.108 and 701.119; and declaring an emergency.

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

4  
5 **ENERGY POLICY**

6  
7 **SECTION 1.** ORS 469.010 is amended to read:

8 469.010. The Legislative Assembly finds and declares that:

9 (1) Continued growth in demand for *[nonrenewable energy forms]* **energy, at affordable cost,**  
10 poses a serious and immediate, as well as future, **concern.** *[problem. It is essential that future gen-*  
11 *erations not be left a legacy of vanished or depleted resources, resulting in massive environmental, so-*  
12 *cial and financial impact.]*

13 (2) It is the goal of Oregon to promote the efficient use of energy resources *[and to develop*  
14 *permanently sustainable energy resources. The need exists for comprehensive state leadership in energy*  
15 *production, distribution and utilization.]* **consistent with state environmental policy.** It is, there-  
16 fore, the policy of Oregon:

17 (a) That **the** development and use of a diverse array of **affordable, sustainable energy re-**  
18 **sources be encouraged.** *[permanently sustainable energy resources be encouraged utilizing to the*  
19 *highest degree possible the private sector of our free enterprise system.]*

20 (b) That through state government example and **policy** *[other effective communications],* energy  
21 conservation and elimination of wasteful and uneconomical uses of energy and materials be pro-  
22 moted. *[This conservation must include, but not be limited to, resource recovery and materials recycl-*  
23 *ing.]*

24 *[(c) That the basic human needs of every citizen, present and future, shall be given priority in the*  
25 *allocation of energy resources, commensurate with perpetuation of a free and productive economy with*  
26 *special attention to the preservation and enhancement of environmental quality.]*

27 *[(d) That state government assist every citizen and industry in adjusting to a diminished avail-*  
28 *ability of energy.]*

29 *[(e) That energy-efficient modes of transportation for people and goods shall be encouraged, while*  
30 *energy-inefficient modes of transportation shall be discouraged.]*

31 **(c) That energy-efficient modes of transportation be encouraged.**

32 *[(f)]* **(d) That cost-effectiveness, balanced with environmental policy considerations,** be con-  
33 sidered in *[state]* agency decision-making relating to *[energy sources, facilities or conservation, and*  
34 *that cost-effectiveness be considered in all agency decision-making relating to energy facilities]* **energy**  
35 **conservation and energy facilities that generate electric power for sale.**

36 *[(g)]* **(e) That state government** *[shall]* provide a source of impartial and objective information  
37 in order that this energy policy may be enhanced.

38  
39 **PROVISIONS RELATING TO THE OREGON ENERGY COMMISSION**

40  
41 **(Creation)**

42  
43 **SECTION 2.** Sections 3 and 5 of this 2018 Act are added to and made a part of ORS 469.010  
44 to 469.155.

45 **SECTION 3.** (1) There is created an Oregon Energy Commission. The commission shall

1 consist of six voting members, appointed by the Governor and subject to confirmation by the  
2 Senate as provided in ORS 171.562 and 171.565.

3 (2) All voting members of the commission must be well informed in energy and climate  
4 issues and shall be appointed as follows:

5 (a) One member shall be an economist;

6 (b) One member shall have a research background in an energy-related field, but the  
7 member may not be employed by a person who also employs another member of the com-  
8 mission;

9 (c) One member shall represent residential energy users;

10 (d) One member shall represent commercial energy users;

11 (e) One member shall represent industrial energy users; and

12 (f) One member shall have transportation expertise.

13 (3) The Governor shall appoint four nonvoting members to the commission as follows:

14 (a) One member shall be an Oregon member of the Pacific Northwest Electric Power and  
15 Conservation Planning Council.

16 (b) One member shall represent electric utilities regulated by the Public Utility Com-  
17 mission under ORS chapter 757.

18 (c) One member shall represent consumer-owned utilities as defined in ORS 469A.005.

19 (d) One member shall represent natural gas utilities regulated by the Public Utility  
20 Commission under ORS chapter 757.

21 (4) The term of office of a voting member of the Oregon Energy Commission shall be four  
22 years, but the members of the commission may be removed by the Governor. Before the  
23 expiration of the term of a member, the Governor shall appoint a successor to assume the  
24 duties of the member on January 1 of the next following year. A member is eligible for re-  
25 appointment, but a member may not serve more than two consecutive terms. In case of a  
26 vacancy for any cause, the Governor shall make an appointment to become immediately ef-  
27 fective for the unexpired term.

28 (5) The commission shall select one of its members as chairperson and another as vice  
29 chairperson, for terms and with duties and powers necessary for the performance of the  
30 functions of the offices as the commission determines.

31 (6)(a) A majority of the voting members of the commission constitutes a quorum for the  
32 transaction of business.

33 (b) Official action by the commission requires approval of a majority of voting members  
34 of the commission.

35 (7) A member of the commission is entitled to compensation and expenses as provided in  
36 ORS 292.495.

37 **SECTION 4.** Notwithstanding the term of office specified by section 3 of this 2018 Act,  
38 of the voting members first appointed to the Oregon Energy Commission:

39 (1) One shall serve for a term ending January 1, 2020.

40 (2) One shall serve for a term ending January 1, 2021.

41 (3) Two shall serve for a term ending January 1, 2022.

42 (4) Two shall serve for terms ending January 1, 2023.

43  
44 (Functions, General Authority to Adopt Rules)  
45



1 Act, the amendments to statutes by sections 1, 11, 12, 16 to 21, 30 to 34, 36 to 58 and 64 to  
2 132 of this 2018 Act and the repeal of statutes by sections 35 and 63 of this 2018 Act relieves  
3 a person of a liability, duty or obligation accruing under or with respect to the duties, func-  
4 tions and powers transferred by section 6 of this 2018 Act. The Oregon Energy Commission  
5 may undertake the collection or enforcement of any such liability, duty or obligation.

6 (2) The rights and obligations of the State Department of Energy legally incurred under  
7 contracts, leases and business transactions executed, entered into or begun before the op-  
8 erative date of section 6 of this 2018 Act accruing under or with respect to the duties, func-  
9 tions and powers transferred by section 6 of this 2018 Act are transferred to the Oregon  
10 Energy Commission. For the purpose of succession to these rights and obligations, the  
11 Oregon Energy Commission is a continuation of the State Department of Energy and the  
12 Director of the State Department of Energy and not a new authority.

13  
14 (Rules)  
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16 **SECTION 9.** Notwithstanding the transfer of duties, functions and powers by section 6  
17 of this 2018 Act, the rules of the State Department of Energy and the Director of the State  
18 Department of Energy with respect to such duties, functions or powers that are in effect on  
19 the operative date of section 6 of this 2018 Act continue in effect until superseded or repealed  
20 by rules of the Oregon Energy Commission. References in the rules of the State Department  
21 of Energy to the State Department of Energy or an officer or employee of the State De-  
22 partment of Energy with respect to the duties, functions and powers transferred by section  
23 6 of this 2018 Act are considered to be references to the Oregon Energy Commission.

24 **SECTION 10.** Whenever, in any statutory or uncodified law or resolution of the Legisla-  
25 tive Assembly or in any rule, document, record or proceeding authorized by the Legislative  
26 Assembly, in the context of the duties, functions and powers transferred by section 6 of this  
27 2018 Act, reference is made to the State Department of Energy, the Director of the State  
28 Department of Energy or an officer or employee of the State Department of Energy whose  
29 duties, functions or powers are transferred by section 6 of this 2018 Act, the reference is  
30 considered to be a reference to the Oregon Energy Commission or an officer or employee of  
31 the Oregon Energy Commission who by this 2018 Act is charged with carrying out the duties,  
32 functions and powers.

33  
34 **STATE DEPARTMENT OF ENERGY ADMINISTRATION**  
35

36 (Modification of General Duties)  
37

38 **SECTION 11.** ORS 469.030 is amended to read:

39 469.030. (1) [*There is created the State Department of Energy.*] **There is created under the**  
40 **Oregon Energy Commission a department to be known as the State Department of Energy.**  
41 **The department shall consist of the Director of the State Department of Energy and all**  
42 **personnel employed in the department. The primary purpose of the department shall be to**  
43 **provide expert technology and industry-neutral advice to the Governor and the Legislative**  
44 **Assembly on energy-related matters.**

45 (2) Subject to the policy direction of the Oregon Energy Commission, and in furtherance

1 **of the purpose stated in subsection (1) of this section,** the State Department of Energy shall:

2 (a) **[Be] Collect, compile and analyze energy data from all available sources and serve as**  
3 the central repository within the state government for *[the collection of data on energy resources]*  
4 **energy information, to which all agencies shall send information on all energy-related re-**  
5 **search;**

6 **(b) Monitor energy industry research and developments;**

7 *[(b) Endeavor to utilize all public and private sources to inform and educate the public about en-*  
8 *ergy problems and ways in which the public can conserve energy resources;]*

9 (c) Engage in research, but whenever possible, contract with appropriate public or private  
10 agencies and disperse funds for research projects and other services related to energy resources,  
11 except that the State Department of Energy shall endeavor to avoid duplication of research whether  
12 completed or in progress;

13 (d) Qualify for, accept and disburse or utilize any private or federal moneys or services available  
14 for the administration of ORS *[176.820,]* 192.338, 192.345, 192.355, *[192.690,]* 469.010 to 469.155,  
15 469.300 to 469.563, 469.990, 757.710 and 757.720;

16 (e) Administer federal and state energy allocation and conservation programs and energy re-  
17 search and development programs and apply for and receive available funds *[therefor]* **for the pro-**  
18 **grams;**

19 **(f) Regularly evaluate all energy programs administered by the department and other**  
20 **state agencies, applying consistent baselines across all programs, as feasible, for analyzing**  
21 **the programs for efficacy, consistency, cost-effectiveness and redundancy, and make evalu-**  
22 **ation information available to the Governor and the Legislative Assembly;**

23 *[(f) Be a clearinghouse for energy research to which all agencies shall send information on all*  
24 *energy related research;]*

25 (g) Prepare contingent energy programs to include all forms of energy not otherwise provided  
26 pursuant to ORS 757.710 and 757.720;

27 *[(h) Maintain an inventory of energy research projects in Oregon and the results thereof;]*

28 *[(i) Collect, compile and analyze energy statistics, data and information;]*

29 *[(j)]* **(h)** Contract with public and private agencies for energy activities consistent with ORS  
30 469.010 and this section;

31 *[(k)]* **(i)** Upon request of the governing body of any affected jurisdiction, coordinate a public re-  
32 view of a proposed transmission line according to the provisions of ORS 469.442; and

33 *[(L) Advise the Governor on energy-related matters.]*

34 **(j) Provide staff support to the Oregon Hanford Cleanup Board, the Energy Facility Siting**  
35 **Council and the Oregon Global Warming Commission.**

36  
37 **(Director)**

38  
39 **SECTION 12.** ORS 469.040 is amended to read:

40 469.040. (1) The State Department of Energy shall be under the supervision of the Director of  
41 the State Department of Energy, who shall:

42 *[(a) Supervise the day-to-day functions of the State Department of Energy;]*

43 *[(b)]* **(a)** Supervise and facilitate the work and research on energy facility siting applications at  
44 the direction of the Energy Facility Siting Council; **and**

45 **(b) Subject to the direction of the Oregon Energy Commission:**



1 **ergy plan and how each program can most effectively be administered in furtherance of the**  
2 **plan.**

3 **(4)(a) The statewide strategic energy plan, and any periodic revisions to the plan under**  
4 **subsection (3) of this section, shall be submitted to the Legislative Assembly at the beginning**  
5 **of the next odd-numbered year regular session following development of the plan or revision**  
6 **and may not go into effect until on or after January 1 following the close of that session,**  
7 **unless the Legislative Assembly provides for an earlier permissible effective date.**

8 **(b) In order to become effective and subject to paragraph (a) of this subsection, the**  
9 **statewide strategic energy plan and any periodic revisions to the plan under subsection (3)**  
10 **of this section must be adopted by the commission by reference in rule.**

11 **SECTION 15. (1) The Oregon Energy Commission shall initially adopt the statewide**  
12 **strategic energy plan required by section 14 of this 2018 Act no later than January 1, 2021.**

13 **(2) The State Department of Energy shall prepare a draft statewide strategic energy plan,**  
14 **which may include recommendations for legislation. The department shall, no later than**  
15 **September 15, 2020, submit the draft plan to the appropriate interim committees of the**  
16 **Legislative Assembly in the manner provided under ORS 192.245.**

17 **SECTION 16.** ORS 469.059 is amended to read:

18 469.059. (1) No later than November 1 of every even-numbered year, the State Department of  
19 Energy shall transmit to the Governor and the Legislative Assembly a comprehensive report on  
20 energy resources, policies, trends and forecasts in Oregon. The purposes of the report shall be to  
21 inform local, state, regional and federal energy policy development, energy planning and energy in-  
22 vestments, and to identify opportunities to further the energy policies stated in ORS 469.010 and  
23 469.310 **in conformance with the statewide strategic energy plan required under section 14**  
24 **of this 2018 Act.**

25 (2) Consistent with the legislatively approved budget, the report shall include, but need not be  
26 limited to[, *data and information on*]:

27 **(a) Information on and analysis of the state's progress toward achieving the goals of the**  
28 **statewide strategic energy plan required by section 14 of this 2018 Act and on the effective-**  
29 **ness of the state's programs in contributing to meeting the goals of the plan.**

30 **(b) Information on the impact of activities carried out by state agencies on achieving the**  
31 **greenhouse gas emissions reduction goals set forth in ORS 468A.205.**

32 **(c) Data and information on:**

33 [(a)] **(A)** The consumption, generation, transmission and production of energy, including fuel  
34 energy;

35 [(b)] **(B)** Energy costs;

36 [(c)] **(C)** Energy sectors, markets, technologies, resources and facilities;

37 [(d)] **(D)** Energy efficiency and conservation;

38 [(e)] **(E)** The effects of energy use[, *including effects related to greenhouse gas emissions*];

39 [(f)] **(F)** Local, state, regional and federal regulations, policies and planning activities related to  
40 energy; and

41 [(g)] **(G)** Emerging energy opportunities, challenges and impacts.

42 (3) The report may include, but need not be limited to:

43 (a) Recommendations for the development and maximum use of cost-effective conservation  
44 methods and renewable resources, consistent with the **statewide strategic energy plan**, energy  
45 policies stated in ORS 469.010 and 469.310 and, where appropriate, the energy plan and fish and



1 wildlife program adopted by the Pacific Northwest Electric Power and Conservation Planning  
2 Council pursuant to P.L. 96-501; and

3 (b) Recommendations for proposed research, development and demonstration projects and pro-  
4 grams necessary to further the energy policies stated in ORS 469.010 and 469.310.

5 (4) The report shall be compiled by collecting, organizing and refining data and information ac-  
6 quired by the department in the performance of its existing duties and under its existing authority.

7 (5)(a) This section is not intended to allow disclosure of records exempt from disclosure under  
8 ORS 192.311 to 192.478.

9 (b) The department shall establish procedures for the development and compilation of the report  
10 that:

11 (A) Allow for a person to request the exclusion from the report of specific data or information  
12 submitted by the person to the department and to provide, in the request, reasoning as to why the  
13 data or information is exempt from disclosure under ORS 192.311 to 192.478; and

14 (B) Protect data and information that the department determines to be exempt from disclosure  
15 in accordance with ORS 192.338.

16 (c) The department may utilize data and information that is exempt from disclosure under ORS  
17 192.311 to 192.478 in compilation or analysis that is included in the report, provided that the exempt  
18 data and information is not disclosed in a manner that is individually identifiable.

19 (6) Upon request from the department, other agencies shall assist the department in the per-  
20 formance of its duties under this section.

21 (7) The department shall seek public input and provide opportunities for public comment during  
22 the development of the report.

23  
24 **(Other Administrative Provisions)**

25  
26 **SECTION 17.** ORS 244.050 is amended to read:

27 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon  
28 Government Ethics Commission a verified statement of economic interest as required under this  
29 chapter:

30 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the  
31 Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

32 (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem  
33 judicial officer who does not otherwise serve as a judicial officer.

34 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

35 (d) The Deputy Attorney General.

36 (e) The Deputy Secretary of State.

37 (f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the  
38 Legislative Policy and Research Director, the Secretary of the Senate and the Chief Clerk of the  
39 House of Representatives.

40 (g) The president and vice presidents, or their administrative equivalents, in each public uni-  
41 versity listed in ORS 352.002.

42 (h) The following state officers:

43 (A) Adjutant General.

44 (B) Director of Agriculture.

45 (C) Manager of State Accident Insurance Fund Corporation.

- 1 (D) Water Resources Director.
- 2 (E) Director of Department of Environmental Quality.
- 3 (F) Director of Oregon Department of Administrative Services.
- 4 (G) State Fish and Wildlife Director.
- 5 (H) State Forester.
- 6 (I) State Geologist.
- 7 (J) Director of Human Services.
- 8 (K) Director of the Department of Consumer and Business Services.
- 9 (L) Director of the Department of State Lands.
- 10 (M) State Librarian.
- 11 (N) Administrator of Oregon Liquor Control Commission.
- 12 (O) Superintendent of State Police.
- 13 (P) Director of the Public Employees Retirement System.
- 14 (Q) Director of Department of Revenue.
- 15 (R) Director of Transportation.
- 16 (S) Public Utility Commissioner.
- 17 (T) Director of Veterans' Affairs.
- 18 (U) Executive director of Oregon Government Ethics Commission.
- 19 (V) Director of the State Department of Energy.
- 20 (W) Director and each assistant director of the Oregon State Lottery.
- 21 (X) Director of the Department of Corrections.
- 22 (Y) Director of the Oregon Department of Aviation.
- 23 (Z) Executive director of the Oregon Criminal Justice Commission.
- 24 (AA) Director of the Oregon Business Development Department.
- 25 (BB) Director of the Office of Emergency Management.
- 26 (CC) Director of the Employment Department.
- 27 (DD) Chief of staff for the Governor.
- 28 (EE) Director of the Housing and Community Services Department.
- 29 (FF) State Court Administrator.
- 30 (GG) Director of the Department of Land Conservation and Development.
- 31 (HH) Board chairperson of the Land Use Board of Appeals.
- 32 (II) State Marine Director.
- 33 (JJ) Executive director of the Oregon Racing Commission.
- 34 (KK) State Parks and Recreation Director.
- 35 (LL) Public defense services executive director.
- 36 (MM) Chairperson of the Public Employees' Benefit Board.
- 37 (NN) Director of the Department of Public Safety Standards and Training.
- 38 (OO) Executive director of the Higher Education Coordinating Commission.
- 39 (PP) Executive director of the Oregon Watershed Enhancement Board.
- 40 (QQ) Director of the Oregon Youth Authority.
- 41 (RR) Director of the Oregon Health Authority.
- 42 (SS) Deputy Superintendent of Public Instruction.
- 43 (i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within
- 44 the Governor's office.
- 45 (j) Every elected city or county official.

- 1 (k) Every member of a city or county planning, zoning or development commission.
- 2 (L) The chief executive officer of a city or county who performs the duties of manager or prin-  
3 cipal administrator of the city or county.
- 4 (m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 5 (n) Every member of a governing body of a metropolitan service district and the auditor and  
6 executive officer thereof.
- 7 (o) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 8 (p) The chief administrative officer and the financial officer of each common and union high  
9 school district, education service district and community college district.
- 10 (q) Every member of the following state boards and commissions:
- 11 (A) Governing board of the State Department of Geology and Mineral Industries.
- 12 (B) Oregon Business Development Commission.
- 13 (C) State Board of Education.
- 14 (D) Environmental Quality Commission.
- 15 (E) Fish and Wildlife Commission of the State of Oregon.
- 16 (F) State Board of Forestry.
- 17 (G) Oregon Government Ethics Commission.
- 18 (H) Oregon Health Policy Board.
- 19 (I) Oregon Investment Council.
- 20 (J) Land Conservation and Development Commission.
- 21 (K) Oregon Liquor Control Commission.
- 22 (L) Oregon Short Term Fund Board.
- 23 (M) State Marine Board.
- 24 (N) Mass transit district boards.
- 25 (O) Energy Facility Siting Council.
- 26 (P) Board of Commissioners of the Port of Portland.
- 27 (Q) Employment Relations Board.
- 28 (R) Public Employees Retirement Board.
- 29 (S) Oregon Racing Commission.
- 30 (T) Oregon Transportation Commission.
- 31 (U) Water Resources Commission.
- 32 (V) Workers' Compensation Board.
- 33 (W) Oregon Facilities Authority.
- 34 (X) Oregon State Lottery Commission.
- 35 (Y) Pacific Northwest Electric Power and Conservation Planning Council.
- 36 (Z) Columbia River Gorge Commission.
- 37 (AA) Oregon Health and Science University Board of Directors.
- 38 (BB) Capitol Planning Commission.
- 39 (CC) Higher Education Coordinating Commission.
- 40 (DD) Oregon Growth Board.
- 41 (EE) Early Learning Council.
- 42 **(FF) Oregon Energy Commission.**
- 43 (r) The following officers of the State Treasurer:
- 44 (A) Deputy State Treasurer.
- 45 (B) Chief of staff for the office of the State Treasurer.

1 (C) Director of the Investment Division.

2 (s) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725  
3 or 777.915 to 777.953.

4 (t) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

5 (u) Every member of a governing board of a public university listed in ORS 352.002.

6 (v) Every member of the board of directors of an authority created under ORS 465.600 to  
7 465.621.

8 (2) By April 15 next after the date an appointment takes effect, every appointed public official  
9 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-  
10 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070  
11 and 244.090.

12 (3) By April 15 next after the filing deadline for the primary election, each candidate described  
13 in subsection (1) of this section shall file with the commission a statement of economic interest as  
14 required under ORS 244.060, 244.070 and 244.090.

15 (4) Not later than the 40th day before the date of the statewide general election, each candidate  
16 described in subsection (1) of this section who will appear on the statewide general election ballot  
17 and who was not required to file a statement of economic interest under subsections (1) to (3) of this  
18 section shall file with the commission a statement of economic interest as required under ORS  
19 244.060, 244.070 and 244.090.

20 (5) Subsections (1) to (3) of this section apply only to persons who are incumbent, elected or  
21 appointed public officials as of April 15 and to persons who are candidates on April 15.

22 (6) If a statement required to be filed under this section has not been received by the commis-  
23 sion within five days after the date the statement is due, the commission shall notify the public of-  
24 ficial or candidate and give the public official or candidate not less than 15 days to comply with the  
25 requirements of this section. If the public official or candidate fails to comply by the date set by the  
26 commission, the commission may impose a civil penalty as provided in ORS 244.350.

27 **SECTION 18.** ORS 469.085 is amended to read:

28 469.085. (1) Except as otherwise provided in this section, civil penalties under ORS 469.992 shall  
29 be imposed as provided in ORS 183.745.

30 (2) Notwithstanding ORS 183.745 (2), the notice to the person against whom a civil penalty is  
31 to be imposed shall reflect a complete statement of the consideration given to the factors listed in  
32 subsection (7) of this section. The notice may be served by either the [*Director of the State Depart-*  
33 *ment of Energy*] **Oregon Energy Commission** or the Energy Facility Siting Council.

34 (3) Notwithstanding ORS 183.745, if a hearing is not requested or if the person requesting a  
35 hearing fails to appear, a final order shall be entered upon a prima facie case made on the record  
36 of the agency.

37 (4) The provisions of this section are in addition to and not in lieu of any other penalty or  
38 sanction provided by law. An action taken by the [*director*] **commission** or the council under this  
39 section may be joined by the [*director*] **commission** or the council with any other action against the  
40 same person under this chapter.

41 (5) Any civil penalty recovered under this section shall be paid into the General Fund.

42 (6) The [*director*] **commission** or the council shall adopt by rule a schedule of the amount of  
43 civil penalty that may be imposed for a particular violation.

44 (7) In imposing a penalty under ORS 469.992, the [*director*] **commission** or the council shall  
45 consider:

1 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures  
2 necessary or appropriate to correct or prevent any violation;

3 (b) Any prior violations of ORS chapter 469 or rules, orders or permits relating to the alleged  
4 violation;

5 (c) The impact of the violation on public health and safety or public interests in fishery, navi-  
6 gation and recreation;

7 (d) Any other factors determined by the [*director*] **commission** or the council to be relevant;  
8 and

9 (e) The alleged violator's cooperativeness and effort to correct the violation.

10 (8) The penalty imposed under ORS 469.992 may be remitted or mitigated upon such terms and  
11 conditions as the [*director*] **commission** or council determines to be proper. Upon the request of the  
12 person incurring the penalty, the [*director*] **commission** or council shall consider evidence of the  
13 economic and financial condition of the person in determining whether a penalty shall be remitted  
14 or mitigated.

15 **SECTION 19.** ORS 469.110 is amended to read:

16 469.110. (1) At the direction of the [*Director of the State Department of Energy*] **Oregon Energy**  
17 **Commission**, the State Department of Energy may represent the state's energy-related interests in  
18 any matter involving the federal government, its departments or agencies, which is within the scope  
19 of the power and duties of the State Department of Energy, and may, upon request, represent the  
20 interest of a county, city, state agency, federally recognized Native American or American Indian  
21 tribe, special district or owner or operator of an energy facility.

22 (2) At the direction of the [*director*] **commission**, the department may intervene in any pro-  
23 ceeding undertaken by an agency for the purpose of expressing its views as to the effect of an  
24 agency action, upon state energy resources and state energy policy.

25 **SECTION 20.** ORS 469.120 is amended to read:

26 469.120. (1) The State Department of Energy Account is established.

27 (2) The account shall consist of all funds received by the State Department of Energy pursuant  
28 to law. All moneys in the account are continuously appropriated to the State Department of Energy  
29 for payment of expenses of the department, **the Oregon Energy Commission** and [*of*] the Energy  
30 Facility Siting Council.

31 (3) Moneys collected under ORS 469.421 (8) may be expended only for the purposes of programs  
32 and activities that the **commission, the council** and the department are charged with administering  
33 and authorized to conduct under the laws of this state, including those enumerated in ORS 469.030.

34 (4) The Director of the State Department of Energy shall keep a record of all moneys deposited  
35 in the account. The record shall indicate by special cumulative accounts the source from which  
36 moneys are derived and the individual activity or program, including any activities described in ORS  
37 469.424, against which each withdrawal is charged. On or after October 1 of each year, the director  
38 shall make available, upon request, the record for the prior fiscal year to any energy resource sup-  
39 plier that has paid the assessment imposed under ORS 469.421 (8). The director shall make the re-  
40 cord available within 30 days of receiving the request.

41  
42 **(Energy Resource Supplier Assessment Modifications)**  
43

44 **SECTION 21.** ORS 469.421 is amended to read:

45 469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent,

1 a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370,  
2 a request for an expedited review under ORS 469.373, a request for the State Department of Energy  
3 to approve a pipeline under ORS 469.405 (3), an application for a site certificate or a request to  
4 amend a site certificate shall pay all expenses incurred by the Energy Facility Siting Council and  
5 the department related to the review and decision of the council. Expenses under this subsection  
6 may include:

7 (a) Legal expenses;

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

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

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

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

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

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

25 (3) Before submitting a site certificate application, the applicant shall request from the depart-  
26 ment an estimate of the costs expected to be incurred in processing the application. The department  
27 shall inform the applicant of that amount and require the applicant to make periodic payments of  
28 the costs pursuant to a cost reimbursement agreement. The cost reimbursement agreement shall  
29 provide for payment of 25 percent of the estimated costs when the applicant submits the application.  
30 If costs of the evaluation exceed the estimate, the applicant shall pay any excess costs shown in an  
31 itemized statement prepared by the council. In no event shall the council incur evaluation expenses  
32 in excess of 110 percent of the fee initially estimated unless the council provided prior notification  
33 to the applicant and a detailed projected budget the council believes is necessary to complete the  
34 project. If costs are less than the fee paid, the council shall refund the excess to the applicant.

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

37 (5) Subject to the provisions of ORS 469.441, each holder of a certificate shall pay an annual fee,  
38 due every July 1 following issuance of a site certificate. For each fiscal year, upon approval of the  
39 department's budget authorization by an odd-numbered year regular session of the Legislative As-  
40 sembly or as revised by the Emergency Board meeting in an interim period or by the Legislative  
41 Assembly meeting in special session or in an even-numbered year regular session, the Director of  
42 the State Department of Energy promptly shall enter an order establishing an annual fee based on  
43 the amount of revenues that the director estimates is needed to fund the cost of ensuring that the  
44 facility is being operated consistently with the terms and conditions of the site certificate, any order  
45 issued by the department under ORS 469.405 (3) and any applicable health or safety standards. In

1 determining this cost, the director shall include both the actual direct cost to be incurred by the  
2 council and the department to ensure that the facility is being operated consistently with the terms  
3 and conditions of the site certificate, any order issued by the department under ORS 469.405 (3) and  
4 any applicable health or safety standards, and the general costs to be incurred by the council and  
5 the department to ensure that all certificated facilities are being operated consistently with the  
6 terms and conditions of the site certificates, any orders issued by the department under ORS 469.405  
7 (3) and any applicable health or safety standards that cannot be allocated to an individual, licensed  
8 facility. Not more than 35 percent of the annual fee charged each facility shall be for the recovery  
9 of these general costs. The fees for direct costs shall reflect the size and complexity of the facility,  
10 the anticipated costs of ensuring compliance with site certificate conditions, the anticipated costs  
11 of conducting site inspections and compliance reviews as described in ORS 469.430, and the antic-  
12 ipated costs of compensating state agencies and local governments for participating in site in-  
13 spection and compliance enforcement activities at the request of the council.

14 (6) Each holder of a site certificate executed after July 1 of any fiscal year shall pay a fee for  
15 the remaining portion of the year. The amount of the fee shall be set at the cost of regulating the  
16 facility during the remaining portion of the year determined in the same manner as the annual fee.

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

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

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

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

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

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

1 to conduct under the laws of this state, including those enumerated in ORS 469.030, for the second  
2 fiscal year of the biennium. The order shall take into account any revisions to the biennial budget  
3 of the council and the department made by the Emergency Board meeting in an interim period or  
4 by the Legislative Assembly meeting in special session or in an even-numbered year regular session.

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

8 (e) The amount assessed to an energy resource supplier shall be based on the ratio which that  
9 supplier's annual gross operating revenue derived within this state in the preceding calendar year  
10 bears to the total gross operating revenue derived within this state during that year by all energy  
11 resource suppliers. The assessment against an energy resource supplier shall not exceed [0.375] **0.15**  
12 percent of the supplier's gross operating revenue derived within this state in the preceding calendar  
13 year. The director shall exempt from payment of an assessment any individual energy resource  
14 supplier whose calculated share of the annual assessment is less than [\$250] **\$2,500**.

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

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

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

26 (B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July  
27 1 of each even-numbered year or 90 days following adjournment sine die of the even-numbered year  
28 regular session of the Legislative Assembly, whichever is later.

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

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

39 (B) The energy supplier provides reasonable assurance that the energy supplier can comply with  
40 the revised deadline; and

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

43 (i) As used in this section:

44 (A) "Energy resource supplier" means an electric utility, natural gas utility or petroleum sup-  
45 plier supplying, generating, transmitting or distributing electricity, natural gas or petroleum pro-



1 ducts in Oregon.

2 (B) "Gross operating revenue" means [*gross receipts from sales or service made or provided*  
3 *within this state*] **the gross receipts of an energy resource supplier from supplying, generating,**  
4 **transmitting or distributing electricity, natural gas or petroleum products in Oregon** during  
5 the regular course of the energy **resource** supplier's business, but does not include:

6 (i) [*either*] Revenue derived from interutility sales within [*the*] **this** state;

7 (ii) [*or*] Revenue received by a petroleum supplier from the sale of fuels that are subject to the  
8 requirements of Article IX, section 3a, of the Oregon Constitution, or ORS 319.020 or 319.530[.]; **or**

9 **(iii) Revenue received by a petroleum supplier for the sale of propane infrastructure.**

10 (C) "Petroleum supplier" has the meaning given that term in ORS 469.020.

11 (j) In determining the amount of revenues that must be derived from any class of energy re-  
12 source suppliers by assessment pursuant to this subsection, the director shall take into account all  
13 other known or readily ascertainable sources of revenue to the council and department, including,  
14 but not limited to, fees imposed under this section and federal funds, and may take into account any  
15 funds previously assessed pursuant to ORS 469.420 (1979 Replacement Part) or section 7, chapter  
16 792, Oregon Laws 1981.

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

20 (9)(a) In addition to any other fees required by law, each operator of a nuclear fueled thermal  
21 power plant or nuclear installation within this state shall pay to the department annually on July  
22 1 an assessment in an amount determined by the director to be necessary to fund the activities of  
23 the state and the counties associated with emergency preparedness for a nuclear fueled thermal  
24 power plant or nuclear installation. The assessment shall not exceed \$461,250 per year. Moneys  
25 collected as assessments under this subsection are continuously appropriated to the department for  
26 this purpose.

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

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

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

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



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

4  
5 (Liability, Duty, Obligation)  
6

7 **SECTION 27.** (1) Nothing in sections 23 to 29 of this 2018 Act, the amendments to stat-  
8 utes by sections 30 to 34 and 36 to 58 of this 2018 Act or the repeal of ORS 470.100 by section  
9 35 of this 2018 Act relieves a person of a liability, duty or obligation accruing under or with  
10 respect to the duties, functions and powers transferred by section 23 of this 2018 Act. The  
11 Oregon Business Development Department may undertake the collection or enforcement of  
12 any such liability, duty or obligation.

13 (2) The rights and obligations of the State Department of Energy legally incurred under  
14 contracts, leases and business transactions executed, entered into or begun before the op-  
15 erative date of section 23 of this 2018 Act accruing under or with respect to the duties,  
16 functions and powers transferred by section 23 of this 2018 Act are transferred to the Oregon  
17 Business Development Department. For the purpose of succession to these rights and obli-  
18 gations, the Oregon Business Development Department is a continuation of the State De-  
19 partment of Energy and not a new authority.

20  
21 (Rules)  
22

23 **SECTION 28.** Notwithstanding the transfer of duties, functions and powers by section 23  
24 of this 2018 Act, the rules of the State Department of Energy with respect to such duties,  
25 functions or powers that are in effect on the operative date of section 23 of this 2018 Act  
26 continue in effect until superseded or repealed by rules of the Oregon Business Development  
27 Department. References in the rules of the State Department of Energy to the State De-  
28 partment of Energy or an officer or employee of the State Department of Energy are con-  
29 sidered to be references to the Oregon Business Development Department or an officer or  
30 employee of the Oregon Business Development Department.

31 **SECTION 29.** Whenever, in any uncodified law or resolution of the Legislative Assembly  
32 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in  
33 the context of the duties, functions and powers transferred by section 23 of this 2018 Act,  
34 reference is made to the State Department of Energy, or an officer or employee of the State  
35 Department of Energy whose duties, functions or powers are transferred by section 23 of this  
36 2018 Act, the reference is considered to be a reference to the Oregon Business Development  
37 Department or an officer or employee of the Oregon Business Development Department who  
38 by this 2018 Act is charged with carrying out the duties, functions and powers.

39  
40 (Amendments to Statutes, Repeal)  
41

42 **SECTION 30.** ORS 470.050 is amended to read:

43 470.050. As used in this chapter, unless the context requires otherwise:

44 (1) "Alternative fuel project" means:

45 (a) Equipment, including vehicles that are not used primarily for personal, family or household

1 purposes, that is modified or acquired directly from a factory and that:

2 (A) Uses an alternative fuel including electricity, biofuel, gasohol with at least 20 percent de-  
3 natured alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other  
4 fuel approved by the [*Director of the State Department of Energy*] **Oregon Business Development**  
5 **Department**; and

6 (B) Produces lower exhaust emissions or is more energy efficient than equivalent equipment fu-  
7 eled by gasoline or diesel; and

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

10 (2) “Applicant” means an applicant for a loan to construct a small scale local energy project.

11 [(3) “*Base efficiency package*” means the package of energy efficiency upgrades or renewable energy  
12 projects for a property that, when energy savings, project repayment costs, tax or other incentives, loan  
13 offset grants and other relevant economic factors are considered, is estimated to not increase the utility  
14 bill of the customer over the loan repayment term.]

15 [(4) (3) “Committee” means the Small Scale Local Energy Project Advisory Committee created  
16 under ORS 470.070.

17 [(5) (4) “Cooperative” means a cooperative corporation organized under ORS chapter 62.

18 [(6) “Director” means the Director of the State Department of Energy appointed under ORS  
19 469.040.]

20 [(7) (5) “Eligible federal agency” means a federal agency or public corporation created by the  
21 federal government that proposes to use a loan for a small scale local energy project. “Eligible  
22 federal agency” does not include a federal agency or public corporation created by the federal  
23 government that proposes to use a loan for a small scale local energy project to generate electricity  
24 for sale.

25 [(8) (6) “Eligible state agency” means a state officer, board, commission, department, institution,  
26 branch or agency of the state whose costs are paid wholly or in part from funds held in the State  
27 Treasury.

28 [(9) “*Energy efficiency and sustainable technology loan*” means a loan for a small scale local en-  
29 ergy project that is repayable by means of:]

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

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

33 [(10) “*Energy Project Bond Loan Fund*” means the fund established under ORS 470.580.]

34 [(11) “*Energy Project Supplemental Fund*” means the fund established under ORS 470.570.]

35 [(12) “*Energy Revenue Bond Repayment Fund*” means the fund established under ORS 470.585.]

36 [(13) “*Energy savings projection*” means an examination of the energy performance and site char-  
37 acteristics of a property that, at a minimum, identifies:]

38 [(a) A base efficiency package; and]

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

41 [(14) “*Jobs, Energy and Schools Fund*” means the fund established under ORS 470.575.]

42 [(15) (7) “Loan” includes the purchase or other acquisition of evidence of indebtedness and  
43 money used for the purchase or other acquisition of evidence of indebtedness.

44 [(16) (8) “Loan contract” means the evidence of indebtedness and all instruments used in the  
45 purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or

1 municipal corporations that are tax exempt entities, a loan contract may include a lease purchase  
2 agreement with respect to personal property.

3 [(17) *“Loan offset grant” means moneys from the Jobs, Energy and Schools Fund that are used to*  
4 *help offset the initial project costs or loan payments for energy efficiency, renewable energy and energy*  
5 *conservation projects.*]

6 [(18) *“Loan repayment charge” means an amount charged to a utility customer account through*  
7 *on-bill financing as a mechanism for the repayment of an energy efficiency and sustainable technology*  
8 *loan.*]

9 [(19)] (9) *“Municipal corporation” has the meaning given in ORS 297.405 and also includes any*  
10 *Indian tribe or authorized Indian tribal organization or any combination of two or more of these*  
11 *tribes or organizations acting jointly in connection with a small scale local energy project.*

12 [(20) *“On-bill financing” means a mechanism for collecting the repayment of an energy efficiency*  
13 *and sustainable technology loan through a utility customer account billing system.*]

14 [(21) *“Optional package” means measures for promoting energy efficiency or the use of renewable*  
15 *energy:*]

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

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

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

19 [(22)] (10) *“Oregon business” means a sole proprietorship, partnership, company, cooperative,*  
20 *corporation or other form of business entity that is organized or authorized to do business under*  
21 *Oregon law for profit.*

22 [(23) *“Primary contractor” means a contractor that:*]

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

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

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

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

29 [(24) *“Public Purpose Fund Administrator” means the entity designated by the Public Utility*  
30 *Commission to administer moneys collected by a company through the public purpose charge described*  
31 *under ORS 757.612.*]

32 [(25)] (11) *“Recycling project” means a facility or equipment that converts waste into a new and*  
33 *usable product.*

34 [(26)] (12) *“Small business” means:*

35 (a) *An Oregon business that is:*

36 (A) *A retail or service business employing 50 or fewer persons at the time the loan is made; or*

37 (B) *An industrial or manufacturing business employing 200 or fewer persons at the time the loan*  
38 *is made; or*

39 (b) *An Oregon subsidiary of a sole proprietorship, partnership, company, cooperative, corpo-*  
40 *ration or other form of business entity for which the total number of employees for both the sub-*  
41 *subsidiary and the parent sole proprietorship, partnership, company, cooperative, corporation or other*  
42 *form of business entity at the time the loan is made is:*

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

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

45 [(27) *“Small scale local energy program loan” means a loan for a small scale local energy project*

1 *other than an energy efficiency and sustainable technology loan.]*

2 [(28)] (13) “Small scale local energy project” means any of the following:

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

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

11 (c) A recycling project.

12 (d) An alternative fuel project.

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

16 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility  
17 that directly or indirectly reduces the amount of energy needed for the construction and operation  
18 of the facility and that meets the sustainable building practices standard established by the [*State*  
19 *Department of Energy*] **Oregon Business Development Department** by rule. For purposes of this  
20 paragraph, “system, mechanism or series of mechanisms” includes related and integrated upgrades  
21 to attain compliance with standards set in the State of Oregon Structural Specialty Code and Fire  
22 and Life Safety Code, and seismic safety upgrades.

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

26 (h) A project described in paragraphs (a) to (g) of this subsection that conserves energy or  
27 produces energy by generation or by processing or collection of a renewable resource.

28 [(29)] (14) “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the  
29 fund created under ORS 470.300.

30 [(30)] (15) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Arti-  
31 cle XI-J of the Oregon Constitution and appropriated to the [*State*] department [*of Energy*] under  
32 ORS 470.130.

33 [(31) “Sustainable energy project manager” means the organization responsible for promoting the  
34 energy efficiency and sustainable technology loan program or the clean energy deployment program and  
35 related incentives for energy efficiency and renewable energy at the neighborhood and community  
36 level.]

37 [(32) “Utility service territory” means the allocated territory in which a utility subject to this  
38 chapter provides a utility service. For the purposes of this subsection, “allocated territory” and “utility  
39 service” have the meanings given those terms in ORS 758.400.]

40 **SECTION 31.** ORS 470.060 is amended to read:

41 470.060. (1) The following may file with the [*State Department of Energy*] **Oregon Business**  
42 **Development Department** an application to obtain moneys for a small scale local energy project  
43 as provided in this chapter:

44 (a) An individual who is an Oregon resident;

45 (b) An Oregon business;

- 1 (c) A nonprofit or public cooperative;
- 2 (d) A nonprofit corporation;
- 3 (e) An eligible federal agency;
- 4 (f) An eligible state agency;
- 5 (g) A public corporation created by this state;
- 6 (h) An intergovernmental entity created pursuant to an intergovernmental agreement under ORS
- 7 190.003 to 190.130;
- 8 (i) A special district;
- 9 (j) A local improvement district;
- 10 (k) A public university listed in ORS 352.002; or
- 11 (L) A municipal corporation.

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

- 15 (a) Describe the nature and purpose of the proposed small scale local energy project.
- 16 (b) State whether any purposes other than energy production, but consistent with energy pro-  
17 duction, will be served by the proposed small scale local energy project, and the nature of the other  
18 purposes, if any.
- 19 (c) Include an evaluation of the potential of the small scale local energy project to meet local  
20 community energy needs.
- 21 (d) Include an evaluation of the potential environmental impacts of the small scale local energy  
22 project.
- 23 (e) State whether any moneys other than those in the loan fund are proposed to be used for the  
24 development of the proposed small scale local energy project, and whether any other moneys are  
25 available or have been sought for the project.
- 26 (f) Describe the source of moneys for repayment of the loan applied for.

27 (3) [If the application is for a loan other than an energy efficiency and sustainable technology loan  
28 to an individual,] A fee of one-tenth of one percent of the amount of the loan applied for or \$2,500,  
29 whichever is less, shall be submitted with each application. In addition, the applicant may be re-  
30 quired to pay for costs incurred in connection with the application that exceed the application fee  
31 and which the Director of the [State Department of Energy] **Oregon Business Development De-**  
32 **partment** determines are incurred solely in connection with processing the application. The appli-  
33 cant shall be advised of any additional costs the applicant must pay before the costs are incurred.

34 **SECTION 32.** ORS 470.070 is amended to read:

35 470.070. (1) The Director of the [State Department of Energy] **Oregon Business Development**  
36 **Department** shall appoint a Small Scale Local Energy Project Advisory Committee to review ap-  
37 plications made under ORS 470.060 and rules adopted under ORS 470.080[ *other than applications for*  
38 *energy efficiency and sustainable technology loans,*] and make recommendations regarding those ap-  
39 plications to the director.

40 (2) Nine members shall be appointed to the Small Scale Local Energy Project Advisory Com-  
41 mittee. Each member shall be appointed to serve a four-year term, commencing on the date of ap-  
42 pointment, and until a successor is appointed and qualified. The members shall represent the interest  
43 of the citizens of this state and shall be knowledgeable in the areas of small scale energy technol-  
44 ogy, natural resource development, environmental protection, finance, agriculture, local government  
45 operations and utility operations. At least three members shall reside outside the Willamette Valley.

1 (3) The committee shall elect its own presiding officer, adopt rules for its procedure and meet  
2 on call of the presiding officer or a majority of the members. A majority of the members shall con-  
3 stitute a quorum to do business. The director shall provide administrative facilities and services for  
4 the committee.

5 (4) Members of the Small Scale Local Energy Project Advisory Committee shall be entitled to  
6 expenses as provided by ORS 292.495.

7 **SECTION 33.** ORS 470.080 is amended to read:

8 470.080. (1) After consultation with the Small Scale Local Energy Project Advisory Committee,  
9 the [*Director of the State Department of Energy*] **Oregon Energy Commission, in consultation with**  
10 **the Director of the Oregon Business Development Department**, shall establish by rule stan-  
11 dards and criteria for small scale local energy projects to be funded under this chapter [*other than*  
12 *projects funded through energy efficiency and sustainable technology loans*]. The standards and crite-  
13 ria shall operate to encourage diversity in projects funded, give preference to the maximum extent  
14 practical to projects proposed by individuals and small businesses, ensure acceptability of environ-  
15 mental impacts and shall require consideration of the potential contribution of a project if developed  
16 at other suitable locations to meeting the energy needs of this state. The standards and criteria shall  
17 give the least preference to projects proposed by an eligible federal agency.

18 (2) All applications submitted under ORS 470.060 shall be reviewed by the [*State Department of*  
19 *Energy*] **Oregon Business Development Department**. The department may request that the appli-  
20 cant submit additional information or revise the application. The department shall:

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

23 (b) Recommend approval or denial of the loan application, and if approval is recommended in  
24 what amount the loan should be made.

25 (3) After concluding its review, unless the application meets the criteria established by the  
26 committee under subsection (4) of this section, the department shall refer the application and its  
27 findings and recommendation to the committee for its review. The department shall notify the ap-  
28 plicant of the date, time and place of any oral presentation to the committee on the application. The  
29 committee shall review the application and the department's findings and recommendations and ad-  
30 vise the director whether the proposed small scale local energy project meets the criteria estab-  
31 lished [*by the director*] under subsection (1) of this section, whether the project should be financed  
32 with moneys from the Small Scale Local Energy Project Loan Fund and in what amount the loan  
33 should be made if approved.

34 (4) The committee may provide for direct referral of an application by the department to the  
35 director if the application meets criteria established by the committee.

36 **SECTION 34.** ORS 470.090 is amended to read:

37 470.090. (1) After consideration of the recommendation of the Small Scale Local Energy Project  
38 Advisory Committee or the [*State Department of Energy*] **Oregon Business Development Depart-**  
39 **ment** as provided by ORS 470.080, the Director of the [*State Department of Energy*] **Oregon Busi-**  
40 **ness Development Department** may approve or reject the financing of a small scale local energy  
41 project described in an application filed as provided in ORS 470.060, using moneys in the Small Scale  
42 Local Energy Project Loan Fund. Approval of a loan by the director shall include a certification  
43 of the amount of the loan.

44 (2) The director's approval of a loan for a small scale local energy project shall be based on a  
45 finding that:



1 (a) The proposed small scale local energy project meets established standards and criteria under  
2 ORS 470.080;

3 (b) The proposed project is consistent with the preservation and enhancement of environmental  
4 quality;

5 (c) The proposed project is feasible and a reasonable risk from practical and economic stand-  
6 points;

7 (d) The plan for development of the project is satisfactory;

8 (e) The applicant is qualified, creditworthy and responsible and is willing and able to enter into  
9 a contract with the director for development and repayment as provided in ORS 470.150 [or  
10 470.645];

11 (f) There is a need for the proposed small scale local energy project and the applicant's financial  
12 resources are adequate to provide the working capital to maintain the project after completion;

13 (g) Moneys in the loan fund are or will be available for the development of the proposed small  
14 scale local energy project;

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

17 (i) Except for a proposed space heating project for a dwelling under paragraph (h) of this sub-  
18 section, the loan does not finance any project for which the projected economic value of the energy  
19 savings of the project during the first year the project is implemented is equal to or greater than  
20 the cost of the project; and

21 (j) The loan will not preclude individuals and small businesses from access to loan moneys.

22 (3) The director shall notify the applicant and the presiding officer of the committee of the  
23 director's action and of the reasons for that action. *[The director shall inform the applicant of the*  
24 *review procedure established in ORS 470.100.]* **Notwithstanding ORS chapter 183, a decision of**  
25 **the director on an application for financing under this section is not subject to judicial re-**  
26 **view.**

27 **SECTION 35. ORS 470.100 is repealed.**

28 **SECTION 36.** ORS 470.110 is amended to read:

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

34 **SECTION 37.** ORS 470.120 is amended to read:

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

41 **SECTION 38.** ORS 470.130 is amended to read:

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

1        **SECTION 39.** ORS 470.135 is amended to read:

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

12       **SECTION 40.** ORS 470.140 is amended to read:

13       470.140. (1) In accordance with the applicable provisions of ORS chapter 183, **and except as**  
14       **provided by ORS 470.080 (1)**, the Director of the [*State Department of Energy*] **Oregon Business**  
15       **Development Department** may adopt rules considered necessary to carry out the purposes of this  
16       chapter.

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

21       **SECTION 41.** ORS 470.145 is amended to read:

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

27       **SECTION 42.** ORS 470.150 is amended to read:

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

36       (1) May provide that the director, on behalf of the state, must approve the arrangements made  
37       by the applicant for the development, operation and maintenance of the small scale local energy  
38       project, using moneys in the Small Scale Local Energy Project Loan Fund for the project develop-  
39       ment.

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

1 tration and promotional costs for the program. The incremental rate for projects proposed by an  
2 eligible federal agency shall be greater than the incremental rate charged to any other govern-  
3 mental borrower. The repayment plan, among other matters:

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

12 (b) May provide for reasonable extension of the time for making any repayment in emergency  
13 or hardship circumstances, if approved by the director.

14 (c) Shall provide for evidence of debt assurance of and security for repayment by the applicant  
15 considered necessary or proper by the director.

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

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

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

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

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

27 (3) May include provisions satisfactory to the director for field inspection, the director to be the  
28 final judge of completion of the project.

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

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

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

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

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

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

1 actions;]

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

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

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

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

7 [(D) This chapter; or]

8 [(E) Department rules that relate in any way to the loan repayment charge, real property lien pro-  
9 visions or any form or combination of loan security or to the requirement to satisfy the loan  
10 obligation;]

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

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

15 **SECTION 43.** ORS 470.160 is amended to read:

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

20 **SECTION 44.** ORS 470.170 is amended to read:

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

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

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

38 (3) When a loan made under this chapter is secured by a lien on the real property of the appli-  
39 cant, the director shall perfect the lien by recording as provided by law.

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

42 (5) The director may cause to be instituted appropriate proceedings to foreclose liens for delin-  
43 quent loan payments, and shall pay the proceeds of any such foreclosure, less the director's expenses  
44 incurred in foreclosing, into the Small Scale Local Energy Project Administration and Bond Sinking  
45 Fund if the loan was issued from the Small Scale Local Energy Project Loan Fund[, or into the En-

1 *ergy Project Bond Loan Fund if the loan was from the Energy Project Bond Loan Fund*]. In a fore-  
 2 closure proceeding the director may bid on property offered for sale in the proceedings and may  
 3 acquire title to the property on behalf of the state.

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

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

11 **SECTION 45.** ORS 470.180 is amended to read:

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

21 **SECTION 46.** ORS 470.190 is amended to read:

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

29 **SECTION 47.** ORS 470.200 is amended to read:

30 470.200. If any small scale local energy project is refinanced or an additional grant or loan in-  
 31 tended to finance the project development is obtained from other sources after the execution of the  
 32 loan from the state, all such funds shall be used to repay the state unless the Director of the [*State*  
 33 *Department of Energy*] **Oregon Business Development Department** finds that repayment of the  
 34 state from the additional grant or loan would be contrary to public interest.

35 **SECTION 48.** ORS 470.210 is amended to read:

36 470.210. (1) Notwithstanding any other provision of law, a municipal corporation may enter into  
 37 a loan contract with the [*State Department of Energy*] **Oregon Business Development Department**  
 38 to finance a small scale local energy project.

39 (2) In order to finance a small scale local energy project, the Director of the [*State Department*  
 40 *of Energy,*] **Oregon Business Development Department**, on behalf of the state and in lieu of en-  
 41 tering into a loan contract under subsection (1) of this section, may purchase or otherwise acquire  
 42 a municipal corporation's general obligations or revenue obligations, including but not limited to  
 43 bonds, notes, certificates of participation, warrants or lease purchase agreements.

44 **SECTION 49.** ORS 470.230 is amended to read:

45 470.230. Except as provided in ORS 470.270, all moneys obtained from the sale of general obli-

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

12 **SECTION 50.** ORS 470.270 is amended to read:

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

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

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

42 **SECTION 51.** ORS 470.300 is amended to read:

43 470.300. (1) There hereby is created the Small Scale Local Energy Project Administration and  
 44 Bond Sinking Fund, separate and distinct from the General Fund, to provide for payment of:

45 (a) Administrative expenses of the [*State Department of Energy and the Director of the State De-*

1 *partment of Energy]* **Oregon Business Development Department and the Director of the Oregon**  
2 **Business Development Department** in processing applications, investigating potential small scale  
3 local energy projects and proposed loans and servicing and collecting outstanding loans made from  
4 the Small Scale Local Energy Project Loan Fund, if the expense is not paid directly by the applicant.

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

7 (c) Principal, interest and redemption premium, if any, of all bonds issued pursuant to the pro-  
8 visions of ORS 470.220 to 470.290 and Article XI-J of the Oregon Constitution.

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

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

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

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

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

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

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

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

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

23 (g) Moneys transferred from the loan fund.

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

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

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

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

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

36 **SECTION 52.** ORS 470.310 is amended to read:

37 470.310. (1) If there are insufficient funds in the Small Scale Local Energy Project Adminis-  
38 tration and Bond Sinking Fund to make the payments referred to in ORS 470.300 (1), the Director  
39 of the [*State Department of Energy]* **Oregon Business Development Department** may request the  
40 funds necessary for such payments from the Legislative Assembly or the Emergency Board.

41 (2) When the director determines that moneys in sufficient amount are available in the sinking  
42 fund, the State Treasurer shall reimburse the General Fund without interest, in an amount equal to  
43 the amount allocated by the Legislative Assembly or the Emergency Board pursuant to subsection  
44 (1) of this section. The moneys used to reimburse the General Fund under this subsection shall not  
45 be considered a budget item on which a limitation is otherwise fixed by law, but shall be in addition

1 to any specific appropriations or amounts authorized to be expended from continually appropriated  
2 moneys.

3 **SECTION 53.** ORS 470.800 is amended to read:

4 470.800. (1) The Clean Energy Deployment Fund is established in the State Treasury, separate  
5 and distinct from the General Fund. Interest earned by the Clean Energy Deployment Fund shall  
6 be credited to the Clean Energy Deployment Fund. Moneys in the fund are continuously appropri-  
7 ated to the [*State Department of Energy*] **Oregon Business Development Department** for use as  
8 provided in ORS 470.810.

9 (2) The department may accept grants, donations, contributions or gifts from any source for de-  
10 posit in the Clean Energy Deployment Fund.

11 **SECTION 54.** ORS 470.805 is amended to read:

12 470.805. (1) The Renewable Energy Development Subaccount is established in the Clean Energy  
13 Deployment Fund established in ORS 470.800. Interest earned by the Renewable Energy Develop-  
14 ment Subaccount shall be credited to the subaccount. Moneys in the fund are continuously appro-  
15 priated to the [*State Department of Energy*] **Oregon Business Development Department** for  
16 purposes related to renewable energy development.

17 (2) The department may accept grants, donations, contributions or gifts from any source for de-  
18 posit in the Renewable Energy Development Subaccount.

19 **SECTION 55.** ORS 470.810 is amended to read:

20 470.810. (1) The [*State Department of Energy*] **Oregon Business Development Department**  
21 shall establish the clean energy deployment program to provide grants and loans to support energy  
22 efficiency or clean energy projects in this state. The department shall establish criteria for quali-  
23 fications of the projects by rule.

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

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

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

34 (3) The department may contract for the implementation of the clean energy deployment pro-  
35 gram [*in all or parts of this state with a sustainable energy project manager as defined in ORS*  
36 *470.050*].

37 **SECTION 56.** ORS 470.815 is amended to read:

38 470.815. (1) School districts that participate in the clean energy deployment program established  
39 in ORS 470.810 may finance projects to:

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

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

44 (c) Replace school bus fleets with school buses that operate on compressed natural gas or other  
45 alternative fuels such as propane or that operate with high-efficiency types of engines such as hybrid



1 electric engines.

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

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

6 (a) Paying directly for the projects;

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

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

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

12 [(C)] (B) Qualified Energy Conservation Bonds issued under the Energy Improvement and Ex-  
13 tension Act of 2008 or other federal loan programs; or

14 [(D)] (C) Revenues generated by the savings in energy costs resulting from the energy efficiency  
15 improvements;

16 (c) Issuing general obligation bonds, subject to the bond election requirements under ORS  
17 328.210; or

18 (d) Using any other source of moneys.

19 **SECTION 57.** ORS 223.680 is amended to read:

20 223.680. (1) As used in this section:

21 (a) "Local government" means cities and counties.

22 (b) "Qualifying real property" means multifamily residential dwellings or commercial or indus-  
23 trial buildings that the local government has determined can be benefited by utilities improvements.

24 (c) "Utilities improvements" means improvements to qualifying real property for any of the fol-  
25 lowing purposes:

26 (A) Energy efficiency.

27 (B) Renewable energy.

28 (C) Energy storage.

29 (D) Smart electric vehicle charging stations.

30 (E) Water efficiency.

31 (2)(a) Subject to subsection (3) of this section, a local government may establish a program to  
32 assist owners of record of qualifying real property in financing cost-effective utilities improvements  
33 to the qualifying real property.

34 (b) The utilities improvements must be authorized by:

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

36 (B) The [*State Department of Energy*] **Oregon Business Development Department** for a loan  
37 issued under subsection (10) of this section to a local government that establishes a program in co-  
38 operation with a local government described in subparagraph (A) of this paragraph.

39 (c) A program established pursuant to this subsection may provide for the local government to:

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

42 (B) Facilitate private financing by the owners; or

43 (C) Make loans under subparagraph (A) of this paragraph and facilitate private financing under  
44 subparagraph (B) of this paragraph.

45 (3) Before establishing a program under this section, the local government shall provide notice

1 to utilities that distribute electric energy, natural gas or water within the areas in which the local  
2 government will operate the program.

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

4 (a) Require performance of an energy or water audit on the qualifying real property before the  
5 local government approves a loan for utilities improvements to the property;

6 (b) Impose requirements intended to ensure that the costs of the improvements financed under  
7 this section do not exceed the cumulative cost savings of the improvements over the useful life of  
8 the improvements; and

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

11 (5)(a) If the owner of record of qualifying real property requests financing pursuant to a program  
12 established under this section, subject to subsection (6) of this section, the local government imple-  
13 menting the program may:

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

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

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

20 (A) The costs of utilities improvements the local government determines will benefit the quali-  
21 fying real property and the borrowers;

22 (B) The costs of the energy or water audit; and

23 (C) The costs and reserves of the program.

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

25 (A) If the local government makes a loan, charge the borrower an interest rate on the principal  
26 amount that is sufficient to pay the financing costs of the loan program, including loan delinquen-  
27 cies; and

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

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

31 (a) Provided written notice to all mortgagees of the qualifying real property that the owner in-  
32 tends to enter into a loan agreement or financing agreement under this section; and

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

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

37 (a) Secure a loan or financing with a lien on the benefited qualifying real property with the  
38 same priority, as determined under ORS 223.230 (3), as a lien for assessments for local improvements  
39 arising under ORS 223.393.

40 (b) Assess the benefited qualifying real property for the amounts due under a loan agreement  
41 or financing agreement.

42 (c) Enforce a lien and collect an assessment authorized by this section as provided in ORS  
43 223.505 to 223.650.

44 (d) Secure a loan or financing in any other manner that the local government determines is  
45 reasonable.

1 (8)(a) In lieu of enforcing liens and collecting assessments as provided in subsection (7)(c) of this  
2 section, a local government may certify the assessment, in the manner provided in ORS 310.060, to  
3 the county assessor of each county in which benefited qualifying real property is located.

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

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

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

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

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

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

18 **SECTION 58.** ORS 757.247 is amended to read:

19 757.247. (1) The Public Utility Commission may authorize a public utility, upon application of the  
20 utility, to file and place into effect a tariff schedule establishing rates or charges for the cost of  
21 energy resource measures provided to an individual property owner or customer pursuant to an  
22 agreement entered into between the individual property owner or customer and the public utility.  
23 Energy resource measures provided under this section may include:

24 (a) The installation of renewable energy generation facilities on the property of property owners  
25 or the premises of customers;

26 (b) The implementation of energy conservation measures, including measures that are not cost-  
27 effective;

28 (c) The installation of equipment or devices or the implementation of measures that enable de-  
29 mand reduction, peak load reduction, improved integration of renewable energy generation or more  
30 effective utilization of energy resources;

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

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

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

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

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

40 (c) The application of any payment obligation to successive owners of the property to which the  
41 energy resource measure is attached or to successive customers located at the premises to which  
42 the energy resource measure is attached; and

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

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

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

6 (5) A public utility may use moneys obtained through a rate established under ORS 757.603 (2)(a)  
7 to provide a renewable energy generation facility to a property owner or customer under this sec-  
8 tion. A public utility may not charge interest to a property owner or customer for a renewable en-  
9 ergy generation facility acquired with moneys obtained through a rate established under ORS  
10 757.603 (2)(a).

11 *[(6) Agreements entered into and tariff schedules placed into effect under this section are not sub-*  
12 *ject to ORS 470.500 to 470.710, 757.612 or 757.689.]*

13  
14 **(Transfer of Moneys and Appropriations)**  
15

16 **SECTION 59. (1) The following funds are abolished on the operative date specified in**  
17 **section 135 of this 2018 Act:**

- 18 (a) **The Energy Project Supplemental Fund;**  
19 (b) **The Jobs, Energy and Schools Fund;**  
20 (c) **The Energy Project Bond Loan Fund; and**  
21 (d) **The Energy Revenue Bond Repayment Fund.**

22 (2) **Any moneys remaining in the funds specified in subsection (1) of this section on the**  
23 **operative date specified in section 135 of this 2018 Act that are unexpended, unobligated and**  
24 **not subject to any conditions shall be transferred to the Small Scale Local Energy Project**  
25 **Loan Fund created by Article XI-J of the Oregon Constitution.**

26 **SECTION 60. There is appropriated to the Oregon Business Development Department, for**  
27 **the biennium beginning July 1, 2019, out of the General Fund, the amount of \$\_\_\_\_\_ for**  
28 **the purpose of carrying out the provisions of sections 23 to 29 of this 2018 Act, the amend-**  
29 **ments to statutes by sections 30 to 34 and 36 to 58 of this 2018 Act and the repeal of ORS**  
30 **470.100 by section 35 of this 2018 Act.**

31  
32 **(Report)**  
33

34 **SECTION 61. The Oregon Business Development Department, in consultation with the**  
35 **State Department of Energy, shall report to the appropriate interim committees of the**  
36 **Legislative Assembly prior to September 15, 2019, on the estimated cost of continuing to**  
37 **manage the loan portfolio, including an estimate of ongoing transaction costs, for loans for**  
38 **small scale local energy projects under ORS chapter 470 for the next eight years.**

39 **SECTION 62. Section 61 of this 2018 Act is repealed on December 31, 2019.**  
40

41 **REPEAL OF ENERGY EFFICIENCY AND SUSTAINABLE**  
42 **TECHNOLOGY LOAN PROGRAM**  
43

44 **SECTION 63. ORS 470.500, 470.505, 470.510, 470.515, 470.520, 470.525, 470.530, 470.535,**  
45 **470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575, 470.580, 470.585, 470.590,**

1 **470.595, 470.600, 470.605, 470.610, 470.615, 470.620, 470.630, 470.635, 470.640, 470.645, 470.650,**  
2 **470.655, 470.660, 470.665, 470.670, 470.675, 470.680, 470.685, 470.690, 470.695, 470.700, 470.710,**  
3 **470.715, 470.720, 701.108 and 701.119 are repealed.**

4  
5 **CONFORMING AMENDMENTS**  
6

7 **SECTION 64.** ORS 183.530 is amended to read:

8 183.530. A housing cost impact statement shall be prepared upon the proposal for adoption or  
9 repeal of any rule or any amendment to an existing rule by:

10 (1) The Oregon Housing Stability Council;

11 (2) A building codes division of the Department of Consumer and Business Services or any board  
12 associated with the department with regard to rules adopted under ORS 455.610 to 455.630;

13 (3) The Land Conservation and Development Commission;

14 (4) The Environmental Quality Commission;

15 (5) The Construction Contractors Board;

16 (6) The Occupational Safety and Health Division of the Department of Consumer and Business  
17 Services; or

18 (7) The [*State Department of Energy*] **Oregon Energy Commission.**

19 **SECTION 65.** ORS 276.910 is amended to read:

20 276.910. (1) Before constructing or renovating a major facility, an authorized state agency shall,  
21 after comparing various equipment options and to the greatest extent practicable, use fuel cell  
22 power systems for emergency backup power applications and for critical power applications in lieu  
23 of other equipment options.

24 (2)(a) The [*State Department of Energy*] **Oregon Energy Commission** shall, in consultation with  
25 the Oregon Department of Administrative Services, adopt rules establishing criteria for the com-  
26 parison of fuel cell power systems and other equipment options required by subsection (1) of this  
27 section.

28 (b) Criteria to be established under this subsection must address:

29 (A) The impact of emissions, including but not limited to nitrous oxide, sulfur oxide, carbon  
30 monoxide, carbon dioxide and particulates, from various equipment options, on the environment, re-  
31 gardless of whether the equipment is installed indoors or installed outdoors;

32 (B) Life cycle costs, including but not limited to acquisition costs, installation and commission-  
33 ing costs, siting and permitting costs, maintenance costs and fueling and decommissioning costs; and

34 (C) The complexity of equipment options and any ancillary equipment.

35 **SECTION 66.** ORS 276.915 is amended to read:

36 276.915. (1) An authorized state agency may construct or renovate a facility only if the author-  
37 ized state agency determines that the design incorporates all reasonable cost-effective energy con-  
38 servation measures and alternative energy systems. The determination by the authorized state  
39 agency shall include consideration of indoor air quality issues and operation and maintenance costs.

40 (2) Whenever an authorized state agency determines that a major facility is to be constructed  
41 or renovated, the authorized state agency shall cause to be included in the design phase of the  
42 construction or renovation a provision that requires an energy consumption analysis to be prepared  
43 for the facility under the direction of a professional engineer or registered architect or under the  
44 direction of a person that is prequalified in accordance with this section. The authorized state  
45 agency and the State Department of Energy shall agree to the list of energy conservation measures

1 and alternative energy systems that the energy consumption analysis will include. The energy con-  
 2 sumption analysis and facility design shall be delivered to the State Department of Energy during  
 3 the design development phase of the facility design. The State Department of Energy shall review  
 4 the energy consumption analysis and forward its findings to the authorized state agency within 10  
 5 working days after receiving the energy consumption analysis, if practicable.

6 (3) The [*State Department of Energy*] **Oregon Energy Commission**, in consultation with au-  
 7 thorized state agencies, shall adopt rules to carry out the provisions of ORS 276.900 to 276.915.  
 8 These rules shall:

9 (a) Include a simplified and usable method for determining which energy conservation measures  
 10 and alternative energy systems are cost-effective. The method shall reflect the energy costs of the  
 11 utility serving the facility.

12 (b) Prescribe procedures for determining if a facility design incorporates all reasonable cost-  
 13 effective energy conservation measures and alternative energy systems.

14 (c) Establish fees through which an authorized state agency will reimburse the State Department  
 15 of Energy for the department's review of energy consumption analyses and facility designs and the  
 16 department's reporting tasks. The fees imposed may not exceed 0.2 percent of the capital con-  
 17 struction cost of the facility and must be included in the energy consumption analysis required in  
 18 subsection (2) of this section. The State Department of Energy may provide for a waiver of fees and  
 19 reviews if the authorized state agency demonstrates that the facility will be designed and con-  
 20 structed in a manner that incorporates only cost-effective energy conservation measures or in a  
 21 manner that exceeds the energy conservation provisions of the state building code by 20 percent or  
 22 more.

23 (d) Periodically define highly efficient facilities. A facility constructed or renovated after June  
 24 30, 2001, shall exceed the energy conservation provisions of the state building code by 20 percent  
 25 or more, unless otherwise required by rules adopted under this section.

26 (e) Establish guidelines for implementing subsection (4) of this section.

27 (f) Establish guidelines for incorporating energy efficiency requirements into lease agreements  
 28 of 10 or more years to be phased in as current lease agreements expire or as new lease agreements  
 29 are entered into, allowing reasonable time for the owner to implement the requirements of this  
 30 section.

31 (g) Establish criteria by which the [*State Department of Energy*] **commission** determines that a  
 32 person is prequalified to perform work in accordance with this section.

33 (4) Before June 30, 2015, an authorized state agency shall reduce the total amount of energy the  
 34 authorized state agency uses in the authorized state agency's owned facilities by at least 20 percent  
 35 from a baseline amount the [*State Department of Energy*] **commission** determines by rule based on  
 36 usage in calendar year 2000.

37 (5) An authorized state agency shall report annually to the State Department of Energy con-  
 38 cerning energy use in the authorized state agency's facilities. The [*State Department of Energy*]  
 39 **commission** shall specify by rule the form and content of and deadlines for the reports.

40 (6) An authorized state agency that fails to achieve and maintain a 20 percent reduction in en-  
 41 ergy use on and after June 30, 2015, shall submit biennial energy conservation plans to the State  
 42 Department of Energy. The [*State Department of Energy*] **commission** shall specify by rule the form  
 43 and content of and deadlines for the energy conservation plans.

44 (7) The [*State Department of Energy*] **commission** by rule may require mandatory prequalifica-  
 45 tion as a condition for a person to submit a bid or proposal to perform the following work for an

1 authorized state agency:

2 (a) Direct an energy consumption analysis for an authorized state agency under subsection (2)  
3 of this section, unless the person is a professional engineer or a registered architect;

4 (b) Enter into an energy savings performance contract; or

5 (c) Perform energy audits, building commissioning, monitoring and verification services and  
6 other services related to the operation and management of a facility's energy systems, except for  
7 architectural, engineering, photogrammetric mapping, transportation planning or land surveying  
8 services as defined in ORS 279C.100.

9 (8) The State Department of Energy may recover from authorized state agencies the costs as-  
10 sociated with administering the provisions of this section, including costs associated with *[adopting*  
11 *rules]* **the adoption of rules by the commission**, maintaining a state energy use database and  
12 prequalifying a person under this section.

13 (9) The State Department of Energy and the Oregon Department of Administrative Services shall  
14 jointly prepare a biennial report summarizing the progress toward achieving the goals of this sec-  
15 tion. The biennial report shall be made available to the public.

16 **SECTION 67.** ORS 279C.528 is amended to read:

17 279C.528. (1) Each contracting agency, in soliciting, awarding and administering public im-  
18 provement contracts that are subject to ORS 279C.527, is subject to rules **adopted by** the *[State*  
19 *Department of Energy adopts]* **Oregon Energy Commission** that include, but are not limited to, re-  
20 quirements and specifications for:

21 (a) Using particular green energy technologies in public improvements;

22 (b) Determining the cost-effectiveness of green energy technologies;

23 (c) Submitting documents required under ORS 279C.527 to the *[department]* **State Department**  
24 **of Energy** for review; and

25 (d) Determining whether a structure is a public building subject to the requirements of ORS  
26 279C.527.

27 (2)(a) Each contracting agency shall collect and maintain information concerning the contract-  
28 ing agency's compliance with ORS 279C.527, which must include, at a minimum:

29 (A) Records that show how the contracting agency spent moneys the contracting agency used  
30 in including appropriate green energy technology or woody biomass energy technology as part of  
31 constructing, reconstructing or performing a major renovation of a public building;

32 (B) An identification of each public improvement contract for which the contracting agency  
33 spent moneys to include appropriate green energy technology or woody biomass energy technology  
34 as part of constructing, reconstructing or performing a major renovation of a public building;

35 (C) An identification of each public improvement contract for which the contracting agency de-  
36 termined that including green energy technology or woody biomass energy technology as part of  
37 constructing, reconstructing or performing a major renovation of a public building was not appro-  
38 priate;

39 (D) The total amount the contracting agency would have spent on each public improvement  
40 contract identified in subparagraph (C) of this paragraph and the total aggregated amount that the  
41 contracting agency must spend to include green energy technology or woody biomass energy tech-  
42 nology as part of constructing, reconstructing or performing a major renovation of a future public  
43 building; and

44 (E) An identification of each public improvement contract that uses moneys the contracting  
45 agency did not spend in a previous public improvement contract for including appropriate green

1 energy technology or woody biomass energy technology as part of constructing, reconstructing or  
2 performing a major renovation of a public building.

3 (b) Each contracting agency shall compile the information the contracting agency collected un-  
4 der paragraph (a) of this subsection and report the information to the department at times, in a  
5 manner and on forms that the [department] **commission** specifies by rule.

6 (c) The department shall:

7 (A) Compile and summarize the information the department receives under paragraph (b) of this  
8 subsection and, in the department's compilation and summary, specifically:

9 (i) Identify contracting agencies that have not complied with the requirements of ORS 279C.527  
10 or the reporting requirements set forth in paragraph (b) of this subsection;

11 (ii) Identify public improvement contracts for which contracting agencies have determined that  
12 including green energy technology or woody biomass energy technology as part of constructing, re-  
13 constructing or performing a major renovation of a public building was not appropriate; and

14 (iii) Identify public improvement contracts that use moneys a contracting agency did not spend  
15 in a previous public improvement contract on including appropriate green energy technology or  
16 woody biomass energy technology as part of constructing, reconstructing or performing a major  
17 renovation of a public building.

18 (B) Deliver annually to the Legislative Assembly, on or before the date on which each regular  
19 session of the Legislative Assembly begins, a report concerning contracting agency compliance with  
20 this section and ORS 279C.527 that includes the compilation and summary the department prepared  
21 under subparagraph (A) of this paragraph.

22 **SECTION 68.** ORS 286A.630 is amended to read:

23 286A.630. (1) The Legislative Assembly finds that the American Recovery and Reinvestment Act  
24 of 2009 (P.L. 111-5) provides that the State of Oregon may receive, allocate and reallocate the au-  
25 thority to issue certain kinds of state and local government bonds that qualify for tax credits, fed-  
26 eral subsidies or exclusion of bond interest from gross income under the United States Internal  
27 Revenue Code of 1986, as amended.

28 (2) As described in subsections (3) to (6) of this section, state agencies and the Private Activity  
29 Bond Committee may allocate and reallocate or take any additional actions that are desirable to  
30 maximize the benefits of bonding programs created or expanded by the American Recovery and Re-  
31 investment Act of 2009 (P.L. 111-5).

32 (3) The Department of Education, with the approval of the Governor, may allocate, reallocate  
33 and otherwise manage this state's qualified school construction bonding authority.

34 (4) The Oregon Business Development Department may allocate, reallocate and otherwise man-  
35 age this state's recovery zone economic development bonding authority and this state's recovery  
36 zone facility bonding authority.

37 (5) The State Department of Energy may allocate, reallocate and otherwise manage this state's  
38 qualified energy conservation bonding authority.

39 (6) The Private Activity Bond Committee may allocate, reallocate and otherwise manage any  
40 bonding authority that is created or expanded by the American Recovery and Reinvestment Act of  
41 2009 (P.L. 111-5) if that responsibility is not assigned to a state agency by this section, or if an  
42 agency that is assigned that responsibility requests the Private Activity Bond Committee to allocate  
43 that authority on behalf of that agency.

44 (7) The Department of Education, the Oregon Business Development Department, the [State De-  
45 partment of Energy] **Oregon Energy Commission** and the Private Activity Bond Committee may



1 adopt rules to implement the provisions of this section including, but not limited to, rules prescrib-  
2 ing:

3 (a) Application processes and requirements to receive a subsequent allocation or reallocation;

4 (b) Standards upon which an allocation or reallocation may be based; and

5 (c) Any conditions that must be met to receive an allocation or reallocation of the bonding au-  
6 thority or to receive the benefits of such bonding authority.

7 **SECTION 69.** ORS 286A.718 is amended to read:

8 286A.718. (1) The Renewable Energy Fund is established in the State Treasury, separate and  
9 distinct from the General Fund. Amounts in the fund may be invested as provided in ORS 293.701  
10 to 293.857, and interest earned on the fund must be credited to the fund. Amounts credited to the  
11 fund are continuously appropriated to the State Department of Energy for the purpose described in  
12 ORS 286A.712 (2)(a) and for the purpose of paying bond-related costs. The department shall deposit  
13 in the fund:

14 (a) The net proceeds of Article XI-D bonds transferred pursuant to ORS 286A.712 (4);

15 (b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the  
16 fund; and

17 (c) Gifts, grants or contributions received by the department for the purpose described in ORS  
18 286A.712 (2)(a).

19 (2) The State Department of Energy may create separate accounts in the Renewable Energy  
20 Fund as appropriate for the management of moneys in the fund.

21 (3) The State Department of Energy and any other state agency or other entity receiving or  
22 holding net proceeds of Article XI-D bonds shall, at the direction of the Oregon Department of Ad-  
23 ministrative Services, take action necessary to maintain the excludability of interest on Article XI-D  
24 bonds from gross income under the Internal Revenue Code.

25 (4) If at any time the Oregon Department of Administrative Services or the State Department  
26 of Energy determines that there are moneys in the Renewable Energy Fund in excess of the amounts  
27 necessary for the purpose described in ORS 286A.712 (2)(a), the Oregon Department of Administra-  
28 tive Services or the State Department of Energy may transfer the excess amounts to the Article  
29 XI-D Bond Fund or to the Article XI-D Bond Administration Fund.

30 (5) The [*State Department of Energy*] **Oregon Energy Commission** may adopt rules to carry out  
31 this section, including procedures for distributing and monitoring the use of moneys from the  
32 Renewable Energy Fund.

33 **SECTION 70.** ORS 315.141 is amended to read:

34 315.141. (1) As used in this section:

35 (a) "Agricultural producer" means a person that produces biomass in Oregon that is used, in  
36 Oregon, as biofuel or to produce biofuel.

37 (b) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been con-  
38 verted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct  
39 biomass energy use at the biofuel producer's site.

40 (c) "Biofuel producer" means a person that through activities in Oregon:

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

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

43 (C) Uses biomass in Oregon to produce energy.

44 (d) "Biomass" means organic matter that is available on a renewable or recurring basis and that  
45 is derived from:

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

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

4 (C) Agricultural residues;

5 (D) Offal and tallow from animal rendering;

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

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

8 (G) Wastewater solids; or

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

10 (e) "Biomass" does not mean wood that has been treated with creosote, pentachlorophenol, in-  
11 organic arsenic or other inorganic chemical compounds or waste, other than matter described in  
12 paragraph (d) of this subsection.

13 (f) "Biomass collector" means a person that collects biomass in Oregon to be used, in Oregon,  
14 as biofuel or to produce biofuel.

15 (g) "Canola" means plants of the genus Brassica:

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

17 (B) That have a high erucic acid content suitable for industrial uses or a low erucic acid content  
18 suitable for edible oils.

19 (h) "Oilseed processor" means a person that receives agricultural oilseeds and separates them  
20 into meal and oil by mechanical or chemical means.

21 (i) "Willamette Valley" means Clackamas, Linn, Marion, Multnomah, Polk, Washington and  
22 Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast  
23 Range.

24 (2) The [Director of the State Department of Energy] **Oregon Energy Commission** may adopt  
25 rules to define criteria, only as the criteria apply to organic biomass, to determine additional char-  
26 acteristics of biomass for purposes of this section.

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

30 (A) The production of biomass in Oregon that is used, in Oregon, as biofuel or to produce  
31 biofuel; or

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

33 (b) A credit under this section may be claimed in the tax year in which the credit is certified  
34 under subsection (5) of this section.

35 (c) A taxpayer may be allowed a credit under this section for more than one of the roles defined  
36 in subsection (1) of this section, but a biofuel producer that is not also an agricultural producer or  
37 a biomass collector may not claim a credit under this section.

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

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

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

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

42 (4) The amount of the credit shall equal the amount certified under subsection (5) of this section.

43 (5)(a) The [State Department of Energy] **Oregon Energy Commission** may establish by rule  
44 procedures and criteria for determining the amount of the tax credit to be certified under this sec-  
45 tion, consistent with ORS 469B.403. The [department] **State Department of Energy** shall provide

1 written certification to taxpayers that are eligible to claim the credit under this section.

2 (b) The State Department of Energy may charge and collect a fee from taxpayers for certifica-  
3 tion of credits under this section. The fee may not exceed the cost to the department of determining  
4 the amount of certified cost.

5 (c) The State Department of Energy shall provide to the Department of Revenue a list, by tax  
6 year, of taxpayers for which a credit is certified under this section, upon request of the Department  
7 of Revenue.

8 (6) The amount of the credit claimed under this section for any tax year may not exceed the tax  
9 liability of the taxpayer.

10 (7) Each agricultural producer or biomass collector shall maintain the written documentation  
11 of the amount certified for tax credit under this section in its records for a period of at least five  
12 years after the tax year in which the credit is claimed and provide the written documentation to the  
13 Department of Revenue upon request.

14 (8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains  
15 the information required by the department.

16 (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
17 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next  
18 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
19 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
20 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
21 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
22 succeeding tax year, but may not be carried forward for any tax year thereafter.

23 (10) In the case of a credit allowed under this section:

24 (a) A nonresident shall be allowed the credit under this section in the proportion provided in  
25 ORS 316.117.

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

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

32 **SECTION 71.** ORS 315.144 is amended to read:

33 315.144. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit  
34 to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

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

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

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

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

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

45 (d) Any other information required by the department.

1 (4) The [*State Department of Energy*] **Oregon Energy Commission** may establish by rule a  
2 minimum discounted value of a tax credit under this section.

3 (5) The Department of Revenue, in consultation with the [*State Department of Energy*] **com-**  
4 **mission**, may by rule establish procedures for the transfer of tax credits provided by this section.

5 **SECTION 72.** ORS 315.326 is amended to read:

6 315.326. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the  
7 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified  
8 renewable energy development contributions made by the taxpayer during the tax year to the  
9 Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy De-  
10 ployment Fund established in ORS 470.800.

11 (2)(a) The Department of Revenue shall, in cooperation with the [*State Department of Energy*]  
12 **Oregon Business Development Department**, conduct an auction of tax credits under this section.  
13 The auction may be conducted no later than April 15 following December 31 of any tax year for  
14 which the credit is allowed. The Department of Revenue may conduct the auction in the manner  
15 that it determines is best suited to maximize the return to the state on the sale of tax credit cer-  
16 tifications and shall announce a reserve bid prior to conducting the auction. The reserve amount  
17 shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse  
18 the Department of Revenue for the actual costs incurred by the department in administering an  
19 auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the de-  
20 partment. The Department of Revenue shall deposit net receipts from the auction required under  
21 this section in the Renewable Energy Development Subaccount, established in ORS 470.805, of the  
22 Clean Energy Deployment Fund established in ORS 470.800. Net receipts from the auction required  
23 under this section shall be used only for purposes related to renewable energy development.

24 (b) The [*State Department of Energy*] **Oregon Business Development Department** shall adopt  
25 rules in order to achieve the following goals:

26 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of  
27 \$1.5 million are certified for each fiscal year;

28 (B) Maximize income and excise tax revenues that are retained by the State of Oregon for state  
29 operations; and

30 (C) Provide the necessary financial incentives for taxpayers to make contributions, taking into  
31 consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

32 (3) Contributions made under this section shall be deposited in the Renewable Energy Develop-  
33 ment Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in  
34 ORS 470.800.

35 (4)(a) Upon receipt of a contribution, the [*State Department of Energy*] **Oregon Business De-**  
36 **velopment Department** shall, except as provided in ORS 315.329, issue to the taxpayer written  
37 certification of the amount certified for tax credit under this section to the extent the amount cer-  
38 tified for tax credit, when added to all amounts previously certified for tax credit under this section,  
39 does not exceed \$1.5 million for the fiscal year in which certification is made.

40 (b) The [*State Department of Energy*] **Oregon Business Development Department** and the  
41 Department of Revenue are not liable, and a refund of a contributed amount need not be made, if  
42 a taxpayer who has received tax credit certification is unable to use all or a portion of the tax  
43 credit to offset the tax liability of the taxpayer.

44 (5) The tax credit allowed under this section for any one tax year may not exceed the tax li-  
45 ability of the taxpayer.

1 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
2 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next  
3 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
4 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
5 succeeding tax year may be carried forward and used in the third succeeding tax year but may not  
6 be carried forward for any tax year thereafter.

7 (7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer,  
8 the amount shall be allowed without proration under ORS 316.117.

9 (8) If the amount of contribution for which a tax credit certification is made is allowed as a  
10 deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable  
11 income for Oregon tax purposes.

12 **SECTION 73.** ORS 315.329 is amended to read:

13 315.329. (1) In any fiscal year, the amount of tax credits allowed under ORS 315.326 may be re-  
14 duced or eliminated, and the Legislative Assembly may, no later than 30 days prior to the end of  
15 each fiscal year, in lieu of the issuance of certifications for tax credit under ORS 315.326 by the  
16 [State Department of Energy] **Oregon Business Development Department**, make an appropriation  
17 to the [State Department of Energy] **Oregon Business Development Department** for deposit into  
18 the Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy  
19 Deployment Fund established in ORS 470.800. Moneys deposited under this section are to be used  
20 only for purposes related to renewable energy development.

21 (2) After a tax credit certificate has been sold as provided in ORS 315.326, the [State Department  
22 of Energy] **Oregon Business Development Department** may not revoke the certificate.

23 **SECTION 74.** ORS 316.116 is amended to read:

24 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due  
25 under this chapter for costs paid or incurred for construction or installation of each of one or more  
26 alternative energy devices in or at a dwelling.

27 (b) A credit against the taxes otherwise due under this chapter is not allowed for an alternative  
28 energy device that does not meet or exceed all applicable federal, state and local requirements for  
29 energy efficiency, including equipment codes, state and federal appliance standards, the state build-  
30 ing code, specialty codes and any other standards.

31 (2)(a) For each category one alternative energy device other than an alternative fuel device or  
32 an alternative energy device that uses solar radiation for domestic water heating or swimming pool  
33 heating, the credit allowed under this section may not exceed the lesser of 50 percent of the cost  
34 of the alternative energy device or \$1,500, and shall be computed as follows:

35 (A) For a category one alternative energy device that is not an alternative fuel device, the  
36 credit shall be based upon the first year energy yield of the alternative energy device that qualifies  
37 under ORS 469B.100 to 469B.118. The amount of the credit shall be the same whether for collective  
38 or noncollective investment.

39 (B) For each category one alternative energy device for a dwelling, the credit shall be based  
40 upon the first year energy yield in kilowatt hours per year multiplied by 60 cents per dwelling uti-  
41 lizing the alternative energy device used for space heating, cooling, electrical energy or domestic  
42 water heating.

43 (C) Except as provided in paragraph (c) of this subsection, for each category one alternative  
44 energy device used for swimming pool, spa or hot tub heating, the credit shall be based upon the  
45 first year energy yield in kilowatt hours per year multiplied by 15 cents.

1 (b) For each alternative fuel device, the credit allowed under this section may not exceed the  
2 lesser of 50 percent of the cost of the alternative fuel device or \$750.

3 (c) For each category one alternative energy device that uses solar radiation for:

4 (A) Domestic water heating, the credit allowed under this section shall be based upon 50 percent  
5 of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by \$2,  
6 whichever is lower, up to \$6,000.

7 (B) Swimming pool heating, the credit allowed under this section shall be based upon 50 percent  
8 of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by 20  
9 cents, whichever is lower, up to \$2,500.

10 (d)(A) For each category two alternative energy device that is a solar electric system or fuel  
11 cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of in-  
12 stalled output or \$6,000.

13 (B) For each category two alternative energy device that is a wind electric system, the credit  
14 allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield in  
15 kilowatt hours per year multiplied by \$2.

16 (3)(a) Notwithstanding subsection (2)(a), (c) or (d) of this section, the total amount of the credits  
17 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each al-  
18 ternative energy device, whichever is less. Unused credit amounts may be carried forward as pro-  
19 vided in subsection (8) of this section, but may not be carried forward to a tax year that is more  
20 than five tax years following the first tax year for which any credit was allowed with respect to the  
21 category two alternative energy device that is the basis for the credit.

22 (b) Notwithstanding subsection (2)(d) of this section, the total amount of the credit for each de-  
23 vice allowed under subsection (2)(d) of this section may not exceed 50 percent of the total installed  
24 cost of the category two alternative energy device.

25 (4) The [*State Department of Energy*] **Oregon Energy Commission** may by rule provide for a  
26 lesser amount of incentive for each type of alternative energy device as market conditions warrant.

27 (5) To qualify for a credit under this section, all of the following are required:

28 (a) The alternative energy device must be purchased, constructed, installed and operated in ac-  
29 cordance with ORS 469B.100 to 469B.118 and a certificate issued thereunder.

30 (b) The taxpayer who is allowed the credit must be the owner or contract purchaser of the  
31 dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the  
32 contract purchaser and must:

33 (A) Use the dwelling or dwellings served by the alternative energy device as a principal or  
34 secondary residence; or

35 (B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant  
36 who uses the dwelling or dwellings as a principal or secondary residence.

37 (c) The credit must be claimed for the tax year in which the alternative energy device was  
38 purchased if the device is operational by April 1 of the next following tax year.

39 (6) The credit provided by this section does not affect the computation of basis under this  
40 chapter.

41 (7) The total credits allowed under this section in any one year may not exceed the tax liability  
42 of the taxpayer.

43 (8) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
44 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
45 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried

1 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
2 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
3 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
4 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried  
5 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year  
6 thereafter.

7 (9) A nonresident shall be allowed the credit under this section in the proportion provided in  
8 ORS 316.117.

9 (10) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
10 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
11 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

12 (11) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
13 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
14 ORS 316.117.

15 (12) Spouses in a marriage who file separate returns for a taxable year may each claim a share  
16 of the tax credit that would have been allowed on a joint return in proportion to the contribution  
17 of each. However, a spouse living in a separate principal residence may claim the tax credit in the  
18 same amount as permitted a single person.

19 (13) As used in this section, unless the context requires otherwise:

20 (a) "Collective investment" means an investment by two or more taxpayers for the acquisition,  
21 construction and installation of an alternative energy device for one or more dwellings.

22 (b) "Noncollective investment" means an investment by an individual taxpayer for the acqui-  
23 sition, construction and installation of an alternative energy device for one or more dwellings.

24 (c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 (8).

25 (14) Notwithstanding any provision of subsections (1) to (4) of this section, the sum of the credit  
26 allowed under subsection (1) of this section plus any similar credit allowed for federal income tax  
27 purposes may not exceed the cost for the acquisition, construction and installation of the alternative  
28 energy device.

29 **SECTION 75.** ORS 317.112 is amended to read:

30 317.112. (1) A credit against taxes otherwise due under this chapter for the taxable year shall  
31 be allowed to a commercial lending institution in an amount equal to the difference between:

32 (a) The amount of finance charge charged during the taxable year including interest on the loan  
33 and interest on any loan fee financed at an annual rate of six and one-half percent, by the lending  
34 institution to a dwelling owner who is or who rents to a residential fuel oil customer, or who is or  
35 who rents to a wood heating resident for the purpose of financing energy conservation measures;  
36 and

37 (b) The amount of finance charge that would have been charged during the taxable year, in-  
38 cluding interest on the loan and interest on any loan fee financed by the lending institution for the  
39 loan for energy conservation measures at an annual rate that is the lesser of the following:

40 (A) The annual rate charged by the commercial lending institution for nonsubsidized loans made  
41 under like terms and conditions at the time the loan for energy conservation measures is made; or

42 (B) An upper limit established by rule by the *[Director of the State Department of Energy]*  
43 **Oregon Energy Commission.**

44 (2) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
45 particular year may be carried forward and offset against the taxpayer's tax liability for the next

1 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
2 forward and used in the second succeeding tax year, and likewise until the 15th succeeding tax year.  
3 The credit may not be carried forward beyond the 15th succeeding tax year.

4 (3) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan  
5 shall:

6 (a) Be made only to an owner of an oil-heated or wood-heated dwelling who presents the results  
7 of an energy audit pursuant to ORS 469.631 to 469.645, 469.649 to 469.659 or 469.685 that is con-  
8 ducted by an investor-owned utility or publicly owned utility or through the State Department of  
9 Energy, regardless of whether that utility provides the dwelling's space heating energy.

10 (b) Be subject to an annual rate not to exceed six and one-half percent and have a term not  
11 exceeding 10 years.

12 (c) Not finance any materials installed in the construction of a new dwelling, additions to ex-  
13 isting structures or remodeling that adds living space.

14 (d) Finance only those energy conservation measures that are recommended as cost-effective in  
15 the energy audit, and any loan fee that is included in the body of the loan.

16 (4) The credit allowed under this section may not be allowed to the extent that the loan exceeds  
17 \$5,000 for a single dwelling unit, or, if the dwelling owner is a corporation described in ORS 307.375,  
18 to the extent that the loan exceeds \$2,000 for a single dwelling unit.

19 (5) A commercial lending institution may charge, finance and collect a nonrefundable front-end  
20 loan fee, and such a fee does not affect the eligibility of the loan for a tax credit under this section.  
21 The fee, if any, may not exceed that charged by the lending institution for nonsubsidized loans made  
22 under like terms and conditions at the time the loan for energy conservation measures is made.

23 (6) Nothing in this section or in rules adopted under this section shall be construed to cause a  
24 loan to violate the usury laws of this state.

25 (7) As used in this section, "annual rate," "commercial lending institution," "cost-effective,"  
26 "dwelling," "dwelling owner," "energy audit," "energy conservation measures," "finance charge,"  
27 "fuel oil dealer," "residential fuel oil customer," "space heating" and "wood heating resident" have  
28 the meaning given those terms in ORS 469.710.

29 **SECTION 76.** ORS 469.150 is amended to read:

30 469.150. (1) As used in this section "energy conservation services" means services provided by  
31 energy suppliers to educate and inform customers and the public about energy conservation. Such  
32 services include but are not limited to providing answers to questions concerning energy saving  
33 devices and providing inspections and making suggestions concerning the construction and siting  
34 of buildings and residences.

35 (2) Energy suppliers other than public utilities as defined in ORS 757.005, that produce, transmit,  
36 deliver or furnish heat, light or power shall establish energy conservation services and shall provide  
37 energy conservation information to customers and to the public. The services shall be performed in  
38 accordance with such guidelines as the [*Director of the State Department of Energy*] **Oregon Energy**  
39 **Commission** may by rule prescribe.

40 (3) As used in this section "energy supplier" means a publicly owned utility or fuel oil dealer  
41 which supplies electricity or fuel oil for the space heating of dwellings.

42 **SECTION 77.** ORS 469.155 is amended to read:

43 469.155. (1) As used in this section:

44 (a) "Dwelling" means real or personal property inhabited as the principal residence of an owner  
45 or renter. "Dwelling" includes a manufactured dwelling as defined in ORS 446.003, a floating home



1 as defined in ORS 830.700 and multiple unit residential housing. “Dwelling” does not include a rec-  
2 reational vehicle as defined in ORS 446.003.

3 (b) “Energy conservation standards” means standards for the efficient use of energy for space  
4 and water heating in a dwelling.

5 (2) The [*Director of the State Department of Energy*] **Oregon Energy Commission** shall establish  
6 advisory energy conservation standards for existing dwellings. The standards shall be adopted by  
7 rule in accordance with ORS 183.310 to 183.410. The standards:

8 (a) Shall take cost-effectiveness into account; and

9 (b) Shall be compatible with and further the state’s incentive programs for residential energy  
10 conservation.

11 (3) The [*director*] **commission** shall publicize the energy conservation standards and encourage  
12 home owners to voluntarily comply with the standards.

13 **SECTION 78.** ORS 469.255 is amended to read:

14 469.255. (1) A manufacturer of a product specified in ORS 469.238 that is sold or offered for sale,  
15 or installed or offered for installation, in this state shall test samples of the manufacturer’s products  
16 in accordance with the test methods specified in ORS 469.233 or, if more stringent, those specified  
17 in the state building code.

18 (2) If the test methods for products required to be tested under this section are not provided for  
19 in ORS 469.233 or in the state building code, the State Department of Energy shall adopt test  
20 methods for these products. The department shall use test methods approved by the United States  
21 Department of Energy or, in the absence of federal test methods, other appropriate nationally re-  
22 cognized test methods for guidance in adopting test methods. The State Department of Energy may  
23 periodically review and revise its test methods.

24 (3) A manufacturer of a product regulated pursuant to ORS 469.229 to 469.261, except for man-  
25 ufacturers of single-voltage external AC to DC power supplies, walk-in refrigerators and walk-in  
26 freezers, shall certify to the State Department of Energy that the products are in compliance with  
27 the minimum energy efficiency standards specified in ORS 469.233. The [*department*] **Oregon Energy**  
28 **Commission** shall establish rules governing the certification of these products and may coordinate  
29 with the certification and testing programs of other states and federal agencies with similar stan-  
30 dards.

31 (4)(a) The [*department*] **commission** shall establish rules governing the identification of the  
32 products that comply with the minimum energy efficiency standards specified in ORS 469.233. The  
33 rules shall be coordinated to the greatest extent practicable with the labeling programs of other  
34 states and federal agencies with equivalent efficiency standards.

35 (b) Identification required under paragraph (a) of this subsection shall be by means of a mark,  
36 label or tag on the product and packaging at the time of sale or installation.

37 (c) The [*department*] **commission** shall waive marking, labeling or tagging requirements for  
38 products marked, labeled or tagged in compliance with federal requirements or for products certified  
39 pursuant to subsection (3) of this section, unless the [*department*] **commission** determines that state  
40 marking, labeling or tagging is required to provide adequate energy efficiency information to the  
41 consumer.

42 **SECTION 79.** ORS 469.261 is amended to read:

43 469.261. (1)(a) Notwithstanding ORS 469.233, the State Department of Energy shall periodically  
44 review the minimum energy efficiency standards specified in ORS 469.233.

45 (b) After the review pursuant to paragraph (a) of this subsection, the [*Director of the State De-*

1 *partment of Energy*] **Oregon Energy Commission** may adopt rules to update the minimum energy  
2 efficiency standards specified in ORS 469.233 if the [*director*] **commission** determines that the  
3 standards need to be updated:

4 (A) To promote energy conservation in the state;

5 (B) To achieve cost-effectiveness for consumers; or

6 (C) Due to federal action or to the outcome of collaborative consultations with manufacturers  
7 and the energy departments of other states.

8 (c)(A) In addition to the rules adopted under paragraph (b) of this subsection, the [*director*]  
9 **commission** may postpone by rule the operative date of any of the minimum energy efficiency  
10 standards specified in ORS 469.233 if the [*director*] **commission** determines that:

11 (i) Adjoining states with similar minimum energy efficiency standards have postponed the oper-  
12 ative date of their corresponding minimum energy efficiency standards; or

13 (ii) Failure to modify the operative date of any of the minimum energy efficiency standards  
14 would impose a substantial hardship on manufacturers, retailers or the public.

15 (B)(i) The [*director*] **commission** may not postpone the operative date of a minimum energy ef-  
16 ficiency standard under subparagraph (A) of this paragraph for more than one year.

17 (ii) If at the end of the first postponement period the [*director*] **commission** determines that  
18 adjoining states have further postponed the operative date of minimum energy efficiency standards  
19 and the requirements of subparagraph (A) of this paragraph continue to be met, the [*director*]  
20 **commission** may postpone the operative date for not more than one additional year.

21 (d) After the review pursuant to paragraph (a) of this subsection, the [*director*] **commission** may  
22 adopt rules to establish new minimum energy efficiency standards if the [*director*] **commission** de-  
23 termines that new standards are needed:

24 (A) To promote energy conservation in the state;

25 (B) To achieve cost-effectiveness for consumers; or

26 (C) Due to federal action or to the outcome of collaborative consultations with manufacturers  
27 and the energy departments of other states.

28 (e) If the [*director*] **commission** adopts rules under paragraph (b) of this subsection to update  
29 the minimum energy efficiency standards specified in ORS 469.233 or under paragraph (d) of this  
30 subsection to establish new minimum energy efficiency standards:

31 (A) The rules may not take effect until one year following their adoption by the [*director*]  
32 **commission**; and

33 (B) The Governor shall cause to be introduced at the next Legislative Assembly a bill to con-  
34 form the statutory minimum energy efficiency standards to the minimum energy efficiency standards  
35 adopted by the [*director*] **commission** by rule.

36 (2) If the [*director*] **Director of the State Department of Energy** determines that implemen-  
37 tation of a state minimum energy efficiency standard requires a waiver of federal preemption, the  
38 director shall apply for a waiver of federal preemption pursuant to 42 U.S.C. 6297(d).

39 **SECTION 80.** ORS 469.310 is amended to read:

40 469.310. In the interests of the public health and the welfare of the people of this state, it is the  
41 declared public policy of this state that the siting, construction and operation of energy facilities  
42 shall be accomplished in a manner consistent with protection of the public health and safety and in  
43 compliance with the energy policy and air, water, solid waste, land use and other environmental  
44 protection policies of this state. It is, therefore, the purpose of ORS 469.300 to 469.563, 469.590 to  
45 469.619, 469.930 and 469.992 to exercise the jurisdiction of the State of Oregon to the maximum ex-

1 tent permitted by the United States Constitution and to establish in cooperation with the federal  
 2 government a comprehensive system for the siting, monitoring and regulating of the location, con-  
 3 struction and operation of all energy facilities in this state. It is furthermore the policy of this state,  
 4 notwithstanding ORS 469.010 [(2)(f)] **(2)(d)** and the definition of cost-effective in ORS 469.020, that  
 5 the need for new generating facilities, as defined in ORS 469.503, is sufficiently addressed by reli-  
 6 ance on competition in the market rather than by consideration of cost-effectiveness and shall not  
 7 be a matter requiring determination by the Energy Facility Siting Council in the siting of a gener-  
 8 ating facility, as defined in ORS 469.503.

9 **SECTION 81.** ORS 469.410 is amended to read:

10 469.410. (1) Any applicant for a site certificate for an energy facility shall be deemed to have  
 11 met all the requirements of ORS 176.820, 192.338, 192.345, 192.355, 192.690, 469.010 to 469.155, 469.300  
 12 to 469.563, 469.990, 757.710 and 757.720 relating to eligibility for a site certificate and a site certif-  
 13 icate shall be issued by the Energy Facility Siting Council for:

14 (a) Any transmission lines for which application has been filed with the federal government and  
 15 the Public Utility Commission of Oregon prior to July 2, 1975; and

16 (b) Any energy facility under construction on July 2, 1975.

17 (2) Each applicant for a site certificate under this section shall pay the fees required by ORS  
 18 469.421 (2) to (9), if applicable, and shall execute a site certificate in which the applicant agrees:

19 (a) To abide by the conditions of all licenses, permits and certificates required by the State of  
 20 Oregon or any subdivision in the state to operate the energy facility and issued prior to July 2, 1975;  
 21 and

22 (b) On and after July 2, 1975, to abide by the rules of the [*Director of the State Department of*  
 23 *Energy adopted pursuant to ORS 469.040 (1)(d)*] **Oregon Energy Commission adopted pursuant**  
 24 **to section 5 of this 2018 Act** and rules of the council adopted pursuant to ORS 469.300 to 469.563,  
 25 469.590 to 469.619 and 469.930.

26 (3) The council has continuing authority over the site for which the site certificate is issued and  
 27 may inspect, or direct the State Department of Energy to inspect, or request another state agency  
 28 or local government to inspect, the site at any time in order to ensure that the facility is being  
 29 operated consistently with the terms and conditions of the site certificate and any applicable health  
 30 or safety standards.

31 (4) The council shall establish programs for monitoring the environmental and ecological effects  
 32 of the operation and the decommissioning of energy facilities subject to site certificates issued prior  
 33 to July 2, 1975, to ensure continued compliance with the terms and conditions of the site certificate  
 34 and any applicable health or safety standards.

35 (5) Site certificates executed by the Governor under ORS 469.400 (1991 Edition) prior to July  
 36 2, 1975, shall bind successor agencies created hereunder in accordance with the terms of such site  
 37 certificates. Any holder of a site certificate issued prior to July 2, 1975, shall abide by the rules of  
 38 the [*director adopted pursuant to ORS 469.040 (1)(d)*] **Oregon Energy Commission adopted pursu-**  
 39 **ant to section 5 of this 2018 Act** and rules of the council adopted pursuant to ORS 469.300 to  
 40 469.563, 469.590 to 469.619, 469.930 and 469.992.

41 **SECTION 82.** ORS 469.424 is amended to read:

42 469.424. (1) As used in this section, “energy resource supplier” has the meaning given that term  
 43 in ORS 469.421.

44 (2)(a) If the State Department of Energy submits comments or written or oral testimony in a  
 45 rulemaking, contested case, ratemaking or other proceeding conducted by another agency, as defined

1 in ORS 183.310, and if the comment or testimony is about a substantive matter at issue in the pro-  
2 ceeding, the department shall provide, once for each proceeding, notice to energy resource suppliers  
3 as described in this section.

4 (b) If the department submits written comments or intervenes in a proceeding conducted by a  
5 federal agency, the department shall provide, once for each proceeding, notice to energy resource  
6 suppliers as described in this section.

7 (c) This section does not apply to:

8 (A) The department's participation in a procedural matter related to a proceeding described in  
9 paragraph (a) or (b) of this subsection;

10 (B) The department's participation in a federal facility siting proceeding;

11 (C) The department's work with the Energy Facility Siting Council;

12 (D) The department's work on nuclear safety and emergency preparedness; or

13 (E) Federal judicial or legislative proceedings.

14 (3) The department shall create and maintain a list of energy resource suppliers that request to  
15 receive notice described in subsection (2) of this section. The department may create separate lists  
16 for the different types of proceedings.

17 (4) Notice provided under this section may be provided by electronic mail and must include a  
18 description of the department's interest in the proceeding.

19 (5) Except as provided in subsection (6) of this section, notice must be provided under this sec-  
20 tion:

21 (a) No later than seven days before submitting initial comments on a substantive matter at issue  
22 in a rulemaking proceeding described in subsection (2)(a) of this section or a proceeding involving  
23 the adoption of federal regulations;

24 (b) No later than 15 days before submitting initial comments or written or oral testimony on a  
25 substantive matter at issue in a contested case, ratemaking or other proceeding described in sub-  
26 section (2)(a) of this section; or

27 (c) No later than 15 days before submitting initial written comments or written testimony on a  
28 substantive matter at issue in a proceeding conducted by a federal agency other than a proceeding  
29 involving the adoption of federal regulations.

30 (6) If providing notice in accordance with subsection (5) of this section is prejudicial to the  
31 department's ability to participate in a rulemaking, contested case, ratemaking or other proceeding  
32 described in subsection (2) of this section, the department may provide notice as soon as it is prac-  
33 ticable to provide notice. If the department provides notice as described in this subsection, the de-  
34 partment shall include in the notice an explanation of why providing notice in accordance with  
35 subsection (5) of this section is prejudicial to the department.

36 (7) The [department] **Oregon Energy Commission** may adopt rules as necessary to implement  
37 this section.

38 **SECTION 83.** ORS 469.533 is amended to read:

39 469.533. Notwithstanding ORS chapter 401, the [State Department of Energy] **Oregon Energy**  
40 **Commission** in cooperation with the Oregon Health Authority and the Office of Emergency Man-  
41 agement shall establish rules for the protection of health and procedures for the evacuation of peo-  
42 ple and communities who would be affected by radiation in the event of an accident or a catastrophe  
43 in the operation of a nuclear power plant or nuclear installation.

44 **SECTION 84.** ORS 469.534 is amended to read:

45 469.534. Each county in this state that has a nuclear-fueled thermal power plant located within

1 county boundaries and each county within this state that has any portion of its area located within  
2 50 miles of a site within this state of a nuclear-fueled thermal power plant shall develop written  
3 procedures that are compatible with the rules adopted by the [*State Department of Energy*] **Oregon**  
4 **Energy Commission** under ORS 469.533. The [*department*] **commission** shall review the county  
5 procedures to determine whether they are compatible with the rules of the [*department*]  
6 **commission**.

7 **SECTION 85.** ORS 469.605 is amended to read:

8 469.605. (1) No person shall ship or transport radioactive material identified by the Energy Fa-  
9 cility Siting Council by rule as posing a significant hazard to public health and safety or the envi-  
10 ronment if improperly transported into or within the State of Oregon without first obtaining a  
11 permit from the State Department of Energy.

12 (2) Such permit shall be issued for a period not to exceed one year and shall be valid for all  
13 shipments within that period of time unless specifically limited by permit conditions.

14 (3) Application for a permit under this section shall be made in a form and manner prescribed  
15 by the Director of the State Department of Energy and may include:

- 16 (a) A description of the kind, quantity and radioactivity of the material to be transported;
- 17 (b) A description of the route or routes proposed to be taken and the transport schedule;
- 18 (c) A description of any mode of transportation; and
- 19 (d) Other information required by the director to evaluate the application.

20 (4) The director shall collect a fee from all applicants for permits under this section in an  
21 amount reasonably calculated to provide for the costs to the department of performing the duties  
22 of the department under ORS 469.550 (3), 469.563, 469.603 to 469.619 and 469.992. Fees collected un-  
23 der this subsection shall be deposited in the State Department of Energy Account established under  
24 ORS 469.120.

25 (5) The director shall issue a permit only if the application demonstrates that the proposed  
26 transportation will comply with all applicable rules adopted under ORS 469.603 to 469.619 and if the  
27 proposed route complies with federal law as provided in ORS 469.606.

28 (6) The director may delegate the authority to issue permits for the transportation of radioactive  
29 material to the Department of Transportation. In exercising such authority, the Department of  
30 Transportation shall comply with the applicable provisions of ORS 469.603 to 469.619 and rules  
31 adopted by the [*director*] **Oregon Energy Commission** or the Energy Facility Siting Council under  
32 ORS 469.603 to 469.619. Permits issued by the Department of Transportation under this subsection  
33 shall be enforced according to the provisions of ORS 825.258. The director also may delegate other  
34 authority granted under ORS 469.605 to 469.619 to other state agencies if the delegation will main-  
35 tain or enhance the quality of the transportation safety program.

36 **SECTION 86.** ORS 469.703 is amended to read:

37 469.703. (1) As used in this section:

- 38 (a) "Home energy assessor" has the meaning given that term in ORS 701.527.
- 39 (b) "Home energy audit" means the evaluation or testing of components or systems in a resi-  
40 dential building for the purpose of identifying options for increasing energy conservation and energy  
41 efficiency.
- 42 (c) "Home energy performance score" has the meaning given that term in ORS 701.527.

43 (2) In consultation with the Public Utility Commission, the [*State Department of Energy*] **Oregon**  
44 **Energy Commission** shall adopt by rule a home energy performance score system by which a per-  
45 son may assign a residential building a home energy performance score for the purpose of evaluating

1 the energy conservation and energy efficiency of the building.

2 (3) The [department] **Oregon Energy Commission** shall designate by rule programs for the  
3 training of home energy assessors. Programs designated by the [department] **commission** under this  
4 subsection must ensure competency in conducting home energy audits and assigning home energy  
5 performance scores.

6 (4) Subject to subsection (5) of this section, the [department] **Oregon Energy Commission** may  
7 adopt by rule requirements under which home energy assessors who are certified under ORS 701.532  
8 must report to the [department] **State Department of Energy** the home energy performance scores  
9 assigned by the home energy assessors. The department shall keep and maintain a database of in-  
10 formation reported to the department under this subsection.

11 (5) Rules adopted under subsection (4) of this section may not allow for the reporting of indi-  
12 vidual addresses of residential structures or the names of individual homeowners, but may allow for  
13 the reporting of information regarding the jurisdiction in which a residential structure is located  
14 and the utility services provided, any specific energy efficiency features of the residential structure  
15 or other general information that allows the department to make any aggregated evaluations of  
16 savings attributable to energy efficiency.

17 **SECTION 87.** ORS 469.754 is amended to read:

18 469.754. (1) State agencies are authorized to enter into such contractual and other arrangements  
19 as may be necessary or convenient to design, develop, operate and finance projects on-site at state  
20 owned or state rented facilities. In developing such projects, state agencies shall offer a right of first  
21 refusal of two months for conservation and direct use renewable resources and three months for  
22 cogeneration and generating renewable resources to each local utility providing utility service to  
23 the agency to jointly develop, finance, operate and otherwise act together in the development and  
24 operation of such projects. The [State Department of Energy] **Oregon Energy Commission** shall  
25 adopt rules to establish the procedure by which the right of first refusal shall be administered. In  
26 adopting the rules, the [department] **commission** shall insure that the local utility providing utility  
27 service to the state agency is entitled to the first right to negotiate with the state agency and that  
28 the utility is entitled to match any offer made by any other entity to participate in the project. The  
29 [department] **commission** also shall adopt procedures that insure that the right to first negotiate  
30 and the right to match any offer applies to the sale of electrical or steam output from the project.

31 (2)(a) For as long as a project established under ORS 469.752 to 469.756 produces savings:

32 (A) A state agency's budget shall not be cut because of savings due to the project; and

33 (B) A state agency shall retain 50 percent of the net savings to the state agency after any  
34 project debt service.

35 (b) Savings from a project shall be deposited in a revolving fund administered by the state  
36 agency.

37 (3) A state agency shall spend the savings under subsection (2) of this section to increase pro-  
38 ductivity through:

39 (a) Energy efficiency projects;

40 (b) High-tech improvements, such as the purchase or installation of new desktop or laptop com-  
41 puters or the linkage of computers into systems or networks; or

42 (c) Infrastructure improvements.

43 (4) The moneys credited to the revolving fund may be invested and reinvested as provided in  
44 ORS 293.701 to 293.790. Notwithstanding ORS 293.105 (3) or any other provision of law, interest or  
45 other earnings on moneys in the revolving fund shall be credited to the revolving fund.

1 (5) The remaining 50 percent of net savings to the state agency after any project debt service  
2 shall be deposited in the General Fund.

3 (6) Nothing in ORS 469.752 to 469.756 authorizes a state agency to sell electricity to an entity  
4 other than an investor owned utility, a publicly owned utility, an electric cooperative utility or the  
5 Bonneville Power Administration.

6 (7) Nothing in ORS 469.752 to 469.756 limits the authority of a state agency conferred by any  
7 other provision of law, or affects any authority, including the authority of a municipality, to regulate  
8 utility service under existing law.

9 **SECTION 88.** ORS 469.756 is amended to read:

10 469.756. The [*State Department of Energy*] **Oregon Energy Commission** in consultation with  
11 other state agencies and utilities shall adopt rules, guidelines and procedures that are necessary to  
12 establish savings for projects and to implement other provisions of ORS 469.752 to 469.756, including,  
13 but not limited to, rules prescribing the procedures to be followed by an agency in negotiating with  
14 local utilities to develop agreements suitable for the joint development of projects, and procedures  
15 to determine which local utility, if any, shall be chosen to jointly develop the project. The [*depart-*  
16 *ment*] **State Department of Energy** may enter into agreements under ORS chapter 190 with state  
17 agencies to provide technical assistance in selecting appropriate projects and to evaluate and de-  
18 termine energy and cost savings.

19 **SECTION 89.** ORS 469.880 is amended to read:

20 469.880. Each publicly owned utility serving Oregon shall, either independently or as part of an  
21 association, provide an energy audit program for its commercial customers. The [*Director of the State*  
22 *Department of Energy*] **Oregon Energy Commission** shall adopt rules governing the commercial  
23 energy audit program established under this section and may provide for coordination among elec-  
24 tric utilities and gas utilities that serve the same commercial building.

25 **SECTION 90.** ORS 469.885 is amended to read:

26 469.885. (1) Within 180 days after the adoption of rules by the [*Director of the State Department*  
27 *of Energy*] **Oregon Energy Commission** under ORS 469.880, each publicly owned utility shall  
28 present for the [*director's*] approval **of the Director of the State Department of Energy** a com-  
29 mercial energy audit program that shall, to the director's satisfaction:

30 (a) Make information about energy conservation available to any commercial building customer  
31 of the publicly owned utility, upon request;

32 (b) Regularly notify all customers in commercial buildings of the availability of the services de-  
33 scribed in this section;

34 (c) Provide to any commercial building customer of the publicly owned utility, upon request, an  
35 on-site energy audit of the customer's commercial building, including, but not limited to, an estimate  
36 of the cost of the energy conservation measures; and

37 (d) Set a reasonable time schedule for effective implementation of the elements set forth in this  
38 section.

39 (2) The commercial energy audit program submitted under subsection (1) of this section shall  
40 specify whether the publicly owned utility proposes to charge the customer a fee for the energy  
41 audit and, if so, the fee amount.

42 **SECTION 91.** ORS 469.890 is amended to read:

43 469.890. (1) Within 365 days after November 1, 1981, the [*Director of the State Department of*  
44 *Energy*] **Oregon Energy Commission** shall adopt rules governing energy conservation programs  
45 prescribed by ORS 469.895 and 469.900 (3) and this section and may provide for coordination among

1 electric utilities and gas utilities that serve the same commercial building. Within 180 days of the  
 2 adoption of rules by the [*director*] **commission**, each covered publicly owned utility shall present for  
 3 the [*director's*] approval **of the Director of the State Department of Energy** a commercial energy  
 4 conservation services program that shall, to the director's satisfaction:

5 (a) Make information about energy conservation available to all commercial building customers  
 6 of the covered publicly owned utility, upon request;

7 (b) Regularly notify all customers in commercial buildings of the availability of the services de-  
 8 scribed in this section; and

9 (c) Provide to any commercial building customer of the covered publicly owned utility, upon  
 10 request, an on-site energy audit of the customer's commercial building, including, but not limited to,  
 11 an estimate of the cost of energy conservation measures.

12 (2) The programs submitted and approved under this section shall include a reasonable time  
 13 schedule for effective implementation of the elements set forth in subsection (1) of this section in  
 14 the service areas of the covered publicly owned utility.

15 (3) The commercial energy conservation services program submitted under subsections (1) and  
 16 (2) of this section shall specify whether the covered publicly owned utility proposes to charge the  
 17 customer a fee for the energy audit and, if so, the fee amount.

18 **SECTION 92.** ORS 469A.020 is amended to read:

19 469A.020. (1) Except as provided in this section, electricity may be used to comply with a  
 20 renewable portfolio standard only if the electricity is generated by a facility that becomes opera-  
 21 tional on or after January 1, 1995.

22 (2) Electricity from a generating facility, other than a hydroelectric facility, that became opera-  
 23 tional before January 1, 1995, may be used to comply with a renewable portfolio standard if the  
 24 electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

25 (3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may  
 26 be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency  
 27 upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power  
 28 Administration facility, only that portion of the electricity generation attributable to Oregon's share  
 29 of the electricity may be used to comply with a renewable portfolio standard.

30 (4) Subject to the limit imposed by ORS 469A.025 (5), electricity from a hydroelectric facility  
 31 that became operational before January 1, 1995, may be used to comply with a renewable portfolio  
 32 standard if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995,  
 33 by a national certification organization recognized by the [*State Department of Energy*] **Oregon**  
 34 **Energy Commission** by rule, and if the facility is either:

35 (a) Owned by an electric utility; or

36 (b) Not owned by an electric utility and located in Oregon and licensed by the Federal Energy  
 37 Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such  
 38 license.

39 (5) Electricity from a generating facility located in this state that uses biomass and that became  
 40 operational before January 1, 1995, may be used to comply with a renewable portfolio standard if  
 41 the facility meets the requirements of the federal Public Utility Regulatory Policies Act of 1978 (P.L.  
 42 95-617) on March 4, 2010.

43 (6) A facility located in this state that generates electricity from direct combustion of municipal  
 44 solid waste and that became operational before January 1, 1995, may be used to comply with a  
 45 renewable portfolio standard for up to 11 average megawatts of electricity generated per calendar



1 year.

2 **SECTION 93.** ORS 469A.025 is amended to read:

3 469A.025. (1) Electricity generated utilizing the following types of energy may be used to comply  
4 with a renewable portfolio standard:

- 5 (a) Wind energy.
- 6 (b) Solar photovoltaic and solar thermal energy.
- 7 (c) Wave, tidal and ocean thermal energy.
- 8 (d) Geothermal energy.

9 (2) Except as provided in subsection (3) of this section, electricity generated from biomass and  
10 biomass by-products may be used to comply with a renewable portfolio standard, including but not  
11 limited to electricity generated from:

- 12 (a) Organic human or animal waste;
- 13 (b) Spent pulping liquor;
- 14 (c) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest  
15 or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire risk;
- 16 (d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);
- 17 (e) Agricultural residues;
- 18 (f) Dedicated energy crops; and
- 19 (g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or  
20 municipal solid waste.

21 (3) Electricity generated from the direct combustion of biomass may not be used to comply with  
22 a renewable portfolio standard if any of the biomass combusted to generate the electricity includes  
23 wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or  
24 chromated copper arsenate.

25 (4) Electricity generated by a hydroelectric facility may be used to comply with a renewable  
26 portfolio standard only if:

- 27 (a) The facility is located outside any protected area designated by the Pacific Northwest Elec-  
28 tric Power and Conservation Planning Council as of July 23, 1999, or any area protected under the  
29 federal Wild and Scenic Rivers Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805  
30 to 390.925; or
- 31 (b) The electricity is attributable to efficiency upgrades made to the facility on or after January  
32 1, 1995.

33 (5)(a) Up to 50 average megawatts of electricity per year generated by an electric utility from  
34 certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(a) may be used to comply  
35 with a renewable portfolio standard, without regard to the number of certified facilities operated  
36 by the electric utility or the generating capacity of those facilities. A hydroelectric facility described  
37 in this paragraph is not subject to the requirements of subsection (4) of this section.

38 (b) Up to 40 average megawatts of electricity per year generated by certified low-impact hy-  
39 droelectric facilities described in ORS 469A.020 (4)(b) may be used to comply with a renewable  
40 portfolio standard, without regard to the number of certified facilities or the generating capacity  
41 of those facilities. A hydroelectric facility described in this paragraph is not subject to the require-  
42 ments of subsection (4) of this section.

43 (6)(a) Direct combustion of municipal solid waste in a generating facility located in this state  
44 may be used to comply with a renewable portfolio standard. The qualification of a municipal solid  
45 waste facility for use in compliance with a renewable portfolio standard has no effect on the quali-

1 fication of the facility for a tax credit under ORS 469B.130 to 469B.169.

2 (b) The total amount of electricity generated in this state by direct combustion of municipal  
3 solid waste by generating facilities that became operational in this state on or after January 1, 1995,  
4 may not exceed nine average megawatts per year for the purpose of complying with a renewable  
5 portfolio standard.

6 (7) Electricity generated from hydrogen gas, including electricity generated by hydrogen power  
7 stations using anhydrous ammonia as a fuel source, may be used to comply with a renewable port-  
8 folio standard if:

9 (a) The electricity is derived from:

10 (A) Any source of energy described in subsection (1) or (2) of this section; or

11 (B) A hydroelectric facility that complies with subsection (4) of this section and that is certified  
12 as a low-impact hydroelectric facility as described in ORS 469A.020 (4); and

13 (b) The output of the original source of energy is not also used to comply with a renewable  
14 portfolio standard.

15 (8) If electricity generation employs multiple energy sources, that portion of the electricity  
16 generated that is attributable to energy sources described in this section may be used to comply  
17 with a renewable portfolio standard.

18 (9) The [*State Department of Energy*] **Oregon Energy Commission** by rule may approve energy  
19 sources other than those described in this section that may be used to comply with a renewable  
20 portfolio standard. The [*department*] **commission** may not approve petroleum, natural gas, coal or  
21 nuclear fission as an energy source that may be used to comply with a renewable portfolio standard.

22 **SECTION 94.** ORS 469B.103 is amended to read:

23 469B.103. (1) For the purposes of carrying out ORS 469B.100 to 469B.118, the [*State Department*  
24 *of Energy*] **Oregon Energy Commission** may adopt rules prescribing minimum performance criteria  
25 for alternative energy devices for dwellings. The [*department*] **commission** may, in prescribing cri-  
26 teria, rely on applicable federal, state and local requirements for energy efficiency, including the  
27 state building code, state and federal appliance standards and any specialty codes and any code  
28 adopted by the Building Codes Division of the Department of Consumer and Business Services.

29 (2) The [*department*] **commission** shall take into consideration evolving market conditions in  
30 prescribing minimum performance criteria for alternative energy devices and in determining credit  
31 amounts, consistent with ORS 316.116.

32 (3) The [*department*] **commission**, in adopting rules under this section for solar heating and  
33 cooling systems, shall take into consideration applicable standards of federal performance criteria  
34 prescribed pursuant to the provisions of the Solar Heating and Cooling Demonstration Act of 1974,  
35 42 U.S.C. 5506.

36 (4) The [*Director of the State Department of Energy*] **commission** shall adopt rules governing the  
37 determination of eligibility, verification and certification of an alternative fuel device for purposes  
38 of the tax credits granted under ORS 316.116, including but not limited to rules that further define  
39 an alternative fuel device and that govern the computation of costs eligible for credit.

40 (5) The [*department*] **commission** shall by rule establish policies and procedures for the admin-  
41 istration and enforcement of the provisions of ORS 316.116 and 469B.100 to 469B.118.

42 **SECTION 95.** ORS 469B.106 is amended to read:

43 469B.106. (1) Subject to the limitations in section 75, chapter 730, Oregon Laws 2011, any person  
44 may claim a tax credit under ORS 316.116 if the person:

45 (a) Meets the requirements of ORS 316.116;

1 (b) Meets the requirements of ORS 469B.100 to 469B.118; and

2 (c) Pays, subject to subsection (9) of this section, all or a portion of the costs of an alternative  
3 energy device.

4 (2) In order to be eligible for a tax credit under ORS 316.116, a person claiming a tax credit for  
5 construction or installation of an alternative energy device shall have the device certified by the  
6 State Department of Energy or constructed or installed by a contractor certified by the department  
7 under subsection (4) of this section.

8 (3) Verification of the purchase, construction or installation of an alternative energy device  
9 shall be made in writing on a form provided by the Department of Revenue and, if applicable, shall  
10 contain:

11 (a) The location of the alternative energy device;

12 (b) A description of the type of device;

13 (c) If the device was constructed or installed by a contractor, evidence that the contractor has  
14 any license, bond, insurance and permit required to sell and construct or install the alternative en-  
15 ergy device;

16 (d) If the device was constructed or installed by a contractor, a statement signed by the con-  
17 tractor that the applicant has received:

18 (A) A statement of the reasonably expected energy savings of the device;

19 (B) A copy of consumer information published by the State Department of Energy;

20 (C) An operating manual for the alternative energy device; and

21 (D) A copy of the contractor's certification certificate or alternative energy device system cer-  
22 tificate for the alternative energy device, as appropriate;

23 (e) If the device was not constructed or installed by a contractor, evidence that:

24 (A) The State Department of Energy has issued an alternative energy device system certificate  
25 for the alternative energy device; and

26 (B) The taxpayer has obtained all building permits required for construction or installation of  
27 the device;

28 (f) A statement, signed by both the taxpayer claiming the credit and the contractor if the device  
29 was constructed or installed by a contractor, that the construction or installation meets all the re-  
30 quirements of ORS 469B.100 to 469B.118;

31 (g) The date the alternative energy device was purchased by the residential property owner, or,  
32 for a third-party alternative energy device installation, the date that the residential property owner  
33 and the alternative energy device owner signed a contract;

34 (h) The date the alternative energy device was placed in service; and

35 (i) Any other information that the Director of the State Department of Energy or the Depart-  
36 ment of Revenue determines is necessary.

37 (4)(a) When the State Department of Energy finds that an alternative energy device can meet  
38 the standards adopted under ORS 469B.103, the Director of the State Department of Energy may  
39 issue a contractor system certification to the person selling and constructing or installing the al-  
40 ternative energy device.

41 (b) Any person who sells or installs more than 12 alternative energy devices in one year shall  
42 apply for a contractor system certification. An application for a contractor system certification shall  
43 be made in writing on a form provided by the State Department of Energy and shall contain:

44 (A) A statement that the contractor has any license, bonding, insurance and permit that is re-  
45 quired for the sale and construction or installation of the alternative energy device;

1 (B) A specific description of the alternative energy device, including, but not limited to, the  
2 material, equipment and mechanism used in the device, operating procedure, sizing and siting  
3 method and construction or installation procedure;

4 (C) The addresses of three installations of the device that are available for inspection by the  
5 State Department of Energy;

6 (D) The range of installed costs to purchasers of the device;

7 (E) Any important construction, installation or operating instructions; and

8 (F) Any other information that the State Department of Energy determines is necessary.

9 (c) A new application for contractor system approval shall be filed when there is a change in  
10 the information supplied under paragraph (b) of this subsection.

11 (d) The State Department of Energy may issue contractor system certificates to each contractor  
12 who on October 3, 1989, has a valid dealer system certification, which shall authorize the sale and  
13 installation of the same domestic water heating alternative energy devices authorized by the dealer  
14 certification.

15 (e) If the State Department of Energy finds that an alternative energy device can meet the  
16 standards adopted under ORS 469B.103, the Director of the State Department of Energy may issue  
17 an alternative energy device system certificate to the taxpayer constructing or installing or having  
18 an alternative energy device constructed or installed.

19 (f) An application for an alternative energy device system certificate shall be made in writing  
20 on a form provided by the State Department of Energy and shall contain:

21 (A) A specific description of the alternative energy device, including, but not limited to, the  
22 material, equipment and mechanism used in the device, operating procedure, sizing, siting method  
23 and construction or installation procedure;

24 (B) The constructed or installed cost of the device; and

25 (C) A statement that the taxpayer has all permits required for construction or installation of the  
26 device.

27 (5) Prior to commencing installation of alternative energy devices, installers of third-party al-  
28 ternative energy device installations must apply to the State Department of Energy to reserve  
29 credits on behalf of owners of residential property. Installers may reserve credit for no more than  
30 25 installations under this subsection in one application.

31 (6) To claim the tax credit, the verification form described in subsection (3) of this section shall  
32 be submitted with the taxpayer's tax return for the year the alternative energy device is placed in  
33 service or the immediately succeeding tax year. A copy of the contractor's certification certificate  
34 or alternative energy device system certificate also shall be submitted.

35 (7) The verification form and contractor's certificate or alternative energy device system certif-  
36 icate described under this section shall be effective for purposes of tax relief allowed under ORS  
37 316.116.

38 (8) The verification form and contractor's certificate described under this section may be  
39 transferred to the first purchaser of a dwelling who intends to use the dwelling as a principal or  
40 secondary residence.

41 (9) Any person that pays the present value of the tax credit for an alternative energy device  
42 provided under ORS 316.116 and 469B.100 to 469B.118 to the person who constructs or installs the  
43 alternative energy device shall be entitled to claim the credit in the manner and subject to rules  
44 adopted by the Department of Revenue to carry out the purposes of this subsection. The [*State De-*  
45 *partment of Energy*] **Oregon Energy Commission** may establish by rule uniform discount rates to

1 be used in calculating the present value of a tax credit under this subsection.

2 **SECTION 96.** ORS 469B.112 is amended to read:

3 469B.112. The following devices are not eligible for the tax credit under ORS 316.116:

4 (1) Standard efficiency furnaces;

5 (2) Air conditioning systems;

6 (3) Boilers;

7 (4) Standard back-up heating systems;

8 (5) Woodstoves or wood furnaces, or any part of a heating system that burns wood, unless the  
9 woodstove, furnace or system constitutes a premium efficiency biomass combustion device described  
10 in ORS 469B.100 (3)(i);

11 (6) Heat pump water heaters that are part of a geothermal heat pump space heating system;

12 (7) Structures that cover or enclose a swimming pool;

13 (8) Swimming pools, hot tubs or spas used to store heat;

14 (9) Above ground, uninsulated swimming pools, hot tubs or spas;

15 (10) Photovoltaic systems installed on recreational vehicles;

16 (11) Conversion of an existing alternative energy device to another type of alternative energy  
17 device;

18 (12) Repair or replacement of an existing alternative energy device;

19 (13) A category two alternative energy device, if the equipment or other property that comprises  
20 the category two alternative energy device is the basis for an allowed credit for a category one al-  
21 ternative energy device under ORS 316.116;

22 (14) A category one alternative energy device, if the equipment or other property that comprises  
23 the category one alternative energy device is also the basis for an allowed credit for a category two  
24 alternative energy device under ORS 316.116; or

25 (15) Any other device identified by the [*State Department of Energy*] **Oregon Energy Commis-**  
26 **sion.** The [*department*] **commission** may adopt rules defining standards for eligible and ineligible  
27 devices under this section.

28 **SECTION 97.** ORS 469B.130 is amended to read:

29 469B.130. As used in ORS 469B.130 to 469B.169 and 469B.171:

30 (1) "Alternative fuel vehicle" means a vehicle as defined by the [*Director of the State Department*  
31 *of Energy*] **Oregon Energy Commission** by rule that is used primarily in connection with the con-  
32 duct of a trade or business and that is manufactured or modified to use an alternative fuel, including  
33 but not limited to electricity, ethanol, methanol, gasohol and propane or natural gas, regardless of  
34 energy consumption savings.

35 (2) "Car sharing facility" means the expenses of operating a car sharing program, including but  
36 not limited to the fair market value of parking spaces used to store the fleet of cars available for  
37 a car sharing program, but does not include the costs of the fleet of cars.

38 (3) "Car sharing program" means a program in which drivers pay to become members in order  
39 to have joint access to a fleet of cars from a common parking area on an hourly basis. "Car sharing  
40 program" does not include operations conducted by car rental agencies.

41 (4) "Cost" means the capital costs and expenses necessarily incurred in the erection, con-  
42 struction, installation and acquisition of a facility, including site development costs and expenses for  
43 a sustainable building practices facility.

44 (5) "Energy facility" means any capital investment for which the first year energy savings yields  
45 a simple payback period of greater than one year. An energy facility includes:

1 (a) Any land, structure, building, installation, excavation, machinery, equipment or device, or  
2 any addition to, reconstruction of or improvement of, land or an existing structure, building, instal-  
3 lation, excavation, machinery, equipment or device necessarily erected, constructed, installed or  
4 acquired by any person in connection with the conduct of a trade or business and actually used in  
5 the processing or utilization of renewable energy resources to:

6 (A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

7 (B) Provide the initial use of energy where electricity, petroleum or natural gas would have been  
8 used;

9 (C) Generate electricity to replace an existing source of electricity or to provide a new source  
10 of electricity for sale by or use in the trade or business;

11 (D) Perform a process that obtains energy resources from material that would otherwise be solid  
12 waste as defined in ORS 459.005; or

13 (E) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol,  
14 methanol, gasohol or biodiesel.

15 (b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing  
16 structure, building, installation, excavation, machinery, equipment or device necessarily erected,  
17 constructed, installed or acquired by any person in connection with the conduct of a trade or busi-  
18 ness in order to substantially reduce the consumption of purchased energy.

19 (c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is  
20 defined by ORS 469B.100, that causes that building or dwelling to exceed an energy performance  
21 standard in the state building code.

22 (d) The replacement of an electric motor with another electric motor that substantially reduces  
23 the consumption of electricity.

24 (6) "Facility" means an energy facility, recycling facility, transportation facility, car sharing  
25 facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to op-  
26 erate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling  
27 station, a high-efficiency combined heat and power facility, a high-performance home or a  
28 homebuilder-installed renewable energy system.

29 (7) "High-efficiency combined heat and power facility" means a device or equipment that simul-  
30 taneously produces heat and electricity from a single source of fuel and that meets the criteria es-  
31 tablished for a high-efficiency combined heat and power facility under ORS 469B.139.

32 (8) "High-performance home" means a new single-family dwelling that:

33 (a) Is designed and constructed to reduce net purchased energy through use of both energy ef-  
34 ficiency and on-site renewable energy resources; and

35 (b) Meets the criteria established for a high-performance home under ORS 469B.139.

36 (9) "Homebuilder-installed renewable energy system" means a renewable energy resource system  
37 that:

38 (a) Meets the criteria established for a renewable energy resource system under ORS 469B.139;  
39 and

40 (b) Is installed in a new single-family dwelling by, or at the direction of, the homebuilder con-  
41 structing the dwelling.

42 (10) "Qualified transit pass contract" means a purchase agreement entered into between a  
43 transportation provider and a person, the terms of which obligate the person to purchase transit  
44 passes on behalf or for the benefit of employees, students, patients or other individuals over a  
45 specified period of time.

1 (11) "Recycling facility" means equipment used by a trade or business solely for recycling:

2 (a) Including:

3 (A) Equipment used solely for hauling and refining used oil;

4 (B) New vehicles or modifications to existing vehicles used solely to transport used recyclable  
5 materials that cannot be used further in their present form or location such as glass, metal, paper,  
6 aluminum, rubber and plastic;

7 (C) Trailers, racks or bins that are used for hauling used recyclable materials and are added to  
8 or attached to existing waste collection vehicles; and

9 (D) Any equipment used solely for processing recyclable materials such as balers, flatteners,  
10 crushers, separators and scales.

11 (b) But not including equipment used for transporting or processing scrap materials that are  
12 recycled as a part of the normal operation of a trade or business as defined by the [director] **com-**  
13 **mission.**

14 (12)(a) "Renewable energy resource" includes, but is not limited to:

15 (A) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant  
16 or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal  
17 energy;

18 (B) A hydroelectric generating facility that obtains all applicable permits and complies with all  
19 state and federal statutory requirements for the protection of fish and wildlife and that:

20 (i) Does not exceed 10 megawatts of installed capacity; or

21 (ii) Qualifies as a research, development or demonstration facility; or

22 (C) A renewable energy storage device as defined by the [director] **commission** by rule.

23 (b) "Renewable energy resource" does not include a hydroelectric generating facility that is not  
24 described in paragraph (a) of this subsection.

25 (13) "Sustainable building practices facility" means a commercial building in which building  
26 practices that reduce the amount of energy, water or other resources needed for construction and  
27 operation of the building are used. "Sustainable building practices facility" may be further defined  
28 by the [State Department of Energy] **commission** by rule, including rules that establish traditional  
29 building practice baselines in energy, water or other resource usage for comparative purposes for  
30 use in determining whether a facility is a sustainable building practices facility.

31 (14) "Transportation facility" means a transportation project that reduces energy use during  
32 commuting to and from work or school, during work-related travel, or during travel to obtain med-  
33 ical or other services, and may be further defined by the [department] **commission** by rule.

34 "Transportation facility" includes, but is not limited to:

35 (a) A qualified transit pass contract or a transportation services contract; or

36 (b) The purchase of efficient truck technology and related truck trailers, as defined in ORS  
37 801.580, for commercial motor vehicles, as defined in ORS 801.208, that are registered under ORS  
38 803.420, or for commercial motor vehicles that are proportionally registered under ORS 826.009 or  
39 826.011.

40 (15) "Transportation provider" means a public, private or nonprofit entity that provides trans-  
41 portation services to members of the public.

42 (16) "Transportation services contract" means a contract that is related to a transportation fa-  
43 cility, and may be further defined by the [department] **commission** by rule.

44 **SECTION 98.** ORS 469B.136 is amended to read:

45 469B.136. (1) In determining the eligibility of any facility for tax credits, preference shall be

1 given to those projects that:

2 (a) Provide energy savings for real or personal property within the state inhabited as the prin-  
3 cipal residence of a tenant, including:

4 (A) Nonowner occupied single family dwellings; and

5 (B) Multiple unit residential housing; or

6 (b) Provide long-term energy savings from the use of renewable resources or conservation of  
7 energy resources.

8 (2) The [*Director of the State Department of Energy*] **Oregon Energy Commission** shall establish  
9 by rule a tiered priority system to be used in evaluating applicants for certification of facilities us-  
10 ing or producing renewable energy resources. The tier system shall be based upon the projected  
11 costs of facilities. In determining the eligibility for tax credits and in allocating the available certi-  
12 fied cost pursuant to section 2 (1), chapter 76, Oregon Laws 2010, among facilities, the [*director*]  
13 **commission** shall subject facilities with higher projected costs to closer scrutiny, shall compare  
14 projects of similar costs against each other and may certify less than the total cost of any facility  
15 based on this evaluation. The [*director*] **commission** may employ criteria including the following  
16 factors as defined by rule:

17 (a) Technology-specific energy production standards;

18 (b) Market sector;

19 (c) Delivery of energy into existing distribution and transmission network;

20 (d) Investment payback period;

21 (e) Expected lifespan of the facility;

22 (f) Potential for long-term viability;

23 (g) Environmental standards established by the [*director*] **commission**;

24 (h) Potential to create and sustain new jobs;

25 (i) Projected siting in a location that is geographically or socioeconomically advantageous;

26 (j) Demonstrated readiness to begin implementation;

27 (k) Amount and quality of energy generated;

28 (L) Strength of business plan;

29 (m) Provision of operations and maintenance data, with appropriate protections for trade secrets  
30 consistent with ORS chapter 192;

31 (n) Connection to existing infrastructure;

32 (o) Third-party review of the applicant's business plan; or

33 (p) Data related to projected return on investment.

34 **SECTION 99.** ORS 469B.139 is amended to read:

35 469B.139. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish  
36 all of the following criteria:

37 (1) For a high-performance home, the minimum design and construction standards that must be  
38 met or exceeded for a dwelling to be considered a high-performance home, including but not limited  
39 to standards for the building envelope, HVAC systems, lighting, appliances, water conservation  
40 measures, use of sustainable building materials and on-site renewable energy systems. The criteria  
41 must also establish the minimum reduction in estimated net purchased energy that a dwelling must  
42 achieve to be considered a high-performance home.

43 (2) For a homebuilder-installed renewable energy system, the minimum performance and effi-  
44 ciency standards that a solar electric system, solar domestic water heating system, passive solar  
45 space heating system, wind power system, geothermal heating system, fuel cell system or other sys-



1 tem utilizing renewable resources must achieve to be considered a homebuilder-installed renewable  
2 energy system.

3 (3) For a high-efficiency combined heat and power facility, the minimum performance and effi-  
4 ciency standards that the facility must achieve to be considered a high-efficiency combined heat and  
5 power facility.

6 (4) For a facility using or producing renewable energy resources, standards relating to criteria  
7 required under ORS 469B.136 (2).

8 (5) Standards, consistent with the definitions in ORS 469B.130, relating to what constitutes a  
9 single facility.

10 **SECTION 100.** ORS 469B.145 is amended to read:

11 469B.145. (1) Prior to erection, construction, installation or acquisition of a proposed facility,  
12 any person may apply to the State Department of Energy for preliminary certification under ORS  
13 469B.157 if:

14 (a) The erection, construction, installation or acquisition of the facility is to be commenced on  
15 or after October 3, 1979;

16 (b) The facility complies with the standards or rules adopted by the [*Director of the State De-*  
17 *partment of Energy*] **Oregon Energy Commission**; and

18 (c) The applicant meets one of the following criteria:

19 (A) The applicant is a person to whom a tax credit for the facility has been transferred; or

20 (B) The applicant will be the owner, contract purchaser or lessee of the facility at the time of  
21 erection, construction, installation or acquisition of the proposed facility, and:

22 (i) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to  
23 utilize the facility in connection with Oregon property; or

24 (ii) The applicant is the owner, contract purchaser or lessee of a trade or business that plans  
25 to lease the facility to a person that will utilize the facility in connection with Oregon property.

26 (2) An application for preliminary certification shall be made in writing on a form prepared by  
27 the department and shall contain:

28 (a) A statement that the applicant or the lessee of the applicant's facility:

29 (A) Intends to convert from a purchased energy source to a renewable energy resource;

30 (B) Plans to acquire, construct or install a facility that will use a renewable energy resource  
31 or solid waste instead of electricity, petroleum or natural gas;

32 (C) Plans to use a renewable energy resource in the generation of electricity for sale or to re-  
33 place an existing or proposed use of an existing source of electricity;

34 (D) Plans to acquire, construct or install a facility that substantially reduces the consumption  
35 of purchased energy;

36 (E) Plans to acquire, construct or install equipment for recycling as described in ORS 469B.130  
37 (11);

38 (F) Plans to acquire an alternative fuel vehicle or to convert an existing vehicle to an alterna-  
39 tive fuel vehicle;

40 (G) Plans to acquire, construct or install a facility necessary to operate alternative fuel vehicles;

41 (H) Plans to acquire transit passes for use by individuals specified by the applicant;

42 (I) Plans to acquire, construct or install a transportation facility;

43 (J) Plans to acquire a sustainable building practices facility;

44 (K) Plans to acquire a car sharing facility and operate a car sharing program;

45 (L) Plans to construct a high-efficiency combined heat and power facility;

- 1 (M) Is a homebuilder and plans to construct a homebuilder-installed renewable energy system;  
2 or  
3 (N) Is a homebuilder and plans to construct a high-performance home.
- 4 (b) A detailed description of the proposed facility and its operation and information showing that  
5 the facility will operate as represented in the application and remain in operation for at least five  
6 years, unless the [director] **commission** by rule specifies a shorter period of operation.
- 7 (c) Information on the amount by which consumption of electricity, petroleum or natural gas by  
8 the applicant or the lessee of the applicant's facility will be reduced, and on the amount of energy  
9 that will be produced for sale, as the result of using the facility or, if applicable, information about  
10 the expected level of sustainable building practices facility performance.
- 11 (d) The projected cost of the facility.
- 12 (e) If applicable, a copy of the proposed qualified transit pass contract, transportation services  
13 contract or contract for lease of parking spaces for a car sharing facility.
- 14 (f) Information on the number and type of jobs that will be created, the number of jobs sustained  
15 throughout the construction, installation and operation of the facility and the benefits of the facility  
16 with regard to overall economic activity in this state.
- 17 (g) Information demonstrating that the proposed facility will comply with applicable state and  
18 local laws and regulations and obtain required licenses and permits.
- 19 (h) Information relating to the criteria required under ORS 469B.136.
- 20 (i) Any other information the [director] **commission** considers necessary to determine whether  
21 the proposed facility is in accordance with the provisions of ORS 469B.130 to 469B.169, and any  
22 applicable rules or standards adopted by the [director] **commission**.
- 23 (3) An application for preliminary certification shall be accompanied by a fee established under  
24 ORS 469B.164. The Director of the **State Department of Energy** may refund all or a portion of  
25 the fee if the application for certification is rejected.
- 26 (4) The director may allow an applicant to file the preliminary application or a reapplication  
27 under subsection (6) of this section after the start of erection, construction, installation or acqui-  
28 sition of the facility if the director finds:
- 29 (a) Filing the application before the start of erection, construction, installation or acquisition is  
30 inappropriate because special circumstances render filing earlier unreasonable; and
- 31 (b) The facility would otherwise qualify for tax credit certification pursuant to ORS 469B.130 to  
32 469B.169.
- 33 (5) A preliminary certification of a sustainable building practices facility shall be applied for and  
34 issued as prescribed by the [department] **commission** by rule.
- 35 (6) A preliminary certification shall remain valid for a period of three calendar years after the  
36 date the preliminary certification is issued by the director. The director may extend the three-year  
37 period for two additional calendar years upon reapplication and submission of the fee required by  
38 this section.
- 39 **SECTION 101.** ORS 469B.148 is amended to read:
- 40 469B.148. (1) The owner of a facility may transfer a tax credit for the facility in exchange for  
41 a cash payment equal to the present value of the potential tax credit, as determined at the time of  
42 the application for preliminary certification.
- 43 (2) The [State Department of Energy] **Oregon Energy Commission** shall establish by rule a  
44 formula to be employed by the **State Department of Energy** in the determination of prices of  
45 credits transferred under this section. In establishing the formula the [department] **commission** shall

1 incorporate inflation projections and market real rate of return.

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

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

6 **SECTION 102.** ORS 469B.154 is amended to read:

7 469B.154. (1) The owner of a rental housing unit may transfer a tax credit for energy conser-  
8 vation measures installed in rental housing units under ORS 469B.151 in exchange for a cash pay-  
9 ment equal to the present value of the tax credit. To be eligible for a transfer, the energy  
10 conservation measures must have been recommended in an energy audit as provided in ORS 469.633  
11 or 469.651.

12 (2) The [*State Department of Energy*] **Oregon Energy Commission** may establish by rule uni-  
13 form discount rates to be used in calculating the present value of a tax credit under this section.

14 **SECTION 103.** ORS 469B.157 is amended to read:

15 469B.157. (1) The Director of the State Department of Energy may require the submission of  
16 plans, specifications and contract terms, and after examination thereof, may request corrections and  
17 revisions of the plans, specifications and terms.

18 (2) If the director determines that the proposed acquisition, erection, construction or installation  
19 is technically feasible and should operate in accordance with the representations made by the ap-  
20 plicant, and is in accordance with the provisions of ORS 469B.130 to 469B.169 and any applicable  
21 rules or standards adopted by the [*director*] **Oregon Energy Commission**, the director shall issue  
22 a preliminary certificate approving the acquisition, erection, construction or installation of the fa-  
23 cility. The certificate shall indicate the potential amount of tax credit allowable and shall list any  
24 conditions for claiming the credit.

25 (3) The director may issue an order altering, conditioning, suspending or denying preliminary  
26 certification if the director determines that:

27 (a) The acquisition, erection, construction or installation does not comply with the provisions  
28 of ORS 469B.130 to 469B.169 and applicable rules and standards;

29 (b) The applicant has previously received preliminary or final certification for the same costs;

30 (c) The applicant is unable to demonstrate that the facility would be economically viable without  
31 the allowance of additional credits under ORS 315.354;

32 (d) The applicant was directly involved in an act for which the director has levied civil penalties  
33 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169; or

34 (e) The applicant or the principal, director, officer, owner, majority shareholder or member of  
35 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in  
36 arrears for payments owed to any government agency while in any capacity with direct or indirect  
37 control over a business.

38 **SECTION 104.** ORS 469B.161 is amended to read:

39 469B.161. (1) A final certification may not be issued by the Director of the State Department of  
40 Energy under this section unless:

41 (a) The facility was acquired, erected, constructed or installed under a preliminary certificate  
42 of approval issued under ORS 469B.157;

43 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.145  
44 (2) and does not violate any condition that may be imposed as described in ORS 469B.157 (3); and

45 (c) The facility was acquired, erected, constructed or installed in accordance with the applicable

1 provisions of ORS 469B.130 to 469B.169 and any applicable rules or standards adopted by the [*di-*  
2 *rector*] **Oregon Energy Commission**.

3 (2) Any person may apply to the State Department of Energy for final certification of a facility:

4 (a) If the department issued preliminary certification for the facility under ORS 469B.157; and

5 (b)(A) After completion of erection, construction, installation or acquisition of the proposed fa-  
6 cility or, if the facility is a qualified transit pass contract, after entering into the contract with a  
7 transportation provider; or

8 (B) After transfer of the facility, as provided in ORS 315.354 (5).

9 (3) An application for final certification shall be made in writing on a form prepared by the  
10 department and shall contain:

11 (a) A statement that the conditions of the preliminary certification have been complied with;

12 (b) The actual cost of the facility certified to by a certified public accountant who is not an  
13 employee of the applicant or, if the actual cost of the facility is less than \$50,000, copies of receipts  
14 for purchase and installation of the facility;

15 (c) The amount of the credit under ORS 315.354 that is to be claimed;

16 (d) The number and type of jobs created by the operation and maintenance of the facility over  
17 the five-year period beginning with the year of preliminary certification under ORS 469B.157 and  
18 information on the benefits of the facility with regard to overall economic activity in this state;

19 (e) Information sufficient to demonstrate that the facility will remain in operation for at least  
20 five years, unless the [*director*] **Oregon Energy Commission** by rule specifies a shorter period of  
21 operation;

22 (f) Information sufficient to demonstrate, in the case of a research, development or demon-  
23 stration facility that is not in operation, that the applicant has made reasonable efforts to make the  
24 facility operable and meet the requirements of the preliminary certificate;

25 (g) Documentation of compliance with applicable state and local laws and regulations and li-  
26 censing and permitting requirements as defined by the [*director*] **Oregon Energy Commission**; and

27 (h) Any other information determined by the [*director*] **Oregon Energy Commission** to be nec-  
28 essary prior to issuance of a final certificate, including inspection of the facility by the department.

29 (4) The director shall act on an application for certification before the 60th day after the filing  
30 of the application under this section. The director may issue the certificate, or certificates for effi-  
31 cient truck technology within a transportation facility, together with such conditions as the director  
32 determines are appropriate to promote the purposes of ORS 315.354, 469B.130 to 469B.169 and  
33 469B.171. If the applicant is an entity subject to regulation by the Public Utility Commission, the  
34 director may consult with the **Public Utility Commission** prior to issuance of the certificate. The  
35 action of the director shall include certification of the actual cost of the facility. However, the di-  
36 rector may not certify an amount for tax credit purposes that is more than the amount approved in  
37 the preliminary certificate issued for the facility.

38 (5) If the director rejects an application for final certification, or certifies a lesser actual cost  
39 of the facility than was claimed in the application, the director shall send to the applicant written  
40 notice of the action, together with a statement of the findings and reasons therefor, by certified mail,  
41 before the 60th day after the filing of the application. Failure of the director to act constitutes re-  
42 jection of the application.

43 (6) Upon approval of an application for final certification of a facility, the director shall certify  
44 the facility. Each certificate shall bear a separate serial number for each device. Where one or  
45 more devices constitute an operational unit, the director may certify the operational unit under one

1 certificate.

2 (7) The [*director*] **Oregon Energy Commission** may establish by rule timelines and intermediate  
3 deadlines for submission of application materials.

4 **SECTION 105.** ORS 469B.164 is amended to read:

5 469B.164. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**  
6 **Energy Commission** may adopt a schedule of reasonable fees which the State Department of En-  
7 ergy may require of applicants for preliminary or final certification under ORS 469B.130 to 469B.169.  
8 Before the adoption or revision of the fees, the department shall estimate the total cost of the pro-  
9 gram to the department. The fees shall be used to recover the anticipated cost of filing, investigat-  
10 ing, granting and rejecting applications for certification and shall be designed not to exceed the  
11 total cost estimated by the department. Any excess fees shall be held by the department and shall  
12 be used by the department to reduce any future fee increases. The fee may vary according to the  
13 size and complexity of the facility. The fee shall not be considered as part of the cost of the facility  
14 to be certified.

15 **SECTION 106.** ORS 469B.253 is amended to read:

16 469B.253. (1) Prior to the installation or construction of a renewable energy production system,  
17 any person may apply to the State Department of Energy for a grant under ORS 469B.256 if:

18 (a) The applicant will be the owner, contract purchaser or lessee of the system at the time of  
19 installation or construction of the proposed system;

20 (b) The system does not exceed 35 megawatts of nameplate capacity;

21 (c) The system is located in Oregon; and

22 (d) The system complies with the standards or rules adopted by the [*Director of the State De-*  
23 *partment of Energy*] **Oregon Energy Commission**.

24 (2) An application for a grant under ORS 469B.256 shall be made in writing on a form prepared  
25 by the department and shall contain:

26 (a) A detailed description of the system and its operation and information showing that the  
27 system will operate as represented in the application and remain in operation for at least five years,  
28 unless the [*director*] **commission** by rule specifies another period of operation.

29 (b) The anticipated total system cost.

30 (c) Information on the number and type of jobs, directly connected to the awarding of the grant,  
31 that will be:

32 (A) Created by the system; and

33 (B) Sustained throughout the construction, installation and operation of the system.

34 (d) Information demonstrating that the system will comply with applicable state and local laws  
35 and regulations and obtain required licenses and permits.

36 (e) Any other information the [*director*] **commission** considers necessary to determine whether  
37 the system is in accordance with the provisions of ORS 469B.250 to 469B.265, and any applicable  
38 rules or standards adopted by the [*director*] **commission**.

39 (3) An application for a grant shall be accompanied by a fee established under ORS 469B.259.  
40 The Director **of the State Department of Energy** may refund all or a portion of the fee if the  
41 application for a grant is rejected.

42 (4) The director may allow an applicant to file the application for a grant after the start of in-  
43 stallation or construction of the system if the director finds that:

44 (a) Filing the application before the start of installation or construction is inappropriate because  
45 special circumstances render filing earlier unreasonable; and

1 (b) The system would otherwise qualify for a grant under ORS 469B.250 to 469B.265.

2 **SECTION 107.** ORS 469B.256 is amended to read:

3 469B.256. (1) The Director of the State Department of Energy may require an applicant for a  
4 grant under this section for a renewable energy production system to submit plans, specifications  
5 and contract terms, and after examination of the plans, specifications and terms may request cor-  
6 rections and revisions.

7 (2) If the director determines that the system is technically feasible and should operate in ac-  
8 cordance with the representations made by the applicant, and is in accordance with the provisions  
9 of ORS 469B.250 to 469B.265 and any applicable rules or standards adopted by the [director] **Oregon**  
10 **Energy Commission**, the director may enter into a performance agreement with the applicant and  
11 award a grant under this section to the applicant. The grant provided for in the performance  
12 agreement may not exceed 35 percent of the cost of the project and may not exceed \$250,000 per  
13 system. If construction does not begin within 12 months of an award under this section, the per-  
14 formance agreement shall be void and the State Department of Energy shall revoke the grant.

15 (3) The director may, in accordance with ORS chapter 183, deny a grant under this section if  
16 the director determines that:

17 (a) The system does not comply with the provisions of ORS 469B.250 to 469B.265 and applicable  
18 rules and standards;

19 (b) The applicant was directly involved in an act for which the director has levied civil penalties  
20 or revoked, canceled or suspended any certification under ORS 315.326 or 469B.130 to 469B.169, or  
21 any grant under ORS 469B.250 to 469B.265; or

22 (c) The applicant or the principal, director, officer, owner, majority shareholder or member of  
23 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in  
24 arrears for payments owed to any government agency while in any capacity with direct or indirect  
25 control over a business.

26 (4) The department shall reduce the amount of grant allowable to an applicant if, when combined  
27 with other government incentives or grants available to the applicant, the amount calculated under  
28 subsection (2) of this section exceeds 75 percent of the total system cost calculated under this sec-  
29 tion.

30 (5) Upon determination by the director that the applicant has violated the provisions of the  
31 performance agreement or ORS 469B.250 to 469B.265, the applicant will be liable to the department  
32 for all grant moneys disbursed to the applicant.

33 **SECTION 108.** ORS 469B.259 is amended to read:

34 469B.259. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**  
35 **Energy Commission** may adopt a schedule of reasonable fees that the State Department of Energy  
36 may require of applicants for a grant for a renewable energy production system under ORS 469B.250  
37 to 469B.265 or for tax credit certification under ORS 315.326. Before the adoption or revision of the  
38 fees, the department shall estimate the total cost of the program to the department. The fees shall  
39 be used to recover the anticipated cost of administering and enforcing the provisions of ORS  
40 469B.250 to 469B.265, including filing, investigating, granting and rejecting applications for grant  
41 or tax credit certification and ensuring compliance with ORS 315.326, 315.329 and 469B.250 to  
42 469B.265 and shall be designed not to exceed the total cost estimated by the department. Any excess  
43 fees shall be held by the department and shall be used by the department to reduce any future fee  
44 increases. The fee may vary according to the size and complexity of the system. The fee is not  
45 considered part of the cost of the system for which a grant is being sought.

1        **SECTION 109.** ORS 469B.262 is amended to read:

2        469B.262. (1) The total amount of potential tax credits for certified renewable energy develop-  
3        ment contributions in this state may not, at the time of certification under ORS 315.326, exceed:

4        (a) \$3 million for any biennium; or

5        (b) \$750,000 for the six months beginning July 1, 2017, and ending December 31, 2017.

6        (2) In the event that the Director of the State Department of Energy receives applications for  
7        grants under ORS 469B.256 in excess of the contributions received pursuant to ORS 315.326, the  
8        director shall allocate the issuance of grants according to standards and criteria established by rule  
9        by the *[director]* **Oregon Energy Commission**.

10       **SECTION 110.** ORS 469B.265 is amended to read:

11       469B.265. The *[State Department of Energy]* **Oregon Energy Commission** shall by rule establish  
12       policies and procedures for the administration and enforcement of the provisions of ORS 315.326,  
13       315.329 and 469B.250 to 469B.265, including standards for what constitutes a single renewable en-  
14       ergy production system.

15       **SECTION 111.** ORS 469B.273 is amended to read:

16       469B.273. (1) In determining the priority of any energy conservation project for tax credits,  
17       preference shall be given to those projects that have the highest energy savings over the five-year  
18       credit allowance period per tax credit dollar.

19       (2) In administering this section, the Director of the State Department of Energy shall compare  
20       projects of similar technology types against each other, take into account the amount of energy  
21       saved over the life of the equipment, market or industry sector, expected lifespan of the project  
22       compared to the simple payback period, whether the energy savings of the project benefit a party  
23       other than the owner and any other factors defined in *[State Department of Energy]* rule **by the**  
24       **Oregon Energy Commission**. The **State Department of Energy** may certify less than the total cost  
25       of any project based on this evaluation.

26       **SECTION 112.** ORS 469B.276 is amended to read:

27       469B.276. (1) The owner of a project may transfer a tax credit for the project in exchange for  
28       a cash payment equal to the present value of the potential tax credit, as determined at the time of  
29       the application for preliminary certification. If the tax credit is subject to recertification, only that  
30       portion of the tax credit that has been recertified may be transferred.

31       (2) The *[State Department of Energy]* **Oregon Energy Commission** shall establish by rule a  
32       formula to be employed in the determination of prices of credits transferred under this section. In  
33       establishing the formula the *[department]* **commission** shall incorporate inflation projections and  
34       market real rate of return.

35       (3) The **State Department of Energy** shall recalculate credit transfer prices quarterly, employ-  
36       ing the formula established under subsection (2) of this section.

37       **SECTION 113.** ORS 469B.279 is amended to read:

38       469B.279. The *[State Department of Energy]* **Oregon Energy Commission** shall by rule establish  
39       the following standards relating to energy conservation projects:

40       (1) In consultation with the Department of Consumer and Business Services Building Codes Di-  
41       vision, standards relating to energy savings in new construction.

42       (2) Standards relating to what constitutes a replacement of inefficient equipment.

43       (3) Standards for the determination of total project cost.

44       (4) Standards for the application of third party review of research and development projects by  
45       a qualified third party selected by the Director of the State Department of Energy, as required in

1 ORS 469B.285.

2 **SECTION 114.** ORS 469B.285 is amended to read:

3 469B.285. (1) Prior to the installation or construction of an energy conservation project, any  
4 person may apply to the State Department of Energy for preliminary certification under ORS  
5 469B.288 if:

6 (a) The project complies with the standards adopted by the [*Director of the State Department of*  
7 *Energy*] **Oregon Energy Commission**; and

8 (b) The applicant will be the owner, contract purchaser or lessee of the project at the time of  
9 installation or construction of the project.

10 (2) An application for preliminary certification shall be made in writing on a form prepared by  
11 the department and shall contain:

12 (a) A statement that the applicant plans to acquire, construct or install a project that substan-  
13 tially reduces the consumption of purchased energy or uses energy more efficiently.

14 (b) A detailed description of the project and its operation and information showing that the  
15 project will operate as represented in the application and remain in operation for at least five years,  
16 unless the [*director*] **commission** by rule specifies another period of operation.

17 (c) Information on the amount by which consumption of purchased energy by the applicant will  
18 be reduced, and, if applicable, information about the expected level of sustainable building practices  
19 project performance.

20 (d) The anticipated total project cost.

21 (e) Information on the number and type of jobs, directly connected to the allowance of the  
22 credit, that will be:

23 (A) Created by the project; and

24 (B) Sustained throughout the construction, installation and operation of the project.

25 (f) Information demonstrating that the project will comply with applicable state and local laws  
26 and regulations and obtain required licenses and permits.

27 (g) Information relating to the standards described in ORS 469B.279.

28 (h) A recommendation for a research and development project as demonstrative of innovation  
29 that has been made by a qualified third party selected by the Director **of the State Department**  
30 **of Energy**.

31 (i) Any other information the [*director*] **commission** considers necessary to determine whether  
32 the project is in accordance with the provisions of ORS 469B.270 to 469B.306, and any applicable  
33 rules or standards adopted by the [*director*] **commission**.

34 (3) An application for preliminary certification shall be accompanied by a fee established under  
35 ORS 469B.294. The director may refund all or a portion of the fee if the application for certification  
36 is rejected.

37 (4) The director may allow an applicant to file the application for preliminary certification after  
38 the start of installation or construction of the project if the director finds that:

39 (a) Filing the application before the start of installation or construction is inappropriate because  
40 special circumstances render filing earlier unreasonable; and

41 (b) The project would otherwise qualify for certification under ORS 469B.270 to 469B.306.

42 (5) The [*director*] **commission** may, by rule, waive preliminary certification under ORS 469B.288,  
43 or may establish an informational filing system in place of preliminary certification, for projects  
44 that:

45 (a) Have eligible costs of less than \$20,000;



1 (b) Consist of measures that the director determines to be eligible for waiver of preliminary  
2 certification; and

3 (c) Comply with any other requirements established by the [director] **commission**.

4 (6) A preliminary certification shall remain valid for a period of three calendar years after the  
5 date on which the preliminary certification is issued by the director, after which the certification  
6 becomes invalid even if:

7 (a) The applicant is awaiting identification of a pass-through partner; or

8 (b) The preliminary certification has been amended.

9 **SECTION 115.** ORS 469B.288 is amended to read:

10 469B.288. (1) The Director of the State Department of Energy may require an applicant for  
11 certification of an energy conservation project to submit plans, specifications and contract terms,  
12 and after examination of the plans, specifications and terms may request corrections and revisions.

13 (2) If the director determines that the project is technically feasible and should operate in ac-  
14 cordance with the representations made by the applicant, and is in accordance with the provisions  
15 of ORS 469B.270 to 469B.306 and any applicable rules or standards adopted by the [director] **Oregon**  
16 **Energy Commission**, the director may issue a preliminary certificate approving the installation or  
17 construction of the project. The certificate shall indicate the potential amount of tax credit allow-  
18 able and shall list any conditions for claiming the credit.

19 (3) In accordance with ORS chapter 183, the director may issue an order altering, conditioning,  
20 suspending or denying preliminary certification if the director determines that:

21 (a) The project does not comply with the provisions of ORS 469B.270 to 469B.306 and applicable  
22 rules and standards;

23 (b) The applicant has previously received preliminary or final certification for the project;

24 (c) The applicant was directly involved in an act for which the director has levied civil penalties  
25 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169 or 469B.270 to  
26 469B.306; or

27 (d) The applicant or the principal, director, officer, owner, majority shareholder or member of  
28 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in  
29 arrears for payments owed to any government agency while in any capacity with direct or indirect  
30 control over a business.

31 **SECTION 116.** ORS 469B.291 is amended to read:

32 469B.291. (1) The Director of the State Department of Energy may issue a final certification for  
33 an energy conservation project under this section only if:

34 (a) The project was installed or constructed under a preliminary certificate of approval issued  
35 under ORS 469B.288, unless preliminary certification is waived under ORS 469B.285 (5);

36 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.285  
37 (2) and does not violate any condition that may be imposed as described in subsections (4) and (5)  
38 of this section; and

39 (c) The project was installed or constructed in accordance with the applicable provisions of ORS  
40 469B.270 to 469B.306 and any applicable rules or standards adopted by the [director] **Oregon Energy**  
41 **Commission**.

42 (2) Any person may apply to the State Department of Energy for final certification of a project:

43 (a) If the person received preliminary certification for the project under ORS 469B.288; and

44 (b) After completion of the installation or construction of the project.

45 (3) An application for final certification shall be made in writing on a form prepared by the

1 department and shall contain:

2 (a) A statement that the conditions of the preliminary certification have been complied with;

3 (b) The actual cost of the project attested to by a certified public accountant who is not an  
4 employee of the applicant or, if the actual cost of the project is less than \$50,000, copies of receipts  
5 for purchase and installation of the project;

6 (c) The amount of the credit under ORS 315.331 that is to be claimed;

7 (d) The number and type of jobs, directly connected to the allowance of the credit, that will be  
8 created by the operation and maintenance of the project over the five-year period beginning with  
9 the year of preliminary certification under ORS 469B.288;

10 (e) Information sufficient to demonstrate that the project will remain in operation for at least  
11 five years, unless the [director] **Oregon Energy Commission** by rule specifies another period of  
12 operation;

13 (f) Documentation of compliance with applicable state and local laws and regulations and li-  
14 censing and permitting requirements as defined by the [director] **Oregon Energy Commission**;

15 (g) Information, if applicable, pertaining to prior recommendation of the project by a qualified  
16 third party selected by the director; and

17 (h) Any other information determined by the director to be necessary prior to issuance of a final  
18 certificate, including inspection of the project by the department.

19 (4) As part of the final certification process, the director may require the applicant to enter into  
20 a performance agreement with the department. The performance agreement may include a recertif-  
21 ication requirement under ORS 469B.298 and any additional requirements that the director deter-  
22 mines are appropriate to promote the purposes of ORS 315.331 and 469B.270 to 469B.306.

23 (5) After the filing of the application under this section, the director may issue the certificate  
24 together with any conditions, including conditions imposed by a performance agreement, that the  
25 director determines are appropriate to promote the purposes of ORS 315.331 and 469B.270 to  
26 469B.306. If the applicant is an entity subject to regulation by the Public Utility Commission, the  
27 director may consult with the **Public Utility** Commission prior to issuance of the certificate. The  
28 action of the director shall include certification of the actual cost of the project. However, the di-  
29 rector may not certify an amount for tax credit purposes that is more than the amount approved in  
30 the preliminary certificate issued for the project.

31 (6) Except as otherwise provided in ORS 469B.298, if the director rejects an application for final  
32 certification, or certifies a lesser amount of credit than was claimed in the application, the director  
33 shall send to the applicant written notice of the action, together with a statement of the findings  
34 and reasons for the action, by certified mail, before the 60th day after the filing of the application.  
35 Failure of the director to act constitutes rejection of the application.

36 (7) Upon approval of an application for final certification of a project, the director shall certify  
37 the project. The final certification shall indicate the amount of projected energy savings attributable  
38 to the project and the total project cost.

39 (8) The [director] **Oregon Energy Commission** may establish by rule timelines and intermediate  
40 deadlines for submission of application materials.

41 **SECTION 117.** ORS 469B.294 is amended to read:

42 469B.294. By rule and after hearing, the [Director of the State Department of Energy] **Oregon**  
43 **Energy Commission** may adopt a schedule of reasonable fees that the State Department of Energy  
44 may require of applicants for preliminary or final certification or recertification of an energy con-  
45 servation project under ORS 469B.270 to 469B.306. Before the adoption or revision of the fees, the

1 department shall estimate the total cost of the program to the department. The fees shall be used  
2 to recover the anticipated cost of administering and enforcing the provisions of ORS 469B.270 to  
3 469B.306, including filing, investigating, granting and rejecting applications for certification or re-  
4 certification and ensuring compliance with ORS 469B.270 to 469B.306 and shall be designed not to  
5 exceed the total cost estimated by the department. Any excess fees shall be held by the department  
6 and shall be used by the department to reduce any future fee increases. The fee may vary according  
7 to the size and complexity of the project. The fee is not considered part of the cost of the project  
8 to be certified.

9 **SECTION 118.** ORS 469B.303 is amended to read:

10 469B.303. (1) The total amount of potential tax credits for all energy conservation projects in  
11 this state may not, at the time of preliminary certification under ORS 469B.288, exceed:

12 (a) \$28 million for any biennium; or

13 (b) \$7.5 million for the six months beginning July 1, 2017, and ending December 31, 2017.

14 (2) In the event that the Director of the State Department of Energy receives applications for  
15 preliminary certification with a total amount of certified costs for potential tax credits in excess of  
16 the limitations in subsection (1) of this section, the director shall allocate the issuance of prelimi-  
17 nary certifications according to standards and criteria established by rule by the [*director*] **Oregon**  
18 **Energy Commission**.

19 **SECTION 119.** ORS 469B.306 is amended to read:

20 469B.306. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish  
21 policies and procedures for the administration and enforcement of the provisions of ORS 315.331 and  
22 469B.270 to 469B.306 and section 36, chapter 730, Oregon Laws 2011, including standards for what  
23 constitutes a single energy conservation project.

24 **SECTION 120.** ORS 469B.323 is amended to read:

25 469B.323. (1) The owner of a transportation project may transfer a tax credit for the project in  
26 exchange for a cash payment equal to the present value of the tax credit.

27 (2) The [*State Department of Energy*] **Oregon Energy Commission** shall establish by rule a  
28 formula to be employed in the determination of prices of credits transferred under this section. In  
29 establishing the formula the [*department*] **commission** shall incorporate inflation projections and  
30 market real rate of return.

31 (3) The [*department*] **State Department of Energy** shall recalculate credit transfer prices  
32 quarterly, employing the formula established under subsection (2) of this section.

33 **SECTION 121.** ORS 469B.326 is amended to read:

34 469B.326. (1) Prior to the acquisition or performance of a transportation project, a person may  
35 apply to the State Department of Energy for preliminary certification for the project under ORS  
36 469B.329 if:

37 (a) The project complies with the standards adopted by the [*Director of the State Department of*  
38 *Energy*] **Oregon Energy Commission**; and

39 (b) The applicant will be the owner, contract purchaser or lessee of the project at the time of  
40 acquisition or performance of the project.

41 (2) An application for preliminary certification shall be made in writing on a form prepared by  
42 the department and shall contain:

43 (a) A statement that the applicant plans to acquire or perform a project that substantially re-  
44 duces the consumption of purchased petroleum energy.

45 (b) A detailed description of the project and its operation and information showing that the

1 project will operate as represented in the application and remain in operation for at least five years,  
2 unless the [director] **commission** by rule specifies another period of operation.

3 (c) Information on the amount by which consumption of purchased petroleum energy by the ap-  
4 plicant will be reduced, and, if applicable, information about the expected level of project perform-  
5 ance.

6 (d) The anticipated total project cost.

7 (e) Information on the number and types of jobs, directly connected to the allowance of the  
8 credit, that will be:

9 (A) Created by the project; and

10 (B) Sustained throughout the acquisition and performance of the project.

11 (f) Information demonstrating that the project will comply with applicable state and local laws  
12 and regulations and obtain required licenses and permits.

13 (g) Any other information the [director] **commission** considers necessary to determine whether  
14 the project is in accordance with the provisions of ORS 469B.320 to 469B.347, and any applicable  
15 rules or standards adopted by the [director] **commission**.

16 (3) An application for preliminary certification shall be accompanied by a fee established under  
17 ORS 469B.335. The Director of the State Department of Energy may refund all or a portion of  
18 the fee if the application for certification is rejected.

19 (4) The director may allow an applicant to file the application for preliminary certification after  
20 the start of acquisition or performance of the project if the director finds that:

21 (a) Filing the application before the start of acquisition or performance is inappropriate because  
22 special circumstances render filing earlier unreasonable; and

23 (b) The project would otherwise qualify for certification under ORS 469B.320 to 469B.347.

24 (5) A preliminary certification shall remain valid for a period of three calendar years after the  
25 date on which the preliminary certification is issued by the director, after which the certification  
26 becomes invalid even if:

27 (a) The applicant is awaiting identification of a pass-through partner; or

28 (b) The preliminary certification has been amended.

29 **SECTION 122.** ORS 469B.329 is amended to read:

30 469B.329. (1) The Director of the State Department of Energy may require an applicant for  
31 certification of a transportation project to submit plans, specifications and contract terms, and after  
32 examination of the plans, specifications and terms may request corrections and revisions.

33 (2) If the director determines that the project is technically feasible and should operate in ac-  
34 cordance with the representations made by the applicant, and is in accordance with the provisions  
35 of ORS 469B.320 to 469B.347 and any applicable rules or standards adopted by the [director] **Oregon**  
36 **Energy Commission**, the director may issue a preliminary certificate approving the acquisition or  
37 performance of the project. The certificate shall indicate the potential amount of tax credit allow-  
38 able and shall list any conditions for claiming the credit.

39 (3) In accordance with ORS chapter 183, the director may issue an order altering, conditioning,  
40 suspending or denying preliminary certification if the director determines that:

41 (a) The project does not comply with the provisions of ORS 469B.320 to 469B.347 and applicable  
42 rules and standards;

43 (b) The applicant has previously received preliminary or final certification for the project;

44 (c) The applicant was directly involved in an act for which the director has levied civil penalties  
45 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169 or 469B.320 to

1 469B.347; or

2 (d) The applicant or the principal, director, officer, owner, majority shareholder or member of  
3 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in  
4 arrears for payments owed to any government agency while in any capacity with direct or indirect  
5 control over a business.

6 **SECTION 123.** ORS 469B.332 is amended to read:

7 469B.332. (1) A final certification for a transportation project may not be issued by the Director  
8 of the State Department of Energy under this section unless:

9 (a) The project was acquired or performed under a preliminary certificate of approval issued  
10 under ORS 469B.329;

11 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.326  
12 (2) and does not violate any condition that may be imposed as described in subsection (4) of this  
13 section; and

14 (c) The project was acquired or performed in accordance with the applicable provisions of ORS  
15 469B.320 to 469B.347 and any applicable rules or standards adopted by the [director] **Oregon Energy**  
16 **Commission.**

17 (2) A person may apply to the State Department of Energy for final certification of a project:

18 (a) If the person received preliminary certification for the project under ORS 469B.329; and

19 (b) After completion of the acquisition or performance of the project.

20 (3) An application for final certification shall be made in writing on a form prepared by the  
21 department and shall contain:

22 (a) A statement that the conditions of the preliminary certification have been complied with;

23 (b)(A) The actual cost of the project attested to by a certified public accountant who is not an  
24 employee of the applicant or the applicant's completed audit in compliance with federal Office of  
25 Management and Budget Circular A-133; or

26 (B) If the actual cost of the project is less than \$50,000, copies of receipts for acquisition and  
27 performance of the project;

28 (c) The amount of the credit under ORS 315.336 that is to be claimed;

29 (d) The number and types of jobs, directly connected to the allowance of the credit, created by  
30 the acquisition and performance of the project over the five-year period beginning on the date of  
31 issuance of the preliminary certification under ORS 469B.329;

32 (e) Information sufficient to demonstrate that the project will remain in operation for at least  
33 five years, unless the [director] **Oregon Energy Commission** by rule specifies another period of  
34 operation;

35 (f) Documentation of compliance with applicable state and local laws and regulations and li-  
36 censing and permitting requirements as defined by the [director] **Oregon Energy Commission**; and

37 (g) Any other information determined by the director to be necessary prior to issuance of a final  
38 certificate, including inspection of the project by the department.

39 (4) After the filing of the application under this section, the director may issue the certificate  
40 together with any conditions that the director determines are appropriate to promote the purposes  
41 of ORS 315.336 and 469B.320 to 469B.347. If the applicant is an entity subject to regulation by the  
42 Public Utility Commission, the director may consult with the **Public Utility Commission** prior to  
43 issuance of the certificate. The action of the director shall include certification of the actual cost  
44 of the project. However, the director may not certify an amount for tax credit purposes that is more  
45 than the amount of credit approved in the preliminary certificate issued for the project.

1 (5) If the director rejects an application for final certification, or certifies a lesser amount of  
 2 credit than was claimed in the application, the director shall send to the applicant written notice  
 3 of the action, together with a statement of the findings and reasons for the action, by certified mail,  
 4 before the 60th day after the filing of the application. Failure of the director to act constitutes re-  
 5 jection of the application.

6 (6) Upon approval of an application for final certification of a project, the director shall certify  
 7 the project. The final certification shall indicate the amount of projected energy savings attributable  
 8 to the project and the certified cost of the project.

9 (7) The [*director*] **Oregon Energy Commission** may establish by rule timelines and intermediate  
 10 deadlines for submission of application materials.

11 **SECTION 124.** ORS 469B.335 is amended to read:

12 469B.335. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**  
 13 **Energy Commission** may adopt a schedule of reasonable fees that the State Department of Energy  
 14 may require of applicants for preliminary or final certification of a transportation project under ORS  
 15 469B.320 to 469B.347. Before the adoption or revision of the fees, the department shall estimate the  
 16 total cost of the program to the department. The fees shall be used to recover the anticipated cost  
 17 of administering and enforcing the provisions of ORS 469B.320 to 469B.347, including filing, investi-  
 18 gating, granting and rejecting applications for certification and ensuring compliance with ORS  
 19 469B.320 to 469B.347 and shall be designed not to exceed the total cost estimated by the department.  
 20 Any excess fees shall be held by the department and shall be used by the department to reduce any  
 21 future fee increases. The fee may vary according to the size and complexity of the project. The fee  
 22 is not considered part of the cost of the project to be certified.

23 **SECTION 125.** ORS 469B.347 is amended to read:

24 469B.347. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish  
 25 policies and procedures for the administration and enforcement of the provisions of ORS 315.336 and  
 26 469B.320 to 469B.347, including standards for what constitutes a single transportation project.

27 **SECTION 126.** ORS 469B.400 is amended to read:

28 469B.400. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule identify  
 29 categories of fuel blend and solid biofuel that qualify for the personal income tax credit allowed  
 30 under ORS 315.465.

31 **SECTION 127.** ORS 701.532 is amended to read:

32 701.532. (1) The Construction Contractors Board shall certify an individual as a home energy  
 33 assessor if the individual meets the requirements of this section and of any rule adopted by the  
 34 board under this section. A home energy assessor certificate must be renewed annually.

35 (2) The board shall require that an applicant for a home energy assessor certificate present  
 36 proof of passing a training program designated by the [*State Department of Energy*] **Oregon Energy**  
 37 **Commission** under ORS 469.703.

38 (3) The board may adopt rules to regulate the practice of assigning home energy performance  
 39 scores, including:

40 (a) Prescribing the form and manner of applying for a home energy assessor certificate;

41 (b) Establishing procedures for the issuance, renewal or revocation of a home energy assessor  
 42 certificate; and

43 (c) Establishing fees necessary for the administration of ORS 701.527 to 701.536 that do not ex-  
 44 ceed the following amounts:

45 (A) \$100 for application for a home energy assessor certificate;

1 (B) \$100 for issuance of an initial one-year home energy assessor certificate; and

2 (C) \$100 for renewal of a one-year home energy assessor certificate.

3 **SECTION 128.** ORS 757.528 is amended to read:

4 757.528. (1) Unless modified by rule by the [*State Department of Energy*] **Oregon Energy Com-**  
5 **mission** as provided in this section, the greenhouse gas emissions standard that applies to  
6 consumer-owned utilities is 1,100 pounds of greenhouse gases per megawatt-hour for a generating  
7 facility.

8 (2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions  
9 standard includes only carbon dioxide emissions.

10 (3) For purposes of applying the emissions standard to cogeneration facilities, the [*department*]  
11 **Oregon Energy Commission** shall establish an output-based methodology to ensure that the cal-  
12 culation of emissions of greenhouse gases for cogeneration facilities recognizes the total usable en-  
13 ergy output of the process and includes all greenhouse gases emitted by the facility in the  
14 production of both electrical and thermal energy.

15 (4) The [*department*] **Oregon Energy Commission** shall review the greenhouse gas emissions  
16 standard established under this section no more than once every three years. After public notice  
17 and hearing, and consultation with the Public Utility Commission, the [*department*] **Oregon Energy**  
18 **Commission** may:

19 (a) Modify the emissions standard to include other greenhouse gases as defined in ORS 468A.210,  
20 with the other greenhouse gases expressed as their carbon dioxide equivalent; and

21 (b) Modify the emissions standard based upon current information on the rate of greenhouse gas  
22 emissions from a commercially available combined-cycle natural gas generating facility that:

23 (A) Employs a combination of one or more gas turbines and one or more steam turbines and  
24 produces electricity in the steam turbines from waste heat produced by the gas turbines;

25 (B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordi-  
26 nating Council; and

27 (C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.

28 (5) In modifying the greenhouse gas emissions standard, the [*department*] **Oregon Energy**  
29 **Commission** shall:

30 (a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions  
31 through cogeneration recognizes the total usable energy output of the process and includes all  
32 greenhouse gases emitted by the generating facility in the production of both electrical and thermal  
33 energy; and

34 (b) Consider the effects of the emissions standard on system reliability and overall costs to  
35 electricity consumers.

36 (6) If upon a review conducted pursuant to subsection (4) of this section, the [*department*]  
37 **Oregon Energy Commission** determines that a mandatory greenhouse gas emissions limit has been  
38 established pursuant to state or federal law, the [*department*] **Oregon Energy Commission** shall  
39 issue a report to the appropriate legislative committees of the Legislative Assembly stating which  
40 portions, if any, of the greenhouse gas emissions standard are no longer necessary as a matter of  
41 state law.

42 **SECTION 129.** ORS 757.533 is amended to read:

43 757.533. (1)(a) A governing board of a consumer-owned utility may not enter into a long-term  
44 financial commitment unless the baseload electricity acquired under the commitment is produced by  
45 a generating facility that complies with a greenhouse gas emissions standard established under ORS

1 757.528.

2 (b) A generating facility complies with the greenhouse gas emissions standard established under  
3 ORS 757.528 if the rate of emissions of the facility does not exceed the emissions standard.

4 (c) In determining whether a generating facility complies with the emissions standard, the total  
5 emissions associated with producing baseload electricity at the generating facility shall be included  
6 in determining the rate of emissions of greenhouse gases. The total emissions associated with  
7 producing electricity at the generating facility do not include emissions associated with transporta-  
8 tion, fuel extraction or other life-cycle emissions associated with obtaining the fuel for the facility.

9 (2) Notwithstanding subsection (1) of this section, the emissions standard does not apply to  
10 greenhouse gas emissions produced by a generating facility owned by a consumer-owned utility or  
11 contracted through a long-term financial commitment if the emissions:

12 (a) Come from a facility powered exclusively by renewable energy sources described in ORS  
13 469A.025;

14 (b) Come from a cogeneration facility in this state that is fueled by natural gas, synthetic gas,  
15 distillate fuels, waste gas or a combination of these fuels, and that is producing energy, in service  
16 for tax purposes, commercially operable, or in rates as of July 1, 2010, until the facility is subject  
17 to a new long-term financial commitment; or

18 (c) Come from a generating facility that has in place a plan to be a low-carbon emission re-  
19 source, as determined by the State Department of Energy, pursuant to sufficient technical doc-  
20 umentation, within seven years of commencing plant operations.

21 (3) The governing board may provide an exemption for an individual generating facility from the  
22 emissions performance standard to address:

23 (a) Unanticipated electricity system reliability needs;

24 (b) Catastrophic events or threat of significant financial harm that may arise from unforeseen  
25 circumstances; or

26 (c) Long-term financial commitments between members of a joint operating entity recognized  
27 under federal law or the joint operating entity's predecessor organization, or with the joint operat-  
28 ing entity for a baseload resource that the consumer-owned utility had an ownership interest in  
29 prior to July 1, 2010.

30 (4) A governing board shall report to the consumer-owned utility's customers or members and  
31 to the State Department of Energy information on any case-by-case exemption from the emissions  
32 performance standard granted by the governing board.

33 (5) For purposes of ORS 757.522 to 757.536, a long-term financial commitment for a consumer-  
34 owned utility does not include agreements to purchase electricity from the Bonneville Power Ad-  
35 ministration.

36 (6) The [department] **Oregon Energy Commission** by rule shall establish:

37 (a) Standards for identifying contracts for electricity for which the emissions cannot readily be  
38 determined with any specificity; and

39 (b) Emissions to be attributed to such contracts for purposes of determining compliance with the  
40 emissions standard established under ORS 757.528.

41 **SECTION 130.** ORS 757.538 is amended to read:

42 757.538. The Public Utility Commission and the [State Department of Energy] **Oregon Energy**  
43 **Commission** shall adopt rules as necessary to implement ORS 757.522 to 757.536.

44 **SECTION 131.** ORS 757.600 is amended to read:

45 757.600. As used in ORS 757.600 to 757.689, unless the context requires otherwise:



1 (1) "Aggregate" means combining retail electricity consumers into a buying group for the pur-  
2 chase of electricity and related services.

3 (2) "Ancillary services" means services necessary or incidental to the transmission and delivery  
4 of electricity from generating facilities to retail electricity consumers, including but not limited to  
5 scheduling, load shaping, reactive power, voltage control and energy balancing services.

6 (3) "Commission" means the Public Utility Commission.

7 (4) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an  
8 electric cooperative.

9 (5) "Default supplier" means an electricity service supplier or electric company that has a legal  
10 obligation to provide electricity services to a consumer, as determined by the commission.

11 (6) "Direct access" means the ability of a retail electricity consumer to purchase electricity and  
12 certain ancillary services, as determined by the commission for an electric company or the govern-  
13 ing body of a consumer-owned utility, directly from an entity other than the distribution utility.

14 (7) "Direct service industrial consumer" means an end user of electricity that obtains electricity  
15 directly from the transmission grid and not through a distribution utility.

16 (8) "Distribution" means the delivery of electricity to retail electricity consumers through a  
17 distribution system consisting of local area power poles, transformers, conductors, meters, sub-  
18 stations and other equipment.

19 (9) "Distribution utility" means an electric utility that owns and operates a distribution system  
20 connecting the transmission grid to the retail electricity consumer.

21 (10) "Economic utility investment" means all electric company investments, including plants and  
22 equipment and contractual or other legal obligations, properly dedicated to generation or conser-  
23 vation, that were prudent at the time the obligations were assumed but the full benefits of which  
24 are no longer available to consumers as a direct result of ORS 757.600 to 757.667, absent transition  
25 credits. "Economic utility investment" does not include costs or expenses disallowed by the com-  
26 mission in a prudence review or other proceeding, to the extent of such disallowance, and does not  
27 include fines or penalties authorized and imposed under state or federal law.

28 (11) "Electric company" means an entity engaged in the business of distributing electricity to  
29 retail electricity consumers in this state, but does not include a consumer-owned utility.

30 (12) "Electric cooperative" means an electric cooperative corporation organized under ORS  
31 chapter 62 or under the laws of another state if the service territory of the electric cooperative  
32 includes a portion of this state.

33 (13) "Electric utility" means an electric company or consumer-owned utility that is engaged in  
34 the business of distributing electricity to retail electricity consumers in this state.

35 (14) "Electricity" means electric energy, measured in kilowatt-hours, or electric capacity,  
36 measured in kilowatts, or both.

37 (15) "Electricity services" means electricity distribution, transmission, generation or  
38 generation-related services.

39 (16) "Electricity service supplier" means a person or entity that offers to sell electricity services  
40 available pursuant to direct access to more than one retail electricity consumer. "Electricity ser-  
41 vice supplier" does not include an electric utility selling electricity to retail electricity consumers  
42 in its own service territory.

43 (17) "Governing body" means the board of directors or the commissioners of an electric coop-  
44 erative or people's utility district, or the council or board of a city with respect to a municipal  
45 electric utility.

1 (18) "Load" means the amount of electricity delivered to or required by a retail electricity  
2 consumer at a specific point of delivery.

3 (19) "Low-income weatherization" means repairs, weatherization and installation of energy effi-  
4 cient appliances and fixtures for low-income residences for the purpose of enhancing energy effi-  
5 ciency.

6 (20) "Municipal electric utility" means an electric distribution utility owned and operated by or  
7 on behalf of a city.

8 (21) "New renewable energy resource" means a renewable energy resource project, or a new  
9 addition to an existing renewable energy resource project, or the electricity produced by the project,  
10 that is not in operation on July 23, 1999. "New renewable energy resource" does not include any  
11 portion of a renewable energy resource project under contract to the Bonneville Power Adminis-  
12 tration on or before July 23, 1999.

13 (22) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.

14 (23) "People's utility district" has the meaning given that term in ORS 261.010.

15 (24) "Portfolio access" means the ability of a retail electricity consumer to choose from a set  
16 of product and pricing options for electricity determined by the governing board of a consumer-  
17 owned utility and may include product and pricing options offered by the utility or by an electricity  
18 service supplier.

19 (25) "Power generation company" means a company engaged in the production and sale of  
20 electricity to wholesale customers, including but not limited to independent power producers, affil-  
21 iated generation companies, municipal and state authorities, provided the company is not regulated  
22 by the commission.

23 (26) "Qualifying expenditures" means those expenditures for energy conservation measures that  
24 have a simple payback period of not less than one year and not more than 10 years, and expen-  
25 ditures for the above-market costs of new renewable energy resources, provided that the [*State De-*  
26 *partment of Energy*] **Oregon Energy Commission** by rule may establish a limit on the maximum  
27 above-market cost for renewable energy that is allowed as a credit.

28 (27) "Renewable energy resources" means:

29 (a) Electricity generation facilities fueled by wind, waste, solar or geothermal power or by low-  
30 emission nontoxic biomass based on solid organic fuels from wood, forest and field residues.

31 (b) Dedicated energy crops available on a renewable basis.

32 (c) Landfill gas and digester gas.

33 (d) Hydroelectric facilities located outside protected areas as defined by federal law in effect  
34 on July 23, 1999.

35 (28) "Residential electricity consumer" means an electricity consumer who resides at a dwelling  
36 primarily used for residential purposes. "Residential electricity consumer" does not include retail  
37 electricity consumers in a dwelling typically used for residency periods of less than 30 days, in-  
38 cluding hotels, motels, camps, lodges and clubs. As used in this subsection, "dwelling" includes but  
39 is not limited to single family dwellings, separately metered apartments, adult foster homes, manu-  
40 factured dwellings, recreational vehicles and floating homes.

41 (29) "Retail electricity consumer" means the end user of electricity for specific purposes such  
42 as heating, lighting or operating equipment, and includes all end users of electricity served through  
43 the distribution system of an electric utility on or after July 23, 1999, whether or not each end user  
44 purchases the electricity from the electric utility.

45 (30) "Site" means a single contiguous area of land containing buildings or other structures that

1 are separated by not more than 1,000 feet, or buildings and related structures that are intercon-  
2 nected by facilities owned by a single retail electricity consumer and that are served through a  
3 single electric meter.

4 (31) "Transition charge" means a charge or fee that recovers all or a portion of an uneconomic  
5 utility investment.

6 (32) "Transition credit" means a credit that returns to consumers all or a portion of the benefits  
7 from an economic utility investment.

8 (33) "Transmission facility" means the plant and equipment used to transmit electricity in  
9 interstate commerce.

10 (34) "Undue market power" means the unfair or improper exercise of influence to increase or  
11 decrease the availability or price of a service or product in a manner inconsistent with competitive  
12 markets.

13 (35) "Uneconomic utility investment" means all electric company investments, including plants  
14 and equipment and contractual or other legal obligations, properly dedicated to generation, conser-  
15 vation and workforce commitments, that were prudent at the time the obligations were assumed but  
16 the full costs of which are no longer recoverable as a direct result of ORS 757.600 to 757.667, absent  
17 transition charges. "Uneconomic utility investment" does not include costs or expenses disallowed  
18 by the commission in a prudence review or other proceeding, to the extent of such disallowance, and  
19 does not include fines or penalties as authorized by state or federal law.

20 **SECTION 132.** ORS 757.612 is amended to read:

21 757.612. (1) There is established an annual public purpose expenditure standard for electric  
22 companies and Oregon Community Power to fund new cost-effective energy conservation, new mar-  
23 ket transformation efforts, the above-market costs of new renewable energy resources and new  
24 low-income weatherization. The public purpose expenditure standard shall be funded by the public  
25 purpose charge described in subsection (2) of this section.

26 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-  
27 cess to retail electricity consumers, except residential electricity consumers, the electric company  
28 or Oregon Community Power shall collect a public purpose charge from all of the retail electricity  
29 consumers located within the electric company's or Oregon Community Power's service area until  
30 January 1, 2026. Except as provided in paragraph (b) of this subsection, the public purpose charge  
31 shall be equal to three percent of the total revenues collected by the electric company, Oregon  
32 Community Power or the electricity service supplier from retail electricity consumers for electricity  
33 services, distribution services, ancillary services, metering and billing, transition charges and other  
34 types of costs included in electric rates on July 23, 1999.

35 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use  
36 per year, the electric company or Oregon Community Power, whichever serves territory that abuts  
37 the greatest percentage of the site of the aluminum plant, shall collect from the aluminum company  
38 a public purpose charge equal to one percent of the total revenue from the sale of electricity ser-  
39 vices to the aluminum plant from any source.

40 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this  
41 section relating to electric companies and Oregon Community Power.

42 (b) Except as provided in paragraph (e) of this subsection, funds collected through public pur-  
43 pose charges under subsection (2) of this section shall be allocated as follows:

44 (A) Sixty-three percent for new cost-effective energy conservation and new market transforma-  
45 tion efforts.

1 (B) Nineteen percent for the above-market costs of constructing and operating new renewable  
2 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20  
3 megawatts or less.

4 (C) Thirteen percent for new low-income weatherization.

5 (D) Five percent for deposit in the Housing and Community Services Department Electricity  
6 Public Purpose Charge Fund established by ORS 456.587 (1) for the purpose of providing grants as  
7 described in ORS 458.625 (2).

8 (c) The costs of administering subsections (1) to (6) of this section for an electric company or  
9 Oregon Community Power shall be paid out of the funds collected through public purpose charges.  
10 The commission may require an electric company or Oregon Community Power to direct funds col-  
11 lected through public purpose charges to state agencies responsible for implementing subsections (1)  
12 to (6) of this section in order to pay the costs of administering subsections (1) to (6) of this section.

13 (d) The commission shall direct the manner in which public purpose charges are collected and  
14 spent by an electric company or Oregon Community Power and may require an electric company  
15 or Oregon Community Power to expend funds through competitive bids or other means designed to  
16 encourage competition, except that funds dedicated for new low-income weatherization shall be di-  
17 rected to the Housing and Community Services Department for purposes related to new low-income  
18 weatherization. The commission may also require funds collected through public purpose charges to  
19 be paid to a nongovernmental entity for investment in public purposes described in subsection (1)  
20 of this section. Notwithstanding any other provision of this subsection:

21 (A) If an electric company collected the funds, at least 80 percent of the funds allocated for new  
22 cost-effective energy conservation shall be spent within the service area of the electric company;  
23 or

24 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated  
25 for new cost-effective energy conservation shall be spent within the service area of Oregon Com-  
26 munity Power.

27 (e)(A) The first 10 percent of funds collected each year by an electric company or Oregon  
28 Community Power under subsection (2) of this section shall be distributed to school districts that  
29 are located in the service territory of the electric company or Oregon Community Power. The funds  
30 shall be distributed to individual school districts according to the weighted average daily member-  
31 ship (ADMw) of each school district for the prior fiscal year as calculated under ORS 327.013. The  
32 commission shall establish by rule a methodology for distributing a proportionate share of funds  
33 under this paragraph to school districts that are only partially located in the service territory of the  
34 electric company or Oregon Community Power.

35 (B) A school district that receives funds under this paragraph shall use the funds first to pay  
36 for energy audits for schools located within the school district. A school district may not expend  
37 additional funds received under this paragraph on a school until an energy audit has been completed  
38 for that school. To the extent practicable, a school district shall coordinate with the State De-  
39 partment of Energy and incorporate federal funding in complying with this paragraph. Following  
40 completion of an energy audit for an individual school, the school district may expend funds received  
41 under this paragraph to implement the energy audit. Once an energy audit has been conducted and  
42 completely implemented for each school within the school district, the school district may expend  
43 funds received under this paragraph for any of the following purposes:

44 (i) Conducting additional energy audits. A school district shall conduct an energy audit prior to  
45 expending funds on any other purpose authorized under this paragraph unless the school district has

1 performed an energy audit within the three years immediately prior to receiving the funds.

2 (ii) Weatherizing school district facilities and upgrading the energy efficiency of school district  
3 facilities.

4 (iii) Energy conservation education programs.

5 (iv) Purchasing electricity from environmentally focused sources.

6 (v) Investing in renewable energy resources.

7 (f) The commission may not establish a different public purpose charge than the public purpose  
8 charge described in subsection (2) of this section.

9 (g) If the commission requires funds collected through public purpose charges to be paid to a  
10 nongovernmental entity, the entity shall:

11 (A) Include on the entity's board of directors an ex officio member designated by the commis-  
12 sion, who shall also serve on the entity's nominating committee for filling board vacancies.

13 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-  
14 terest to be filed with the commission on or prior to April 15 of each calendar year for public review  
15 in a form similar to the statement of economic interest required for public officials under ORS  
16 244.060.

17 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest  
18 at regular meetings of the entity's governing body when such conflicts arise, and require an officer  
19 or director to abstain from participating in any discussion or voting on any item where that officer  
20 or director has an actual conflict of interest. For the purposes of this subparagraph, "actual conflict  
21 of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.

22 (D) Annually, arrange for an independent auditor to audit the entity's financial statements, and  
23 direct the auditor to file an audit opinion with the commission for public review.

24 (E) Annually file with the commission the entity's budget, action plan and quarterly and annual  
25 reports for public review.

26 (F) At least once every five years, contract for an independent management evaluation to review  
27 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a  
28 report with the commission for public review.

29 (h) The commission may remove from the board of directors of a nongovernmental entity an of-  
30 ficer or director who fails to provide an annual disclosure of economic interest, or who fails to de-  
31 clare an actual or potential conflict of interest, as described in paragraph (g)(B) and (C) of this  
32 subsection, if the failure is connected to the allocation or expenditure of funds collected through  
33 public purpose charges and paid to the entity.

34 (4)(a) An electric company that satisfies its obligations under this section:

35 (A) Has no further obligation to invest in new cost-effective energy conservation, new market  
36 transformation or new low-income weatherization, or to provide a commercial energy conservation  
37 services program; and

38 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

39 (b) Oregon Community Power, for any period during which Oregon Community Power collects  
40 a public purpose charge under subsection (2) of this section:

41 (A) Has no further obligation to invest in new cost-effective energy conservation, new market  
42 transformation or new low-income weatherization, or to provide a commercial energy conservation  
43 services program; and

44 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

45 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at

1 any site in the prior year shall receive a credit against public purpose charges billed by an electric  
 2 company or Oregon Community Power for that site. The amount of the credit shall be equal to the  
 3 total amount of qualifying expenditures for new cost-effective energy conservation, not to exceed 68  
 4 percent of the annual public purpose charges, and the above-market costs of new renewable energy  
 5 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public  
 6 purpose charges, less administration costs incurred under this paragraph and paragraphs (b) and (c)  
 7 of this subsection. The credit may not exceed, on an annual basis, the lesser of:

8 (A) The amount of the retail electricity consumer's qualifying expenditures; or

9 (B) The portion of the public purpose charge billed to the retail electricity consumer that is  
 10 dedicated to new cost-effective energy conservation, new market transformation or the above-market  
 11 costs of new renewable energy resources.

12 (b) To obtain a credit under paragraph (a) of this subsection, a retail electricity consumer shall  
 13 file with the State Department of Energy a description of the proposed conservation project or new  
 14 renewable energy resource and a declaration that the retail electricity consumer plans to incur the  
 15 qualifying expenditure. The State Department of Energy shall issue a notice of precertification  
 16 within 30 days of receipt of the filing, if such filing is consistent with paragraph (a) of this sub-  
 17 section. The credit may be taken after a retail electricity consumer provides a letter from a certified  
 18 public accountant to the State Department of Energy verifying that the precertified qualifying ex-  
 19 penditure has been made.

20 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that  
 21 are not used in one year may be carried forward for use in subsequent years.

22 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at  
 23 any site in the prior year may request that the State Department of Energy hire an independent  
 24 auditor to assess the potential for conservation investments at the site. If the independent auditor  
 25 determines there is no available conservation measure at the site that would have a simple payback  
 26 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment  
 27 obligation for public purpose charges related to the site. If the independent auditor determines that  
 28 there are potential conservation measures available at the site, the retail electricity consumer shall  
 29 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the  
 30 public purpose charges less the estimated cost of available conservation measures.

31 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-  
 32 agraph unless a subsequent independent audit determines that new conservation investment oppor-  
 33 tunities are available. The State Department of Energy may require that a new independent audit  
 34 be performed on the site to determine whether new conservation measures are available, provided  
 35 that the independent audits occur no more than once every two years.

36 (C) The retail electricity consumer shall pay the cost of the independent audits described in this  
 37 paragraph.

38 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit  
 39 for the public purpose expenditures of their energy suppliers. The [*State Department of Energy*]  
 40 **Oregon Energy Commission** shall adopt rules to determine eligible expenditures and the method  
 41 by which such credits are accounted for and used. The [*State Department of Energy*] **Oregon Energy**  
 42 **Commission** also shall adopt methods to account for eligible public purpose expenditures made  
 43 through consortia or collaborative projects.

44 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an  
 45 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-

1 ment assistance in an amount determined under paragraph (b) of this subsection.

2 (b) The **Public Utility** Commission shall establish the amount to be collected by each electric  
3 company from retail electricity consumers, and the rates to be charged by each electric company  
4 to retail electricity consumers, so that the forecasted collection by all electric companies in calen-  
5 dar year 2018 is \$20 million. In subsequent calendar years, the commission may not decrease the  
6 rates below those established for calendar year 2018. The commission may temporarily adjust the  
7 rates if forecasted collections or actual collections are less than \$20 million in any calendar year.  
8 A retail electricity consumer may not be required to pay more than \$500 per month per site for  
9 low-income electric bill payment assistance.

10 (c) Funds collected through the low-income electric bill payment assistance charge shall be paid  
11 into the Housing and Community Services Department Low-Income Electric Bill Payment Assistance  
12 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be  
13 used by the Housing and Community Services Department solely for purposes related to low-income  
14 electric bill payment assistance and for the Housing and Community Services Department's cost of  
15 administering this subsection. Funds collected by an electric company or Oregon Community Power  
16 under this subsection shall be expended in the service area of the electric company or Oregon  
17 Community Power from which the funds are collected.

18 (d)(A) The Housing and Community Services Department shall determine the manner in which  
19 funds collected under this subsection will be allocated by the Housing and Community Services  
20 Department to energy assistance program providers for the purpose of providing low-income bill  
21 payment and crisis assistance.

22 (B) The Housing and Community Services Department, in consultation with electric companies,  
23 shall investigate and may implement alternative delivery models to effectively reduce service dis-  
24 connections and related costs to retail electricity consumers and electric utilities.

25 (C) Priority assistance shall be directed to low-income electricity consumers who are in danger  
26 of having their electricity service disconnected.

27 (D) The Housing and Community Services Department shall maintain records and provide those  
28 records upon request to an electric company, Oregon Community Power and the Citizens' Utility  
29 Board established under ORS chapter 774 on a quarterly basis. Records maintained must include  
30 the numbers of low-income electricity consumers served, the average amounts paid to low-income  
31 electricity consumers and the type of assistance provided to low-income electricity consumers.  
32 Electric companies and Oregon Community Power shall, if requested, provide the Housing and  
33 Community Services Department with aggregate data relating to low-income electricity consumers  
34 served on a quarterly basis to support program development.

35 (e) Interest on moneys deposited in the Housing and Community Services Department Low-  
36 Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to pro-  
37 vide bill payment and crisis assistance to electricity consumers whose primary source of heat is not  
38 electricity.

39 (f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon  
40 Community Power to provide reduced rates or other bill payment or crisis assistance or low-income  
41 program assistance to a low-income household eligible for assistance under the federal Low Income  
42 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

43 (8) For purposes of this section, "retail electricity consumers" includes any direct service in-  
44 dustrial consumer that purchases electricity without purchasing distribution services from the elec-  
45 tric utility.

1 (9) For purposes of this section, funds collected by Oregon Community Power through public  
2 purpose charges are not considered moneys received from electric utility operations.

3  
4 **STUDY**

5  
6 **SECTION 133.** (1) The State Department of Energy shall study and prepare a report de-  
7 tailing the department's recommendations for restructuring the department to focus only  
8 on the critical functions of the department in light of the policy stated in ORS 469.010, as  
9 amended by section 1 of this 2018 Act, and the programs and activities enumerated in ORS  
10 469.030, as amended by section 11 of this 2018 Act, and in furtherance of restructuring the  
11 department into the following four sections:

12 (a) An information and analysis section that will collect from all available sources, ana-  
13 lyze and disseminate Oregon energy information, research new technologies and resources  
14 and apply clear metrics to evaluate all forms of energy using unbiased technical analysis that  
15 considers the energy source, distribution and cost or savings for all Oregonians;

16 (b) A technical assistance section to serve as a resource to the Legislative Assembly,  
17 energy stakeholders and other state agencies;

18 (c) A nuclear safety and emergency management section; and

19 (d) The Energy Facility Siting Council.

20 (2) The department shall submit the report required by this section to the appropriate  
21 interim committee of the Legislative Assembly no later than September 15, 2019.

22 **SECTION 134.** Section 133 of this 2018 Act is repealed on December 31, 2019.

23  
24 **OPERATIVE DATE**

25  
26 **SECTION 135.** (1) Except as provided in subsections (2) and (3) of this section, sections  
27 2 to 10, 13 to 15, 22 to 29 and 59 to 62 of this 2018 Act, the amendments to statutes by  
28 sections 1, 11, 12, 16 to 21, 30 to 34, 36 to 58 and 64 to 132 of this 2018 Act and the repeal of  
29 statutes by sections 35 and 63 of this 2018 Act become operative on July 1, 2019.

30 (2) The members of the Oregon Energy Commission may be appointed and the State De-  
31 partment of Energy, the Director of the State Department of Energy and the Oregon Busi-  
32 ness Development Department may take any action before the operative date specified in  
33 subsection (1) of this section that is necessary to enable the departments and the director  
34 to exercise, on and after the operative date specified in subsection (1) of this section, the  
35 duties, functions and powers of the departments and the director pursuant to sections 2 to  
36 10, 13 to 15, 22 to 29 and 59 to 62 of this 2018 Act, the amendments to statutes by sections  
37 1, 11, 12, 16 to 21, 30 to 34, 36 to 58 and 64 to 132 of this 2018 Act and the repeal of statutes  
38 by sections 35 and 63 of this 2018 Act.

39 (3) The transfer of duties, functions and powers by section 6 of this 2018 Act does not  
40 become operative until the members of the Oregon Energy Commission have been appointed  
41 and have qualified. Until appointment and qualification, the State Department of Energy and  
42 the Director of the State Department of Energy shall continue to perform the duties and  
43 functions and exercise the powers.

44  
45 **CAPTIONS**



