

Senate Bill 1537

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SUMMARY

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

Establishes 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 plan. Requires commission to adopt plan no later than January 1, 2021. Requires department to present draft plan to Legislative Assembly no later than September 15, 2020. Requires commission to periodically review and update plan.

Modifies biennial comprehensive energy report requirements.

Becomes operative July 1, 2019.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to State Department of Energy; creating new provisions; amending ORS 183.530, 244.050, 276.910, 276.915, 279C.528, 286A.630, 286A.718, 315.141, 315.144, 315.326, 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, 469.424, 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, 470.080, 470.140, 470.150, 470.535, 470.540, 470.560, 470.600, 470.655, 470.665, 470.710, 470.720, 470.810, 701.532, 757.528, 757.533, 757.538, 757.600 and 757.612; and declaring an emergency.

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

ENERGY POLICY

SECTION 1. ORS 469.010 is amended to read:

469.010. The Legislative Assembly finds and declares that:

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

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

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 fore, the policy of Oregon:

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

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

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

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

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

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

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

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

23
 24 **PROVISIONS RELATING TO THE OREGON ENERGY COMMISSION**
 25 **(Establishment)**

26
 27 **SECTION 2. Sections 3 and 5 of this 2018 Act are added to and made a part of ORS 469.010**
 28 **to 469.155.**

29 **SECTION 3. (1) There is created an Oregon Energy Commission. The commission shall**
 30 **consist of six voting members, appointed by the Governor and subject to confirmation by the**
 31 **Senate as provided in ORS 171.562 and 171.565.**

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

- 34 (a) **One member shall be an economist;**
- 35 (b) **One member shall have a higher education background;**
- 36 (c) **One member shall represent residential energy users;**
- 37 (d) **One member shall represent commercial energy users;**
- 38 (e) **One member shall represent industrial energy users; and**
- 39 (f) **One member shall have transportation expertise.**

40 **(3) A voting member of the commission may not:**

41 (a) **Hold any pecuniary interest in any business entity conducting operations that, if**
 42 **conducted in this state, would be subject to the commission's regulatory jurisdiction; or**

43 (b) **Hold any pecuniary interest in, have any contract of employment with or have any**
 44 **substantial voluntary transactions with any business or activity subject to the commission's**
 45 **regulatory jurisdiction.**

1 (4) The following shall serve as ex officio, nonvoting members of the commission:

2 (a) One Oregon member of the Pacific Northwest Electric Power and Conservation
3 Planning Council.

4 (b) One representative of an investor-owned electric utility.

5 (c) One representative of a consumer-owned electric utility.

6 (d) One representative of an investor-owned natural gas utility.

7 (5) The term of office of a voting member of the commission shall be four years, but the
8 members of the commission may be removed by the Governor. Before the expiration of the
9 term of a member, the Governor shall appoint a successor to assume the duties of the
10 member on July 1 of the next following year. A member shall be eligible for reappointment,
11 but no member shall serve more than two consecutive terms. In case of a vacancy for any
12 cause, the Governor shall make an appointment to become immediately effective for the
13 unexpired term.

14 (6) The commission shall select one of its members as chairperson and another as vice
15 chairperson, for terms and with duties and powers necessary for the performance of the
16 functions of the offices as the commission determines.

17 (7)(a) A majority of the voting members of the commission constitutes a quorum for the
18 transaction of business.

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

21 (8) A member of the commission is entitled to compensation and expenses as provided in
22 ORS 292.495.

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

25 (1) One shall serve for a term ending July 1, 2020.

26 (2) One shall serve for a term ending July 1, 2021.

27 (3) Two shall serve for a term ending July 1, 2022.

28 (4) Two shall serve for terms ending July 1, 2023.

29
30 (Functions, General Authority to Adopt Rules)

31
32 **SECTION 5.** (1) It is the function of the Oregon Energy Commission to establish the
33 policies for the operation of the State Department of Energy in a manner consistent with the
34 policy stated in ORS 469.010.

35 (2) In accordance with applicable provisions of ORS chapter 183, the commission shall
36 adopt rules and issue orders as necessary for the administration of the laws that the com-
37 mission, the Director of the State Department of Energy and the department are charged
38 with administering.

39 (3) Except as provided in ORS 183.335 (5), the commission shall cause a public hearing to
40 be held on any proposed rule or standard prior to its adoption. The hearing may be before
41 the commission, any designated member thereof or any person designated by and acting for
42 the commission.

43 (4) This section does not limit the authority granted the Energy Facility Siting Council
44 under ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

45

1 **TRANSFER OF RULEMAKING AUTHORITY FROM STATE**
 2 **DEPARTMENT OF ENERGY TO OREGON ENERGY COMMISSION**
 3 **(Transfer)**

4
 5 **SECTION 6.** (1) Except as provided in subsection (2) of this section, the duties, functions
 6 and powers of the State Department of Energy and the Director of the State Department of
 7 Energy relating to the establishment of policy for the operations of the department and the
 8 adoption of rules are imposed upon, transferred to and vested in the Oregon Energy Com-
 9 mission.

10 (2) Subsection (1) of this section does not affect, alter, transfer or limit the authority
 11 granted to the Energy Facility Siting Council under ORS 469.300 to 469.563, 469.590 to 469.619,
 12 469.930 and 469.992, or the authority of the director granted under ORS 469.040 (1)(a) in
 13 supervising and facilitating the work and research on energy facility siting applications at
 14 the direction of the council.

15
 16 **(Action, Proceeding, Prosecution)**

17
 18 **SECTION 7.** The transfer of duties, functions and powers to the Oregon Energy Com-
 19 mission by section 6 of this 2018 Act does not affect any action, proceeding or prosecution
 20 involving or with respect to the duties, functions and powers begun before and pending at
 21 the time of the transfer, except that the Oregon Energy Commission is substituted for the
 22 State Department of Energy or the Director of the State Department of Energy in the
 23 action, proceeding or prosecution.

24
 25 **(Liability, Duty, Obligation)**

26
 27 **SECTION 8.** (1) Nothing in sections 2 to 10 or 13 to 15 of this 2018 Act or the amendments
 28 to statutes by sections 1, 11, 12 and 16 to 101 of this 2018 Act relieves a person of a liability,
 29 duty or obligation accruing under or with respect to the duties, functions and powers
 30 transferred by section 6 of this 2018 Act. The Oregon Energy Commission may undertake
 31 the collection or enforcement of any such liability, duty or obligation.

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

39
 40 **(Rules)**

41
 42 **SECTION 9.** Notwithstanding the transfer of duties, functions and powers by section 6
 43 of this 2018 Act, the rules of the State Department of Energy and the Director of the State
 44 Department of Energy with respect to such duties, functions or powers that are in effect on
 45 the operative date of section 6 of this 2018 Act continue in effect until superseded or repealed

1 by rules of the Oregon Energy Commission. References in the rules of the State Department
 2 of Energy to the State Department of Energy or an officer or employee of the State De-
 3 partment of Energy with respect to the duties, functions and powers transferred by section
 4 6 of this 2018 Act are considered to be references to the Oregon Energy Commission.

5 **SECTION 10.** Whenever, in any statutory or uncodified law or resolution of the Legisla-
 6 tive Assembly or in any rule, document, record or proceeding authorized by the Legislative
 7 Assembly, in the context of the duties, functions and powers transferred by section 6 of this
 8 2018 Act, reference is made to the State Department of Energy, the Director of the State
 9 Department of Energy or an officer or employee of the State Department of Energy whose
 10 duties, functions or powers are transferred by section 6 of this 2018 Act, the reference is
 11 considered to be a reference to the Oregon Energy Commission or an officer or employee of
 12 the Oregon Energy Commission who by this 2018 Act is charged with carrying out the duties,
 13 functions and powers.

14
 15 **STATE DEPARTMENT OF ENERGY ADMINISTRATION**
 16 **(Modification of General Duties)**
 17

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

19 469.030. (1) *[There is created the State Department of Energy.]* **There is created under the**
 20 **Oregon Energy Commission a department to be known as the State Department of Energy.**
 21 **The department shall consist of the Director of the State Department of Energy and all**
 22 **personnel employed in the department. The primary purpose of the department shall be to**
 23 **provide expert advice to the Governor and the Legislative Assembly on energy-related mat-**
 24 **ters.**

25 (2) **Subject to the policy direction of the Oregon Energy Commission, and in furtherance**
 26 **of the purpose stated in subsection (1) of this section, the State Department of Energy shall:**

27 (a) *[Be]* **Collect, compile and analyze energy data and serve as** the central repository within
 28 the state government for *[the collection of data on energy resources]* **energy information, to which**
 29 **all agencies shall send information on all energy-related research;**

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

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

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

37 (d) Qualify for, accept and disburse or utilize any private or federal moneys or services available
 38 for the administration of ORS *[176.820,]* 192.338, 192.345, 192.355, *[192.690,]* 469.010 to 469.155,
 39 469.300 to 469.563, 469.990, 757.710 and 757.720;

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

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

45 *[(g)]* (f) Prepare contingent energy programs to include all forms of energy not otherwise pro-

1 vided pursuant to ORS 757.710 and 757.720;

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

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

4 *[(j)]* **(g)** Contract with public and private agencies for energy activities consistent with ORS
5 469.010 and this section;

6 *[(k)]* **(h)** Upon request of the governing body of any affected jurisdiction, coordinate a public
7 review of a proposed transmission line according to the provisions of ORS 469.442; and

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

9 **(i) Provide staff support to the Oregon Hanford Cleanup Board, the Energy Facility Siting
10 Council and the Oregon Global Warming Commission.**

11
12 **(Director)**

13
14 **SECTION 12.** ORS 469.040 is amended to read:

15 469.040. (1) The State Department of Energy shall be under the supervision of the Director of
16 the State Department of Energy, who shall:

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

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

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

21 **(A) Supervise the day-to-day functions of the State Department of Energy; and**

22 *[(c)]* **(B)** Hire, assign, reassign and coordinate personnel of the State Department of Energy,
23 prescribe their duties and fix their compensation, subject to the State Personnel Relations Law[;
24 *and*].

25 *[(d) Adopt rules and issue orders to carry out the duties of the director and the State Department
26 of Energy in accordance with ORS chapter 183 and the policy stated in ORS 469.010.]*

27 (2) The director may delegate to any officer or employee the exercise and discharge in the
28 director's name of any power, duty or function of whatever character vested in the director by law.
29 The official act of any person acting in the director's name and by the director's authority shall be
30 considered an official act of the director.

31 (3) The director shall be appointed by the Governor, subject to confirmation by the Senate in
32 the manner provided by ORS 171.562 and 171.565.

33
34 **(Statewide Strategic Energy Plan)**

35
36 **SECTION 13.** Section 14 of this 2018 Act is added to and made a part of ORS 469.010 to
37 **469.155.**

38 **SECTION 14.** (1) The State Department of Energy shall develop a statewide strategic
39 energy plan to implement the energy policies stated in ORS 469.010 and 469.310 in a manner
40 that:

41 **(a) Takes a balanced approach to addressing the competing interests affected by the
42 policies stated in ORS 469.010 and 469.310; and**

43 **(b) Provides for transparency and accountability in the actions of the department and the
44 Oregon Energy Commission.**

45 **(2) The statewide strategic energy plan shall include:**

- 1 (a) A description of this state's long-term energy needs;
- 2 (b) The objectives of the plan;
- 3 (c) Actions that are designed to achieve the objectives of the plan;
- 4 (d) Plans related to the challenges presented by climate change;
- 5 (e) Provisions to ensure communication and partnership with key stakeholders;
- 6 (f) Quantitative and qualitative metrics for assessing the performance of the commission
- 7 and the department in implementing the plan, which shall include, but need not be limited
- 8 to, metrics related to:
- 9 (A) The consumption, generation, transmission and production of energy, including fuel
- 10 energy;
- 11 (B) Energy costs;
- 12 (C) Energy sectors, markets, technologies, resources and facilities;
- 13 (D) Energy efficiency and conservation;
- 14 (E) The effects of energy use, including effects related to greenhouse gas emissions;
- 15 (g) Specific functions and roles to be performed by other state agencies in coordinating
- 16 with the department to ensure a unified, statewide approach to addressing the energy needs
- 17 and goals of this state consistent with state environmental policy and the policies set forth
- 18 in ORS 469.010 and 469.310; and
- 19 (h) Public policy options and recommendations.
- 20 (3) The statewide strategic energy plan shall take effect upon adoption by the commis-
- 21 sion.
- 22 (4) The commission shall periodically review and update the statewide strategic energy
- 23 plan. The review required by this section shall include an analysis of how each of the pro-
- 24 grams of the department contributes to meeting the goals of the statewide strategic energy
- 25 plan and how each program can most effectively be administered in furtherance of the plan.
- 26 Revisions of the plan shall take effect upon the commission's adoption of the revised plan
- 27 by reference in rule.
- 28 **SECTION 15.** (1) The Oregon Energy Commission shall initially adopt the statewide
- 29 strategic energy plan required by section 14 of this 2018 Act no later than January 1, 2021.
- 30 (2) The State Department of Energy shall prepare a draft statewide strategic energy plan
- 31 and a report, that may include recommendations for legislation, on the draft plan. The de-
- 32 partment shall, no later than September 15, 2020, submit the draft plan and the report to the
- 33 appropriate interim committees of the Legislative Assembly in the manner provided under
- 34 ORS 192.245.
- 35 **SECTION 16.** ORS 469.059 is amended to read:
- 36 469.059. (1) No later than November 1 of every even-numbered year, the State Department of
- 37 Energy shall transmit to the Governor and the Legislative Assembly a comprehensive report on
- 38 energy resources, policies, trends and forecasts in Oregon. The purposes of the report shall be to
- 39 inform local, state, regional and federal energy policy development, energy planning and energy in-
- 40 vestments, and to identify opportunities to further the energy policies stated in ORS 469.010 and
- 41 469.310 in conformance with the statewide strategic energy plan required under section 14
- 42 of this 2018 Act.
- 43 (2) Consistent with the legislatively approved budget, the report shall include, but need not be
- 44 limited to[, *data and information on*]:
- 45 (a) Information on and analysis of the state's progress toward achieving the goals of the

1 **statewide strategic energy plan required by section 14 of this 2018 Act and on the effective-**
 2 **ness of the state’s programs in contributing to meeting the goals of the plan.**

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

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

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

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

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

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

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

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

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

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

16 (a) Recommendations for the development and maximum use of cost-effective conservation
 17 methods and renewable resources, consistent with the **statewide strategic energy plan**, energy
 18 policies stated in ORS 469.010 and 469.310 and, where appropriate, the energy plan and fish and
 19 wildlife program adopted by the Pacific Northwest Electric Power and Conservation Planning
 20 Council pursuant to P.L. 96-501; and

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

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

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

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

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

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

34 (c) The department may utilize data and information that is exempt from disclosure under ORS
 35 192.311 to 192.478 in compilation or analysis that is included in the report, provided that the exempt
 36 data and information is not disclosed in a manner that is individually identifiable.

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

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

41
 42 **(Other Administrative Provisions)**

43
 44 **SECTION 17.** ORS 244.050 is amended to read:

45 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon

1 Government Ethics Commission a verified statement of economic interest as required under this
2 chapter:

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

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

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

8 (d) The Deputy Attorney General.

9 (e) The Deputy Secretary of State.

10 (f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
11 Legislative Policy and Research Director, the Secretary of the Senate and the Chief Clerk of the
12 House of Representatives.

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

15 (h) The following state officers:

16 (A) Adjutant General.

17 (B) Director of Agriculture.

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

19 (D) Water Resources Director.

20 (E) Director of Department of Environmental Quality.

21 (F) Director of Oregon Department of Administrative Services.

22 (G) State Fish and Wildlife Director.

23 (H) State Forester.

24 (I) State Geologist.

25 (J) Director of Human Services.

26 (K) Director of the Department of Consumer and Business Services.

27 (L) Director of the Department of State Lands.

28 (M) State Librarian.

29 (N) Administrator of Oregon Liquor Control Commission.

30 (O) Superintendent of State Police.

31 (P) Director of the Public Employees Retirement System.

32 (Q) Director of Department of Revenue.

33 (R) Director of Transportation.

34 (S) Public Utility Commissioner.

35 (T) Director of Veterans' Affairs.

36 (U) Executive director of Oregon Government Ethics Commission.

37 (V) Director of the State Department of Energy.

38 (W) Director and each assistant director of the Oregon State Lottery.

39 (X) Director of the Department of Corrections.

40 (Y) Director of the Oregon Department of Aviation.

41 (Z) Executive director of the Oregon Criminal Justice Commission.

42 (AA) Director of the Oregon Business Development Department.

43 (BB) Director of the Office of Emergency Management.

44 (CC) Director of the Employment Department.

45 (DD) Chief of staff for the Governor.

- 1 (EE) Director of the Housing and Community Services Department.
- 2 (FF) State Court Administrator.
- 3 (GG) Director of the Department of Land Conservation and Development.
- 4 (HH) Board chairperson of the Land Use Board of Appeals.
- 5 (II) State Marine Director.
- 6 (JJ) Executive director of the Oregon Racing Commission.
- 7 (KK) State Parks and Recreation Director.
- 8 (LL) Public defense services executive director.
- 9 (MM) Chairperson of the Public Employees' Benefit Board.
- 10 (NN) Director of the Department of Public Safety Standards and Training.
- 11 (OO) Executive director of the Higher Education Coordinating Commission.
- 12 (PP) Executive director of the Oregon Watershed Enhancement Board.
- 13 (QQ) Director of the Oregon Youth Authority.
- 14 (RR) Director of the Oregon Health Authority.
- 15 (SS) Deputy Superintendent of Public Instruction.
- 16 (i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within
- 17 the Governor's office.
- 18 (j) Every elected city or county official.
- 19 (k) Every member of a city or county planning, zoning or development commission.
- 20 (L) The chief executive officer of a city or county who performs the duties of manager or prin-
- 21 cipal administrator of the city or county.
- 22 (m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 23 (n) Every member of a governing body of a metropolitan service district and the auditor and
- 24 executive officer thereof.
- 25 (o) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 26 (p) The chief administrative officer and the financial officer of each common and union high
- 27 school district, education service district and community college district.
- 28 (q) Every member of the following state boards and commissions:
- 29 (A) Governing board of the State Department of Geology and Mineral Industries.
- 30 (B) Oregon Business Development Commission.
- 31 (C) State Board of Education.
- 32 (D) Environmental Quality Commission.
- 33 (E) Fish and Wildlife Commission of the State of Oregon.
- 34 (F) State Board of Forestry.
- 35 (G) Oregon Government Ethics Commission.
- 36 (H) Oregon Health Policy Board.
- 37 (I) Oregon Investment Council.
- 38 (J) Land Conservation and Development Commission.
- 39 (K) Oregon Liquor Control Commission.
- 40 (L) Oregon Short Term Fund Board.
- 41 (M) State Marine Board.
- 42 (N) Mass transit district boards.
- 43 (O) Energy Facility Siting Council.
- 44 (P) Board of Commissioners of the Port of Portland.
- 45 (Q) Employment Relations Board.

- 1 (R) Public Employees Retirement Board.
- 2 (S) Oregon Racing Commission.
- 3 (T) Oregon Transportation Commission.
- 4 (U) Water Resources Commission.
- 5 (V) Workers' Compensation Board.
- 6 (W) Oregon Facilities Authority.
- 7 (X) Oregon State Lottery Commission.
- 8 (Y) Pacific Northwest Electric Power and Conservation Planning Council.
- 9 (Z) Columbia River Gorge Commission.
- 10 (AA) Oregon Health and Science University Board of Directors.
- 11 (BB) Capitol Planning Commission.
- 12 (CC) Higher Education Coordinating Commission.
- 13 (DD) Oregon Growth Board.
- 14 (EE) Early Learning Council.
- 15 **(FF) Oregon Energy Commission.**
- 16 (r) The following officers of the State Treasurer:
- 17 (A) Deputy State Treasurer.
- 18 (B) Chief of staff for the office of the State Treasurer.
- 19 (C) Director of the Investment Division.
- 20 (s) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
- 21 or 777.915 to 777.953.
- 22 (t) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.
- 23 (u) Every member of a governing board of a public university listed in ORS 352.002.
- 24 (v) Every member of the board of directors of an authority created under ORS 465.600 to
- 25 465.621.
- 26 (2) By April 15 next after the date an appointment takes effect, every appointed public official
- 27 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-
- 28 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070
- 29 and 244.090.
- 30 (3) By April 15 next after the filing deadline for the primary election, each candidate described
- 31 in subsection (1) of this section shall file with the commission a statement of economic interest as
- 32 required under ORS 244.060, 244.070 and 244.090.
- 33 (4) Not later than the 40th day before the date of the statewide general election, each candidate
- 34 described in subsection (1) of this section who will appear on the statewide general election ballot
- 35 and who was not required to file a statement of economic interest under subsections (1) to (3) of this
- 36 section shall file with the commission a statement of economic interest as required under ORS
- 37 244.060, 244.070 and 244.090.
- 38 (5) Subsections (1) to (3) of this section apply only to persons who are incumbent, elected or
- 39 appointed public officials as of April 15 and to persons who are candidates on April 15.
- 40 (6) If a statement required to be filed under this section has not been received by the commis-
- 41 sion within five days after the date the statement is due, the commission shall notify the public of-
- 42 ficial or candidate and give the public official or candidate not less than 15 days to comply with the
- 43 requirements of this section. If the public official or candidate fails to comply by the date set by the
- 44 commission, the commission may impose a civil penalty as provided in ORS 244.350.
- 45 **SECTION 18.** ORS 469.085 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 469.110. (1) At the direction of the [*Director of the State Department of Energy*] **Oregon Energy**
35 **Commission**, the State Department of Energy may represent the state's energy-related interests in
36 any matter involving the federal government, its departments or agencies, which is within the scope
37 of the power and duties of the State Department of Energy, and may, upon request, represent the
38 interest of a county, city, state agency, federally recognized Native American or American Indian
39 tribe, special district or owner or operator of an energy facility.

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

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

44 469.120. (1) The State Department of Energy Account is established.

45 (2) The account shall consist of all funds received by the State Department of Energy pursuant

1 to law. All moneys in the account are continuously appropriated to the State Department of Energy
 2 for payment of expenses of the department, **the Oregon Energy Commission** and [of] the Energy
 3 Facility Siting Council.

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

7 (4) The Director of the State Department of Energy shall keep a record of all moneys deposited
 8 in the account. The record shall indicate by special cumulative accounts the source from which
 9 moneys are derived and the individual activity or program, including any activities described in ORS
 10 469.424, against which each withdrawal is charged. On or after October 1 of each year, the director
 11 shall make available, upon request, the record for the prior fiscal year to any energy resource sup-
 12 plier that has paid the assessment imposed under ORS 469.421 (8). The director shall make the re-
 13 cord available within 30 days of receiving the request.

14 15 **CONFORMING AMENDMENTS**

16
17 **SECTION 21.** ORS 183.530 is amended to read:

18 183.530. A housing cost impact statement shall be prepared upon the proposal for adoption or
 19 repeal of any rule or any amendment to an existing rule by:

20 (1) The Oregon Housing Stability Council;

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

23 (3) The Land Conservation and Development Commission;

24 (4) The Environmental Quality Commission;

25 (5) The Construction Contractors Board;

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

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

29 **SECTION 22.** ORS 276.910 is amended to read:

30 276.910. (1) Before constructing or renovating a major facility, an authorized state agency shall,
 31 after comparing various equipment options and to the greatest extent practicable, use fuel cell
 32 power systems for emergency backup power applications and for critical power applications in lieu
 33 of other equipment options.

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

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

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

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

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

45 **SECTION 23.** ORS 276.915 is amended to read:

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

5 (2) Whenever an authorized state agency determines that a major facility is to be constructed
6 or renovated, the authorized state agency shall cause to be included in the design phase of the
7 construction or renovation a provision that requires an energy consumption analysis to be prepared
8 for the facility under the direction of a professional engineer or registered architect or under the
9 direction of a person that is prequalified in accordance with this section. The authorized state
10 agency and the State Department of Energy shall agree to the list of energy conservation measures
11 and alternative energy systems that the energy consumption analysis will include. The energy con-
12 sumption analysis and facility design shall be delivered to the State Department of Energy during
13 the design development phase of the facility design. The State Department of Energy shall review
14 the energy consumption analysis and forward its findings to the authorized state agency within 10
15 working days after receiving the energy consumption analysis, if practicable.

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

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

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

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

33 (d) Periodically define highly efficient facilities. A facility constructed or renovated after June
34 30, 2001, shall exceed the energy conservation provisions of the state building code by 20 percent
35 or more, unless otherwise required by rules adopted under this section.

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

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

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

43 (4) Before June 30, 2015, an authorized state agency shall reduce the total amount of energy the
44 authorized state agency uses in the authorized state agency's owned facilities by at least 20 percent
45 from a baseline amount the [*State Department of Energy*] **commission** determines by rule based on

1 usage in calendar year 2000.

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

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

9 (7) The [*State Department of Energy*] **commission** by rule may require mandatory prequalifica-
10 tion as a condition for a person to submit a bid or proposal to perform the following work for an
11 authorized state agency:

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

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

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

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

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

26 **SECTION 24.** ORS 279C.528 is amended to read:

27 279C.528. (1) Each contracting agency, in soliciting, awarding and administering public im-
28 provement contracts that are subject to ORS 279C.527, is subject to rules **adopted by** the [*State*
29 *Department of Energy adopts*] **Oregon Energy Commission** that include, but are not limited to, re-
30 quirements and specifications for:

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

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

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

35 (d) Determining whether a structure is a public building subject to the requirements of ORS
36 279C.527.

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

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

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

45 (C) An identification of each public improvement contract for which the contracting agency de-

1 terminated that including green energy technology or woody biomass energy technology as part of
2 constructing, reconstructing or performing a major renovation of a public building was not appro-
3 priate;

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

9 (E) An identification of each public improvement contract that uses moneys the contracting
10 agency did not spend in a previous public improvement contract for including appropriate green
11 energy technology or woody biomass energy technology as part of constructing, reconstructing or
12 performing a major renovation of a public building.

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

16 (c) The department shall:

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

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

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

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

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

32 **SECTION 25.** ORS 286A.630 is amended to read:

33 286A.630. (1) The Legislative Assembly finds that the American Recovery and Reinvestment Act
34 of 2009 (P.L. 111-5) provides that the State of Oregon may receive, allocate and reallocate the au-
35 thority to issue certain kinds of state and local government bonds that qualify for tax credits, fed-
36 eral subsidies or exclusion of bond interest from gross income under the United States Internal
37 Revenue Code of 1986, as amended.

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

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

44 (4) The Oregon Business Development Department may allocate, reallocate and otherwise man-
45 age this state's recovery zone economic development bonding authority and this state's recovery

1 zone facility bonding authority.

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

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

9 (7) The Department of Education, the Oregon Business Development Department, the [*State De-*
10 *partment of Energy*] **Oregon Energy Commission** and the Private Activity Bond Committee may
11 adopt rules to implement the provisions of this section including, but not limited to, rules prescrib-
12 ing:

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

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

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

17 **SECTION 26.** ORS 286A.718 is amended to read:

18 286A.718. (1) The Renewable Energy Fund is established in the State Treasury, separate and
19 distinct from the General Fund. Amounts in the fund may be invested as provided in ORS 293.701
20 to 293.857, and interest earned on the fund must be credited to the fund. Amounts credited to the
21 fund are continuously appropriated to the State Department of Energy for the purpose described in
22 ORS 286A.712 (2)(a) and for the purpose of paying bond-related costs. The department shall deposit
23 in the fund:

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

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

27 (c) Gifts, grants or contributions received by the department for the purpose described in ORS
28 286A.712 (2)(a).

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

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

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

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

43 **SECTION 27.** ORS 315.141 is amended to read:

44 315.141. (1) As used in this section:

45 (a) "Agricultural producer" means a person that produces biomass in Oregon that is used, in

1 Oregon, as biofuel or to produce biofuel.

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

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

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

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

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

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

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

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

14 (C) Agricultural residues;

15 (D) Offal and tallow from animal rendering;

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

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

18 (G) Wastewater solids; or

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (c) A taxpayer may be allowed a credit under this section for more than one of the roles defined

1 in subsection (1) of this section, but a biofuel producer that is not also an agricultural producer or
2 a biomass collector may not claim a credit under this section.

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

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

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

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

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

8 (5)(a) The [*State Department of Energy*] **Oregon Energy Commission** may establish by rule
9 procedures and criteria for determining the amount of the tax credit to be certified under this sec-
10 tion, consistent with ORS 469B.403. The [*department*] **State Department of Energy** shall provide
11 written certification to taxpayers that are eligible to claim the credit under this section.

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

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

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

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

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

26 (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
27 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
28 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
29 forward and used in the second succeeding tax year, and likewise any credit not used in that second
30 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
31 credit not used in that third succeeding tax year may be carried forward and used in the fourth
32 succeeding tax year, but may not be carried forward for any tax year thereafter.

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

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

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

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

42 **SECTION 28.** ORS 315.144 is amended to read:

43 315.144. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit
44 to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

45 (2) A tax credit allowed under ORS 315.141 may be transferred on or before the date on which

1 the return is due for the tax year in which the credit may first be claimed. After that date, no
2 portion of a credit allowed under ORS 315.141 may be transferred.

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

- 7 (a) The name and address of the transferor and transferee;
- 8 (b) The amount of the tax credit that is being transferred;
- 9 (c) The amount of the tax credit that is being retained by the transferor; and
- 10 (d) Any other information required by the department.

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

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

15 **SECTION 29.** ORS 315.326 is amended to read:

16 315.326. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the
17 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified
18 renewable energy development contributions made by the taxpayer during the tax year to the
19 Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy De-
20 ployment Fund established in ORS 470.800.

21 (2)(a) The Department of Revenue shall, in cooperation with the State Department of Energy,
22 conduct an auction of tax credits under this section. The auction may be conducted no later than
23 April 15 following December 31 of any tax year for which the credit is allowed. The department may
24 conduct the auction in the manner that it determines is best suited to maximize the return to the
25 state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting
26 the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit.
27 Moneys necessary to reimburse the Department of Revenue for the actual costs incurred by the
28 department in administering an auction, not to exceed 0.25 percent of auction proceeds, are contin-
29 uously appropriated to the department. The Department of Revenue shall deposit net receipts from
30 the auction required under this section in the Renewable Energy Development Subaccount, estab-
31 lished in ORS 470.805, of the Clean Energy Deployment Fund established in ORS 470.800. Net re-
32 cepts from the auction required under this section shall be used only for purposes related to
33 renewable energy development.

34 (b) The [*State Department of Energy*] **Oregon Energy Commission** shall adopt rules in order to
35 achieve the following goals:

36 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of
37 \$1.5 million are certified for each fiscal year;

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

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

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

45 (4)(a) Upon receipt of a contribution, the State Department of Energy shall, except as provided

1 in ORS 315.329, issue to the taxpayer written certification of the amount certified for tax credit
2 under this section to the extent the amount certified for tax credit, when added to all amounts
3 previously certified for tax credit under this section, does not exceed \$1.5 million for the fiscal year
4 in which certification is made.

5 (b) The State Department of Energy and the Department of Revenue are not liable, and a refund
6 of a contributed amount need not be made, if a taxpayer who has received tax credit certification
7 is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

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

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

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

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

21 **SECTION 30.** ORS 316.116 is amended to read:

22 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due
23 under this chapter for costs paid or incurred for construction or installation of each of one or more
24 alternative energy devices in or at a dwelling.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 **SECTION 31.** ORS 317.112 is amended to read:

28 317.112. (1) A credit against taxes otherwise due under this chapter for the taxable year shall
 29 be allowed to a commercial lending institution in an amount equal to the difference between:

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

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

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

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

42 (2) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
 43 particular year may be carried forward and offset against the taxpayer's tax liability for the next
 44 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
 45 forward and used in the second succeeding tax year, and likewise until the 15th succeeding tax year.

1 The credit may not be carried forward beyond the 15th succeeding tax year.

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

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

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

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

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

14 (4) The credit allowed under this section may not be allowed to the extent that the loan exceeds
15 \$5,000 for a single dwelling unit, or, if the dwelling owner is a corporation described in ORS 307.375,
16 to the extent that the loan exceeds \$2,000 for a single dwelling unit.

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

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

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

27 **SECTION 32.** ORS 469.150 is amended to read:

28 469.150. (1) As used in this section "energy conservation services" means services provided by
29 energy suppliers to educate and inform customers and the public about energy conservation. Such
30 services include but are not limited to providing answers to questions concerning energy saving
31 devices and providing inspections and making suggestions concerning the construction and siting
32 of buildings and residences.

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

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

40 **SECTION 33.** ORS 469.155 is amended to read:

41 469.155. (1) As used in this section:

42 (a) "Dwelling" means real or personal property inhabited as the principal residence of an owner
43 or renter. "Dwelling" includes a manufactured dwelling as defined in ORS 446.003, a floating home
44 as defined in ORS 830.700 and multiple unit residential housing. "Dwelling" does not include a rec-
45 reational vehicle as defined in ORS 446.003.

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

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

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

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

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

11 **SECTION 34.** ORS 469.255 is amended to read:

12 469.255. (1) A manufacturer of a product specified in ORS 469.238 that is sold or offered for sale,
13 or installed or offered for installation, in this state shall test samples of the manufacturer’s products
14 in accordance with the test methods specified in ORS 469.233 or, if more stringent, those specified
15 in the state building code.

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

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

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

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

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

40 **SECTION 35.** ORS 469.261 is amended to read:

41 469.261. (1)(a) Notwithstanding ORS 469.233, the State Department of Energy shall periodically
42 review the minimum energy efficiency standards specified in ORS 469.233.

43 (b) After the review pursuant to paragraph (a) of this subsection, the [*Director of the State De-*
44 *partment of Energy*] **Oregon Energy Commission** may adopt rules to update the minimum energy
45 efficiency standards specified in ORS 469.233 if the [*director*] **commission** determines that the

1 standards need to be updated:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **SECTION 36.** ORS 469.310 is amended to read:

38 469.310. In the interests of the public health and the welfare of the people of this state, it is the
39 declared public policy of this state that the siting, construction and operation of energy facilities
40 shall be accomplished in a manner consistent with protection of the public health and safety and in
41 compliance with the energy policy and air, water, solid waste, land use and other environmental
42 protection policies of this state. It is, therefore, the purpose of ORS 469.300 to 469.563, 469.590 to
43 469.619, 469.930 and 469.992 to exercise the jurisdiction of the State of Oregon to the maximum ex-
44 tent permitted by the United States Constitution and to establish in cooperation with the federal
45 government a comprehensive system for the siting, monitoring and regulating of the location, con-

1 struction and operation of all energy facilities in this state. It is furthermore the policy of this state,
 2 notwithstanding ORS 469.010 [(2)(f)] **(2)(d)** and the definition of cost-effective in ORS 469.020, that
 3 the need for new generating facilities, as defined in ORS 469.503, is sufficiently addressed by reli-
 4 ance on competition in the market rather than by consideration of cost-effectiveness and shall not
 5 be a matter requiring determination by the Energy Facility Siting Council in the siting of a gener-
 6 ating facility, as defined in ORS 469.503.

7 **SECTION 37.** ORS 469.410 is amended to read:

8 469.410. (1) Any applicant for a site certificate for an energy facility shall be deemed to have
 9 met all the requirements of ORS 176.820, 192.338, 192.345, 192.355, 192.690, 469.010 to 469.155, 469.300
 10 to 469.563, 469.990, 757.710 and 757.720 relating to eligibility for a site certificate and a site certif-
 11 icate shall be issued by the Energy Facility Siting Council for:

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

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

15 (2) Each applicant for a site certificate under this section shall pay the fees required by ORS
 16 469.421 (2) to (9), if applicable, and shall execute a site certificate in which the applicant agrees:

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

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

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

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

33 (5) Site certificates executed by the Governor under ORS 469.400 (1991 Edition) prior to July
 34 2, 1975, shall bind successor agencies created hereunder in accordance with the terms of such site
 35 certificates. Any holder of a site certificate issued prior to July 2, 1975, shall abide by the rules of
 36 the [*director adopted pursuant to ORS 469.040 (1)(d)*] **Oregon Energy Commission adopted pursu-**
 37 **ant to section 5 of this 2018 Act** and rules of the council adopted pursuant to ORS 469.300 to
 38 469.563, 469.590 to 469.619, 469.930 and 469.992.

39 **SECTION 38.** ORS 469.424 is amended to read:

40 469.424. (1) As used in this section, "energy resource supplier" has the meaning given that term
 41 in ORS 469.421.

42 (2)(a) If the State Department of Energy submits comments or written or oral testimony in a
 43 rulemaking, contested case, ratemaking or other proceeding conducted by another agency, as defined
 44 in ORS 183.310, and if the comment or testimony is about a substantive matter at issue in the pro-
 45 ceeding, the department shall provide, once for each proceeding, notice to energy resource suppliers

1 as described in this section.

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

5 (c) This section does not apply to:

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

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

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

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

11 (E) Federal judicial or legislative proceedings.

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

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

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

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

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

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

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

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

36 **SECTION 39.** ORS 469.533 is amended to read:

37 469.533. Notwithstanding ORS chapter 401, the [*State Department of Energy*] **Oregon Energy**
38 **Commission** in cooperation with the Oregon Health Authority and the Office of Emergency Man-
39 agement shall establish rules for the protection of health and procedures for the evacuation of peo-
40 ple and communities who would be affected by radiation in the event of an accident or a catastrophe
41 in the operation of a nuclear power plant or nuclear installation.

42 **SECTION 40.** ORS 469.534 is amended to read:

43 469.534. Each county in this state that has a nuclear-fueled thermal power plant located within
44 county boundaries and each county within this state that has any portion of its area located within
45 50 miles of a site within this state of a nuclear-fueled thermal power plant shall develop written

1 procedures that are compatible with the rules adopted by the [*State Department of Energy*] **Oregon**
 2 **Energy Commission** under ORS 469.533. The [*department*] **commission** shall review the county
 3 procedures to determine whether they are compatible with the rules of the [*department*]
 4 **commission**.

5 **SECTION 41.** ORS 469.605 is amended to read:

6 469.605. (1) No person shall ship or transport radioactive material identified by the Energy Fa-
 7 cility Siting Council by rule as posing a significant hazard to public health and safety or the envi-
 8 ronment if improperly transported into or within the State of Oregon without first obtaining a
 9 permit from the State Department of Energy.

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

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

14 (a) A description of the kind, quantity and radioactivity of the material to be transported;

15 (b) A description of the route or routes proposed to be taken and the transport schedule;

16 (c) A description of any mode of transportation; and

17 (d) Other information required by the director to evaluate the application.

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

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

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

34 **SECTION 42.** ORS 469.703 is amended to read:

35 469.703. (1) As used in this section:

36 (a) "Home energy assessor" has the meaning given that term in ORS 701.527.

37 (b) "Home energy audit" means the evaluation or testing of components or systems in a resi-
 38 dential building for the purpose of identifying options for increasing energy conservation and energy
 39 efficiency.

40 (c) "Home energy performance score" has the meaning given that term in ORS 701.527.

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

45 (3) The [*department*] **Oregon Energy Commission** shall designate by rule programs for the

1 training of home energy assessors. Programs designated by the *[department]* **commission** under this
 2 subsection must ensure competency in conducting home energy audits and assigning home energy
 3 performance scores.

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

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

15 **SECTION 43.** ORS 469.754 is amended to read:

16 469.754. (1) State agencies are authorized to enter into such contractual and other arrangements
 17 as may be necessary or convenient to design, develop, operate and finance projects on-site at state
 18 owned or state rented facilities. In developing such projects, state agencies shall offer a right of first
 19 refusal of two months for conservation and direct use renewable resources and three months for
 20 cogeneration and generating renewable resources to each local utility providing utility service to
 21 the agency to jointly develop, finance, operate and otherwise act together in the development and
 22 operation of such projects. The *[State Department of Energy]* **Oregon Energy Commission** shall
 23 adopt rules to establish the procedure by which the right of first refusal shall be administered. In
 24 adopting the rules, the *[department]* **commission** shall insure that the local utility providing utility
 25 service to the state agency is entitled to the first right to negotiate with the state agency and that
 26 the utility is entitled to match any offer made by any other entity to participate in the project. The
 27 *[department]* **commission** also shall adopt procedures that insure that the right to first negotiate
 28 and the right to match any offer applies to the sale of electrical or steam output from the project.

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

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

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

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

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

37 (a) Energy efficiency projects;

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

40 (c) Infrastructure improvements.

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

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

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

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

7 **SECTION 44.** ORS 469.756 is amended to read:

8 469.756. The [*State Department of Energy*] **Oregon Energy Commission** in consultation with
 9 other state agencies and utilities shall adopt rules, guidelines and procedures that are necessary to
 10 establish savings for projects and to implement other provisions of ORS 469.752 to 469.756, including,
 11 but not limited to, rules prescribing the procedures to be followed by an agency in negotiating with
 12 local utilities to develop agreements suitable for the joint development of projects, and procedures
 13 to determine which local utility, if any, shall be chosen to jointly develop the project. The [*depart-*
 14 *ment*] **State Department of Energy** may enter into agreements under ORS chapter 190 with state
 15 agencies to provide technical assistance in selecting appropriate projects and to evaluate and de-
 16 termine energy and cost savings.

17 **SECTION 45.** ORS 469.880 is amended to read:

18 469.880. Each publicly owned utility serving Oregon shall, either independently or as part of an
 19 association, provide an energy audit program for its commercial customers. The [*Director of the State*
 20 *Department of Energy*] **Oregon Energy Commission** shall adopt rules governing the commercial
 21 energy audit program established under this section and may provide for coordination among elec-
 22 tric utilities and gas utilities that serve the same commercial building.

23 **SECTION 46.** ORS 469.885 is amended to read:

24 469.885. (1) Within 180 days after the adoption of rules by the [*Director of the State Department*
 25 *of Energy*] **Oregon Energy Commission** under ORS 469.880, each publicly owned utility shall
 26 present for the [*director's*] approval of the **Director of the State Department of Energy** a com-
 27 mercial energy audit program that shall, to the director's satisfaction:

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

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

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

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

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

40 **SECTION 47.** ORS 469.890 is amended to read:

41 469.890. (1) Within 365 days after November 1, 1981, the [*Director of the State Department of*
 42 *Energy*] **Oregon Energy Commission** shall adopt rules governing energy conservation programs
 43 prescribed by ORS 469.895 and 469.900 (3) and this section and may provide for coordination among
 44 electric utilities and gas utilities that serve the same commercial building. Within 180 days of the
 45 adoption of rules by the [*director*] **commission**, each covered publicly owned utility shall present for

1 the [*director's*] approval **of the Director of the State Department of Energy** a commercial energy
2 conservation services program that shall, to the director's satisfaction:

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

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

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

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

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

16 **SECTION 48.** ORS 469A.020 is amended to read:

17 469A.020. (1) Except as provided in this section, electricity may be used to comply with a
18 renewable portfolio standard only if the electricity is generated by a facility that becomes opera-
19 tional on or after January 1, 1995.

20 (2) Electricity from a generating facility, other than a hydroelectric facility, that became opera-
21 tional before January 1, 1995, may be used to comply with a renewable portfolio standard if the
22 electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

23 (3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may
24 be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency
25 upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power
26 Administration facility, only that portion of the electricity generation attributable to Oregon's share
27 of the electricity may be used to comply with a renewable portfolio standard.

28 (4) Subject to the limit imposed by ORS 469A.025 (5), electricity from a hydroelectric facility
29 that became operational before January 1, 1995, may be used to comply with a renewable portfolio
30 standard if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995,
31 by a national certification organization recognized by the [*State Department of Energy*] **Oregon**
32 **Energy Commission** by rule, and if the facility is either:

33 (a) Owned by an electric utility; or

34 (b) Not owned by an electric utility and located in Oregon and licensed by the Federal Energy
35 Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such
36 license.

37 (5) Electricity from a generating facility located in this state that uses biomass and that became
38 operational before January 1, 1995, may be used to comply with a renewable portfolio standard if
39 the facility meets the requirements of the federal Public Utility Regulatory Policies Act of 1978 (P.L.
40 95-617) on March 4, 2010.

41 (6) A facility located in this state that generates electricity from direct combustion of municipal
42 solid waste and that became operational before January 1, 1995, may be used to comply with a
43 renewable portfolio standard for up to 11 average megawatts of electricity generated per calendar
44 year.

45 **SECTION 49.** ORS 469A.025 is amended to read:

1 469A.025. (1) Electricity generated utilizing the following types of energy may be used to comply
2 with a renewable portfolio standard:

- 3 (a) Wind energy.
- 4 (b) Solar photovoltaic and solar thermal energy.
- 5 (c) Wave, tidal and ocean thermal energy.
- 6 (d) Geothermal energy.

7 (2) Except as provided in subsection (3) of this section, electricity generated from biomass and
8 biomass by-products may be used to comply with a renewable portfolio standard, including but not
9 limited to electricity generated from:

- 10 (a) Organic human or animal waste;
- 11 (b) Spent pulping liquor;
- 12 (c) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest
13 or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire risk;
- 14 (d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);
- 15 (e) Agricultural residues;
- 16 (f) Dedicated energy crops; and
- 17 (g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or
18 municipal solid waste.

19 (3) Electricity generated from the direct combustion of biomass may not be used to comply with
20 a renewable portfolio standard if any of the biomass combusted to generate the electricity includes
21 wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or
22 chromated copper arsenate.

23 (4) Electricity generated by a hydroelectric facility may be used to comply with a renewable
24 portfolio standard only if:

25 (a) The facility is located outside any protected area designated by the Pacific Northwest Elec-
26 tric Power and Conservation Planning Council as of July 23, 1999, or any area protected under the
27 federal Wild and Scenic Rivers Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805
28 to 390.925; or

29 (b) The electricity is attributable to efficiency upgrades made to the facility on or after January
30 1, 1995.

31 (5)(a) Up to 50 average megawatts of electricity per year generated by an electric utility from
32 certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(a) may be used to comply
33 with a renewable portfolio standard, without regard to the number of certified facilities operated
34 by the electric utility or the generating capacity of those facilities. A hydroelectric facility described
35 in this paragraph is not subject to the requirements of subsection (4) of this section.

36 (b) Up to 40 average megawatts of electricity per year generated by certified low-impact hy-
37 droelectric facilities described in ORS 469A.020 (4)(b) may be used to comply with a renewable
38 portfolio standard, without regard to the number of certified facilities or the generating capacity
39 of those facilities. A hydroelectric facility described in this paragraph is not subject to the require-
40 ments of subsection (4) of this section.

41 (6)(a) Direct combustion of municipal solid waste in a generating facility located in this state
42 may be used to comply with a renewable portfolio standard. The qualification of a municipal solid
43 waste facility for use in compliance with a renewable portfolio standard has no effect on the quali-
44 fication of the facility for a tax credit under ORS 469B.130 to 469B.169.

45 (b) The total amount of electricity generated in this state by direct combustion of municipal

1 solid waste by generating facilities that became operational in this state on or after January 1, 1995,
2 may not exceed nine average megawatts per year for the purpose of complying with a renewable
3 portfolio standard.

4 (7) Electricity generated from hydrogen gas, including electricity generated by hydrogen power
5 stations using anhydrous ammonia as a fuel source, may be used to comply with a renewable port-
6 folio standard if:

7 (a) The electricity is derived from:

8 (A) Any source of energy described in subsection (1) or (2) of this section; or

9 (B) A hydroelectric facility that complies with subsection (4) of this section and that is certified
10 as a low-impact hydroelectric facility as described in ORS 469A.020 (4); and

11 (b) The output of the original source of energy is not also used to comply with a renewable
12 portfolio standard.

13 (8) If electricity generation employs multiple energy sources, that portion of the electricity
14 generated that is attributable to energy sources described in this section may be used to comply
15 with a renewable portfolio standard.

16 (9) The [*State Department of Energy*] **Oregon Energy Commission** by rule may approve energy
17 sources other than those described in this section that may be used to comply with a renewable
18 portfolio standard. The [*department*] **commission** may not approve petroleum, natural gas, coal or
19 nuclear fission as an energy source that may be used to comply with a renewable portfolio standard.

20 **SECTION 50.** ORS 469B.103 is amended to read:

21 469B.103. (1) For the purposes of carrying out ORS 469B.100 to 469B.118, the [*State Department*
22 *of Energy*] **Oregon Energy Commission** may adopt rules prescribing minimum performance criteria
23 for alternative energy devices for dwellings. The [*department*] **commission** may, in prescribing cri-
24 teria, rely on applicable federal, state and local requirements for energy efficiency, including the
25 state building code, state and federal appliance standards and any specialty codes and any code
26 adopted by the Building Codes Division of the Department of Consumer and Business Services.

27 (2) The [*department*] **commission** shall take into consideration evolving market conditions in
28 prescribing minimum performance criteria for alternative energy devices and in determining credit
29 amounts, consistent with ORS 316.116.

30 (3) The [*department*] **commission**, in adopting rules under this section for solar heating and
31 cooling systems, shall take into consideration applicable standards of federal performance criteria
32 prescribed pursuant to the provisions of the Solar Heating and Cooling Demonstration Act of 1974,
33 42 U.S.C. 5506.

34 (4) The [*Director of the State Department of Energy*] **commission** shall adopt rules governing the
35 determination of eligibility, verification and certification of an alternative fuel device for purposes
36 of the tax credits granted under ORS 316.116, including but not limited to rules that further define
37 an alternative fuel device and that govern the computation of costs eligible for credit.

38 (5) The [*department*] **commission** shall by rule establish policies and procedures for the admin-
39 istration and enforcement of the provisions of ORS 316.116 and 469B.100 to 469B.118.

40 **SECTION 51.** ORS 469B.106 is amended to read:

41 469B.106. (1) Subject to the limitations in section 75, chapter 730, Oregon Laws 2011, any person
42 may claim a tax credit under ORS 316.116 if the person:

43 (a) Meets the requirements of ORS 316.116;

44 (b) Meets the requirements of ORS 469B.100 to 469B.118; and

45 (c) Pays, subject to subsection (9) of this section, all or a portion of the costs of an alternative

1 energy device.

2 (2) In order to be eligible for a tax credit under ORS 316.116, a person claiming a tax credit for
3 construction or installation of an alternative energy device shall have the device certified by the
4 State Department of Energy or constructed or installed by a contractor certified by the department
5 under subsection (4) of this section.

6 (3) Verification of the purchase, construction or installation of an alternative energy device
7 shall be made in writing on a form provided by the Department of Revenue and, if applicable, shall
8 contain:

9 (a) The location of the alternative energy device;

10 (b) A description of the type of device;

11 (c) If the device was constructed or installed by a contractor, evidence that the contractor has
12 any license, bond, insurance and permit required to sell and construct or install the alternative en-
13 ergy device;

14 (d) If the device was constructed or installed by a contractor, a statement signed by the con-
15 tractor that the applicant has received:

16 (A) A statement of the reasonably expected energy savings of the device;

17 (B) A copy of consumer information published by the State Department of Energy;

18 (C) An operating manual for the alternative energy device; and

19 (D) A copy of the contractor's certification certificate or alternative energy device system cer-
20 tificate for the alternative energy device, as appropriate;

21 (e) If the device was not constructed or installed by a contractor, evidence that:

22 (A) The State Department of Energy has issued an alternative energy device system certificate
23 for the alternative energy device; and

24 (B) The taxpayer has obtained all building permits required for construction or installation of
25 the device;

26 (f) A statement, signed by both the taxpayer claiming the credit and the contractor if the device
27 was constructed or installed by a contractor, that the construction or installation meets all the re-
28 quirements of ORS 469B.100 to 469B.118;

29 (g) The date the alternative energy device was purchased by the residential property owner, or,
30 for a third-party alternative energy device installation, the date that the residential property owner
31 and the alternative energy device owner signed a contract;

32 (h) The date the alternative energy device was placed in service; and

33 (i) Any other information that the Director of the State Department of Energy or the Depart-
34 ment of Revenue determines is necessary.

35 (4)(a) When the State Department of Energy finds that an alternative energy device can meet
36 the standards adopted under ORS 469B.103, the Director of the State Department of Energy may
37 issue a contractor system certification to the person selling and constructing or installing the al-
38 ternative energy device.

39 (b) Any person who sells or installs more than 12 alternative energy devices in one year shall
40 apply for a contractor system certification. An application for a contractor system certification shall
41 be made in writing on a form provided by the State Department of Energy and shall contain:

42 (A) A statement that the contractor has any license, bonding, insurance and permit that is re-
43 quired for the sale and construction or installation of the alternative energy device;

44 (B) A specific description of the alternative energy device, including, but not limited to, the
45 material, equipment and mechanism used in the device, operating procedure, sizing and siting

1 method and construction or installation procedure;

2 (C) The addresses of three installations of the device that are available for inspection by the
3 State Department of Energy;

4 (D) The range of installed costs to purchasers of the device;

5 (E) Any important construction, installation or operating instructions; and

6 (F) Any other information that the State Department of Energy determines is necessary.

7 (c) A new application for contractor system approval shall be filed when there is a change in
8 the information supplied under paragraph (b) of this subsection.

9 (d) The State Department of Energy may issue contractor system certificates to each contractor
10 who on October 3, 1989, has a valid dealer system certification, which shall authorize the sale and
11 installation of the same domestic water heating alternative energy devices authorized by the dealer
12 certification.

13 (e) If the State Department of Energy finds that an alternative energy device can meet the
14 standards adopted under ORS 469B.103, the Director of the State Department of Energy may issue
15 an alternative energy device system certificate to the taxpayer constructing or installing or having
16 an alternative energy device constructed or installed.

17 (f) An application for an alternative energy device system certificate shall be made in writing
18 on a form provided by the State Department of Energy and shall contain:

19 (A) A specific description of the alternative energy device, including, but not limited to, the
20 material, equipment and mechanism used in the device, operating procedure, sizing, siting method
21 and construction or installation procedure;

22 (B) The constructed or installed cost of the device; and

23 (C) A statement that the taxpayer has all permits required for construction or installation of the
24 device.

25 (5) Prior to commencing installation of alternative energy devices, installers of third-party al-
26 ternative energy device installations must apply to the State Department of Energy to reserve
27 credits on behalf of owners of residential property. Installers may reserve credit for no more than
28 25 installations under this subsection in one application.

29 (6) To claim the tax credit, the verification form described in subsection (3) of this section shall
30 be submitted with the taxpayer's tax return for the year the alternative energy device is placed in
31 service or the immediately succeeding tax year. A copy of the contractor's certification certificate
32 or alternative energy device system certificate also shall be submitted.

33 (7) The verification form and contractor's certificate or alternative energy device system certif-
34 icate described under this section shall be effective for purposes of tax relief allowed under ORS
35 316.116.

36 (8) The verification form and contractor's certificate described under this section may be
37 transferred to the first purchaser of a dwelling who intends to use the dwelling as a principal or
38 secondary residence.

39 (9) Any person that pays the present value of the tax credit for an alternative energy device
40 provided under ORS 316.116 and 469B.100 to 469B.118 to the person who constructs or installs the
41 alternative energy device shall be entitled to claim the credit in the manner and subject to rules
42 adopted by the Department of Revenue to carry out the purposes of this subsection. The [*State De-*
43 *partment of Energy*] **Oregon Energy Commission** may establish by rule uniform discount rates to
44 be used in calculating the present value of a tax credit under this subsection.

45 **SECTION 52.** ORS 469B.112 is amended to read:

1 469B.112. The following devices are not eligible for the tax credit under ORS 316.116:

2 (1) Standard efficiency furnaces;

3 (2) Air conditioning systems;

4 (3) Boilers;

5 (4) Standard back-up heating systems;

6 (5) Woodstoves or wood furnaces, or any part of a heating system that burns wood, unless the
7 woodstove, furnace or system constitutes a premium efficiency biomass combustion device described
8 in ORS 469B.100 (3)(i);

9 (6) Heat pump water heaters that are part of a geothermal heat pump space heating system;

10 (7) Structures that cover or enclose a swimming pool;

11 (8) Swimming pools, hot tubs or spas used to store heat;

12 (9) Above ground, uninsulated swimming pools, hot tubs or spas;

13 (10) Photovoltaic systems installed on recreational vehicles;

14 (11) Conversion of an existing alternative energy device to another type of alternative energy
15 device;

16 (12) Repair or replacement of an existing alternative energy device;

17 (13) A category two alternative energy device, if the equipment or other property that comprises
18 the category two alternative energy device is the basis for an allowed credit for a category one al-
19 ternative energy device under ORS 316.116;

20 (14) A category one alternative energy device, if the equipment or other property that comprises
21 the category one alternative energy device is also the basis for an allowed credit for a category two
22 alternative energy device under ORS 316.116; or

23 (15) Any other device identified by the [*State Department of Energy*] **Oregon Energy Commis-**
24 **sion**. The [*department*] **commission** may adopt rules defining standards for eligible and ineligible
25 devices under this section.

26 **SECTION 53.** ORS 469B.130 is amended to read:

27 469B.130. As used in ORS 469B.130 to 469B.169 and 469B.171:

28 (1) "Alternative fuel vehicle" means a vehicle as defined by the [*Director of the State Department*]
29 **Oregon Energy Commission** by rule that is used primarily in connection with the con-
30 duct of a trade or business and that is manufactured or modified to use an alternative fuel, including
31 but not limited to electricity, ethanol, methanol, gasohol and propane or natural gas, regardless of
32 energy consumption savings.

33 (2) "Car sharing facility" means the expenses of operating a car sharing program, including but
34 not limited to the fair market value of parking spaces used to store the fleet of cars available for
35 a car sharing program, but does not include the costs of the fleet of cars.

36 (3) "Car sharing program" means a program in which drivers pay to become members in order
37 to have joint access to a fleet of cars from a common parking area on an hourly basis. "Car sharing
38 program" does not include operations conducted by car rental agencies.

39 (4) "Cost" means the capital costs and expenses necessarily incurred in the erection, con-
40 struction, installation and acquisition of a facility, including site development costs and expenses for
41 a sustainable building practices facility.

42 (5) "Energy facility" means any capital investment for which the first year energy savings yields
43 a simple payback period of greater than one year. An energy facility includes:

44 (a) Any land, structure, building, installation, excavation, machinery, equipment or device, or
45 any addition to, reconstruction of or improvement of, land or an existing structure, building, instal-

1 lation, excavation, machinery, equipment or device necessarily erected, constructed, installed or
 2 acquired by any person in connection with the conduct of a trade or business and actually used in
 3 the processing or utilization of renewable energy resources to:

4 (A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

5 (B) Provide the initial use of energy where electricity, petroleum or natural gas would have been
 6 used;

7 (C) Generate electricity to replace an existing source of electricity or to provide a new source
 8 of electricity for sale by or use in the trade or business;

9 (D) Perform a process that obtains energy resources from material that would otherwise be solid
 10 waste as defined in ORS 459.005; or

11 (E) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol,
 12 methanol, gasohol or biodiesel.

13 (b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing
 14 structure, building, installation, excavation, machinery, equipment or device necessarily erected,
 15 constructed, installed or acquired by any person in connection with the conduct of a trade or busi-
 16 ness in order to substantially reduce the consumption of purchased energy.

17 (c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is
 18 defined by ORS 469B.100, that causes that building or dwelling to exceed an energy performance
 19 standard in the state building code.

20 (d) The replacement of an electric motor with another electric motor that substantially reduces
 21 the consumption of electricity.

22 (6) "Facility" means an energy facility, recycling facility, transportation facility, car sharing
 23 facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to op-
 24 erate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling
 25 station, a high-efficiency combined heat and power facility, a high-performance home or a
 26 homebuilder-installed renewable energy system.

27 (7) "High-efficiency combined heat and power facility" means a device or equipment that simul-
 28 taneously produces heat and electricity from a single source of fuel and that meets the criteria es-
 29 tablished for a high-efficiency combined heat and power facility under ORS 469B.139.

30 (8) "High-performance home" means a new single-family dwelling that:

31 (a) Is designed and constructed to reduce net purchased energy through use of both energy ef-
 32 ficiency and on-site renewable energy resources; and

33 (b) Meets the criteria established for a high-performance home under ORS 469B.139.

34 (9) "Homebuilder-installed renewable energy system" means a renewable energy resource system
 35 that:

36 (a) Meets the criteria established for a renewable energy resource system under ORS 469B.139;
 37 and

38 (b) Is installed in a new single-family dwelling by, or at the direction of, the homebuilder con-
 39 structing the dwelling.

40 (10) "Qualified transit pass contract" means a purchase agreement entered into between a
 41 transportation provider and a person, the terms of which obligate the person to purchase transit
 42 passes on behalf or for the benefit of employees, students, patients or other individuals over a
 43 specified period of time.

44 (11) "Recycling facility" means equipment used by a trade or business solely for recycling:

45 (a) Including:

1 (A) Equipment used solely for hauling and refining used oil;

2 (B) New vehicles or modifications to existing vehicles used solely to transport used recyclable
3 materials that cannot be used further in their present form or location such as glass, metal, paper,
4 aluminum, rubber and plastic;

5 (C) Trailers, racks or bins that are used for hauling used recyclable materials and are added to
6 or attached to existing waste collection vehicles; and

7 (D) Any equipment used solely for processing recyclable materials such as balers, flatteners,
8 crushers, separators and scales.

9 (b) But not including equipment used for transporting or processing scrap materials that are
10 recycled as a part of the normal operation of a trade or business as defined by the [director] **com-**
11 **mission.**

12 (12)(a) "Renewable energy resource" includes, but is not limited to:

13 (A) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant
14 or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal
15 energy;

16 (B) A hydroelectric generating facility that obtains all applicable permits and complies with all
17 state and federal statutory requirements for the protection of fish and wildlife and that:

18 (i) Does not exceed 10 megawatts of installed capacity; or

19 (ii) Qualifies as a research, development or demonstration facility; or

20 (C) A renewable energy storage device as defined by the [director] **commission** by rule.

21 (b) "Renewable energy resource" does not include a hydroelectric generating facility that is not
22 described in paragraph (a) of this subsection.

23 (13) "Sustainable building practices facility" means a commercial building in which building
24 practices that reduce the amount of energy, water or other resources needed for construction and
25 operation of the building are used. "Sustainable building practices facility" may be further defined
26 by the [State Department of Energy] **commission** by rule, including rules that establish traditional
27 building practice baselines in energy, water or other resource usage for comparative purposes for
28 use in determining whether a facility is a sustainable building practices facility.

29 (14) "Transportation facility" means a transportation project that reduces energy use during
30 commuting to and from work or school, during work-related travel, or during travel to obtain med-
31 ical or other services, and may be further defined by the [department] **commission** by rule.
32 "Transportation facility" includes, but is not limited to:

33 (a) A qualified transit pass contract or a transportation services contract; or

34 (b) The purchase of efficient truck technology and related truck trailers, as defined in ORS
35 801.580, for commercial motor vehicles, as defined in ORS 801.208, that are registered under ORS
36 803.420, or for commercial motor vehicles that are proportionally registered under ORS 826.009 or
37 826.011.

38 (15) "Transportation provider" means a public, private or nonprofit entity that provides trans-
39 portation services to members of the public.

40 (16) "Transportation services contract" means a contract that is related to a transportation fa-
41 cility, and may be further defined by the [department] **commission** by rule.

42 **SECTION 54.** ORS 469B.136 is amended to read:

43 469B.136. (1) In determining the eligibility of any facility for tax credits, preference shall be
44 given to those projects that:

45 (a) Provide energy savings for real or personal property within the state inhabited as the prin-

1 cipal residence of a tenant, including:

2 (A) Nonowner occupied single family dwellings; and

3 (B) Multiple unit residential housing; or

4 (b) Provide long-term energy savings from the use of renewable resources or conservation of
5 energy resources.

6 (2) The [*Director of the State Department of Energy*] **Oregon Energy Commission** shall establish
7 by rule a tiered priority system to be used in evaluating applicants for certification of facilities us-
8 ing or producing renewable energy resources. The tier system shall be based upon the projected
9 costs of facilities. In determining the eligibility for tax credits and in allocating the available certi-
10 fied cost pursuant to section 2 (1), chapter 76, Oregon Laws 2010, among facilities, the [*director*]
11 **commission** shall subject facilities with higher projected costs to closer scrutiny, shall compare
12 projects of similar costs against each other and may certify less than the total cost of any facility
13 based on this evaluation. The [*director*] **commission** may employ criteria including the following
14 factors as defined by rule:

15 (a) Technology-specific energy production standards;

16 (b) Market sector;

17 (c) Delivery of energy into existing distribution and transmission network;

18 (d) Investment payback period;

19 (e) Expected lifespan of the facility;

20 (f) Potential for long-term viability;

21 (g) Environmental standards established by the [*director*] **commission**;

22 (h) Potential to create and sustain new jobs;

23 (i) Projected siting in a location that is geographically or socioeconomically advantageous;

24 (j) Demonstrated readiness to begin implementation;

25 (k) Amount and quality of energy generated;

26 (L) Strength of business plan;

27 (m) Provision of operations and maintenance data, with appropriate protections for trade secrets
28 consistent with ORS chapter 192;

29 (n) Connection to existing infrastructure;

30 (o) Third-party review of the applicant's business plan; or

31 (p) Data related to projected return on investment.

32 **SECTION 55.** ORS 469B.139 is amended to read:

33 469B.139. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish
34 all of the following criteria:

35 (1) For a high-performance home, the minimum design and construction standards that must be
36 met or exceeded for a dwelling to be considered a high-performance home, including but not limited
37 to standards for the building envelope, HVAC systems, lighting, appliances, water conservation
38 measures, use of sustainable building materials and on-site renewable energy systems. The criteria
39 must also establish the minimum reduction in estimated net purchased energy that a dwelling must
40 achieve to be considered a high-performance home.

41 (2) For a homebuilder-installed renewable energy system, the minimum performance and effi-
42 ciency standards that a solar electric system, solar domestic water heating system, passive solar
43 space heating system, wind power system, geothermal heating system, fuel cell system or other sys-
44 tem utilizing renewable resources must achieve to be considered a homebuilder-installed renewable
45 energy system.

1 (3) For a high-efficiency combined heat and power facility, the minimum performance and effi-
 2 ciency standards that the facility must achieve to be considered a high-efficiency combined heat and
 3 power facility.

4 (4) For a facility using or producing renewable energy resources, standards relating to criteria
 5 required under ORS 469B.136 (2).

6 (5) Standards, consistent with the definitions in ORS 469B.130, relating to what constitutes a
 7 single facility.

8 **SECTION 56.** ORS 469B.145 is amended to read:

9 469B.145. (1) Prior to erection, construction, installation or acquisition of a proposed facility,
 10 any person may apply to the State Department of Energy for preliminary certification under ORS
 11 469B.157 if:

12 (a) The erection, construction, installation or acquisition of the facility is to be commenced on
 13 or after October 3, 1979;

14 (b) The facility complies with the standards or rules adopted by the [*Director of the State De-*
 15 *partment of Energy*] **Oregon Energy Commission**; and

16 (c) The applicant meets one of the following criteria:

17 (A) The applicant is a person to whom a tax credit for the facility has been transferred; or

18 (B) The applicant will be the owner, contract purchaser or lessee of the facility at the time of
 19 erection, construction, installation or acquisition of the proposed facility, and:

20 (i) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to
 21 utilize the facility in connection with Oregon property; or

22 (ii) The applicant is the owner, contract purchaser or lessee of a trade or business that plans
 23 to lease the facility to a person that will utilize the facility in connection with Oregon property.

24 (2) An application for preliminary certification shall be made in writing on a form prepared by
 25 the department and shall contain:

26 (a) A statement that the applicant or the lessee of the applicant's facility:

27 (A) Intends to convert from a purchased energy source to a renewable energy resource;

28 (B) Plans to acquire, construct or install a facility that will use a renewable energy resource
 29 or solid waste instead of electricity, petroleum or natural gas;

30 (C) Plans to use a renewable energy resource in the generation of electricity for sale or to re-
 31 place an existing or proposed use of an existing source of electricity;

32 (D) Plans to acquire, construct or install a facility that substantially reduces the consumption
 33 of purchased energy;

34 (E) Plans to acquire, construct or install equipment for recycling as described in ORS 469B.130
 35 (11);

36 (F) Plans to acquire an alternative fuel vehicle or to convert an existing vehicle to an alterna-
 37 tive fuel vehicle;

38 (G) Plans to acquire, construct or install a facility necessary to operate alternative fuel vehicles;

39 (H) Plans to acquire transit passes for use by individuals specified by the applicant;

40 (I) Plans to acquire, construct or install a transportation facility;

41 (J) Plans to acquire a sustainable building practices facility;

42 (K) Plans to acquire a car sharing facility and operate a car sharing program;

43 (L) Plans to construct a high-efficiency combined heat and power facility;

44 (M) Is a homebuilder and plans to construct a homebuilder-installed renewable energy system;

45 or

- 1 (N) Is a homebuilder and plans to construct a high-performance home.
- 2 (b) A detailed description of the proposed facility and its operation and information showing that
3 the facility will operate as represented in the application and remain in operation for at least five
4 years, unless the [director] **commission** by rule specifies a shorter period of operation.
- 5 (c) Information on the amount by which consumption of electricity, petroleum or natural gas by
6 the applicant or the lessee of the applicant's facility will be reduced, and on the amount of energy
7 that will be produced for sale, as the result of using the facility or, if applicable, information about
8 the expected level of sustainable building practices facility performance.
- 9 (d) The projected cost of the facility.
- 10 (e) If applicable, a copy of the proposed qualified transit pass contract, transportation services
11 contract or contract for lease of parking spaces for a car sharing facility.
- 12 (f) Information on the number and type of jobs that will be created, the number of jobs sustained
13 throughout the construction, installation and operation of the facility and the benefits of the facility
14 with regard to overall economic activity in this state.
- 15 (g) Information demonstrating that the proposed facility will comply with applicable state and
16 local laws and regulations and obtain required licenses and permits.
- 17 (h) Information relating to the criteria required under ORS 469B.136.
- 18 (i) Any other information the [director] **commission** considers necessary to determine whether
19 the proposed facility is in accordance with the provisions of ORS 469B.130 to 469B.169, and any
20 applicable rules or standards adopted by the [director] **commission**.
- 21 (3) An application for preliminary certification shall be accompanied by a fee established under
22 ORS 469B.164. The Director of the **State Department of Energy** may refund all or a portion of
23 the fee if the application for certification is rejected.
- 24 (4) The director may allow an applicant to file the preliminary application or a reapplication
25 under subsection (6) of this section after the start of erection, construction, installation or acquisi-
26 tion of the facility if the director finds:
- 27 (a) Filing the application before the start of erection, construction, installation or acquisition is
28 inappropriate because special circumstances render filing earlier unreasonable; and
- 29 (b) The facility would otherwise qualify for tax credit certification pursuant to ORS 469B.130 to
30 469B.169.
- 31 (5) A preliminary certification of a sustainable building practices facility shall be applied for and
32 issued as prescribed by the [department] **commission** by rule.
- 33 (6) A preliminary certification shall remain valid for a period of three calendar years after the
34 date the preliminary certification is issued by the director. The director may extend the three-year
35 period for two additional calendar years upon reapplication and submission of the fee required by
36 this section.
- 37 **SECTION 57.** ORS 469B.148 is amended to read:
- 38 469B.148. (1) The owner of a facility may transfer a tax credit for the facility in exchange for
39 a cash payment equal to the present value of the potential tax credit, as determined at the time of
40 the application for preliminary certification.
- 41 (2) The [State Department of Energy] **Oregon Energy Commission** shall establish by rule a
42 formula to be employed by the **State Department of Energy** in the determination of prices of
43 credits transferred under this section. In establishing the formula the [department] **commission** shall
44 incorporate inflation projections and market real rate of return.
- 45 (3) The department shall recalculate credit transfer prices quarterly, employing the formula es-

1 tabulated under subsection (2) of this section.

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

4 **SECTION 58.** ORS 469B.154 is amended to read:

5 469B.154. (1) The owner of a rental housing unit may transfer a tax credit for energy conser-
6 vation measures installed in rental housing units under ORS 469B.151 in exchange for a cash pay-
7 ment equal to the present value of the tax credit. To be eligible for a transfer, the energy
8 conservation measures must have been recommended in an energy audit as provided in ORS 469.633
9 or 469.651.

10 (2) The [*State Department of Energy*] **Oregon Energy Commission** may establish by rule uni-
11 form discount rates to be used in calculating the present value of a tax credit under this section.

12 **SECTION 59.** ORS 469B.157 is amended to read:

13 469B.157. (1) The Director of the State Department of Energy may require the submission of
14 plans, specifications and contract terms, and after examination thereof, may request corrections and
15 revisions of the plans, specifications and terms.

16 (2) If the director determines that the proposed acquisition, erection, construction or installation
17 is technically feasible and should operate in accordance with the representations made by the ap-
18 plicant, and is in accordance with the provisions of ORS 469B.130 to 469B.169 and any applicable
19 rules or standards adopted by the [*director*] **Oregon Energy Commission**, the director shall issue
20 a preliminary certificate approving the acquisition, erection, construction or installation of the fa-
21 cility. The certificate shall indicate the potential amount of tax credit allowable and shall list any
22 conditions for claiming the credit.

23 (3) The director may issue an order altering, conditioning, suspending or denying preliminary
24 certification if the director determines that:

25 (a) The acquisition, erection, construction or installation does not comply with the provisions
26 of ORS 469B.130 to 469B.169 and applicable rules and standards;

27 (b) The applicant has previously received preliminary or final certification for the same costs;

28 (c) The applicant is unable to demonstrate that the facility would be economically viable without
29 the allowance of additional credits under ORS 315.354;

30 (d) The applicant was directly involved in an act for which the director has levied civil penalties
31 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169; or

32 (e) The applicant or the principal, director, officer, owner, majority shareholder or member of
33 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in
34 arrears for payments owed to any government agency while in any capacity with direct or indirect
35 control over a business.

36 **SECTION 60.** ORS 469B.161 is amended to read:

37 469B.161. (1) A final certification may not be issued by the Director of the State Department of
38 Energy under this section unless:

39 (a) The facility was acquired, erected, constructed or installed under a preliminary certificate
40 of approval issued under ORS 469B.157;

41 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.145
42 (2) and does not violate any condition that may be imposed as described in ORS 469B.157 (3); and

43 (c) The facility was acquired, erected, constructed or installed in accordance with the applicable
44 provisions of ORS 469B.130 to 469B.169 and any applicable rules or standards adopted by the [*di-*
45 *rector*] **Oregon Energy Commission**.

- 1 (2) Any person may apply to the State Department of Energy for final certification of a facility:
2 (a) If the department issued preliminary certification for the facility under ORS 469B.157; and
3 (b)(A) After completion of erection, construction, installation or acquisition of the proposed fa-
4 cility or, if the facility is a qualified transit pass contract, after entering into the contract with a
5 transportation provider; or
6 (B) After transfer of the facility, as provided in ORS 315.354 (5).
7 (3) An application for final certification shall be made in writing on a form prepared by the
8 department and shall contain:
9 (a) A statement that the conditions of the preliminary certification have been complied with;
10 (b) The actual cost of the facility certified to by a certified public accountant who is not an
11 employee of the applicant or, if the actual cost of the facility is less than \$50,000, copies of receipts
12 for purchase and installation of the facility;
13 (c) The amount of the credit under ORS 315.354 that is to be claimed;
14 (d) The number and type of jobs created by the operation and maintenance of the facility over
15 the five-year period beginning with the year of preliminary certification under ORS 469B.157 and
16 information on the benefits of the facility with regard to overall economic activity in this state;
17 (e) Information sufficient to demonstrate that the facility will remain in operation for at least
18 five years, unless the [*director*] **Oregon Energy Commission** by rule specifies a shorter period of
19 operation;
20 (f) Information sufficient to demonstrate, in the case of a research, development or demon-
21 stration facility that is not in operation, that the applicant has made reasonable efforts to make the
22 facility operable and meet the requirements of the preliminary certificate;
23 (g) Documentation of compliance with applicable state and local laws and regulations and li-
24 censing and permitting requirements as defined by the [*director*] **Oregon Energy Commission**; and
25 (h) Any other information determined by the [*director*] **Oregon Energy Commission** to be nec-
26 essary prior to issuance of a final certificate, including inspection of the facility by the department.
27 (4) The director shall act on an application for certification before the 60th day after the filing
28 of the application under this section. The director may issue the certificate, or certificates for effi-
29 cient truck technology within a transportation facility, together with such conditions as the director
30 determines are appropriate to promote the purposes of ORS 315.354, 469B.130 to 469B.169 and
31 469B.171. If the applicant is an entity subject to regulation by the Public Utility Commission, the
32 director may consult with the **Public Utility** Commission prior to issuance of the certificate. The
33 action of the director shall include certification of the actual cost of the facility. However, the di-
34 rector may not certify an amount for tax credit purposes that is more than the amount approved in
35 the preliminary certificate issued for the facility.
36 (5) If the director rejects an application for final certification, or certifies a lesser actual cost
37 of the facility than was claimed in the application, the director shall send to the applicant written
38 notice of the action, together with a statement of the findings and reasons therefor, by certified mail,
39 before the 60th day after the filing of the application. Failure of the director to act constitutes re-
40 jection of the application.
41 (6) Upon approval of an application for final certification of a facility, the director shall certify
42 the facility. Each certificate shall bear a separate serial number for each device. Where one or
43 more devices constitute an operational unit, the director may certify the operational unit under one
44 certificate.
45 (7) The [*director*] **Oregon Energy Commission** may establish by rule timelines and intermediate

1 deadlines for submission of application materials.

2 **SECTION 61.** ORS 469B.164 is amended to read:

3 469B.164. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**
 4 **Energy Commission** may adopt a schedule of reasonable fees which the State Department of En-
 5 ergy may require of applicants for preliminary or final certification under ORS 469B.130 to 469B.169.
 6 Before the adoption or revision of the fees, the department shall estimate the total cost of the pro-
 7 gram to the department. The fees shall be used to recover the anticipated cost of filing, investigat-
 8 ing, granting and rejecting applications for certification and shall be designed not to exceed the
 9 total cost estimated by the department. Any excess fees shall be held by the department and shall
 10 be used by the department to reduce any future fee increases. The fee may vary according to the
 11 size and complexity of the facility. The fee shall not be considered as part of the cost of the facility
 12 to be certified.

13 **SECTION 62.** ORS 469B.253 is amended to read:

14 469B.253. (1) Prior to the installation or construction of a renewable energy production system,
 15 any person may apply to the State Department of Energy for a grant under ORS 469B.256 if:

16 (a) The applicant will be the owner, contract purchaser or lessee of the system at the time of
 17 installation or construction of the proposed system;

18 (b) The system does not exceed 35 megawatts of nameplate capacity;

19 (c) The system is located in Oregon; and

20 (d) The system complies with the standards or rules adopted by the [*Director of the State De-*
 21 *partment of Energy*] **Oregon Energy Commission**.

22 (2) An application for a grant under ORS 469B.256 shall be made in writing on a form prepared
 23 by the department and shall contain:

24 (a) A detailed description of the system and its operation and information showing that the
 25 system will operate as represented in the application and remain in operation for at least five years,
 26 unless the [*director*] **commission** by rule specifies another period of operation.

27 (b) The anticipated total system cost.

28 (c) Information on the number and type of jobs, directly connected to the awarding of the grant,
 29 that will be:

30 (A) Created by the system; and

31 (B) Sustained throughout the construction, installation and operation of the system.

32 (d) Information demonstrating that the system will comply with applicable state and local laws
 33 and regulations and obtain required licenses and permits.

34 (e) Any other information the [*director*] **commission** considers necessary to determine whether
 35 the system is in accordance with the provisions of ORS 469B.250 to 469B.265, and any applicable
 36 rules or standards adopted by the [*director*] **commission**.

37 (3) An application for a grant shall be accompanied by a fee established under ORS 469B.259.
 38 The Director **of the State Department of Energy** may refund all or a portion of the fee if the
 39 application for a grant is rejected.

40 (4) The director may allow an applicant to file the application for a grant after the start of in-
 41 stallation or construction of the system if the director finds that:

42 (a) Filing the application before the start of installation or construction is inappropriate because
 43 special circumstances render filing earlier unreasonable; and

44 (b) The system would otherwise qualify for a grant under ORS 469B.250 to 469B.265.

45 **SECTION 63.** ORS 469B.256 is amended to read:

1 469B.256. (1) The Director of the State Department of Energy may require an applicant for a
 2 grant under this section for a renewable energy production system to submit plans, specifications
 3 and contract terms, and after examination of the plans, specifications and terms may request cor-
 4 rections and revisions.

5 (2) If the director determines that the system is technically feasible and should operate in ac-
 6 cordance with the representations made by the applicant, and is in accordance with the provisions
 7 of ORS 469B.250 to 469B.265 and any applicable rules or standards adopted by the [*director*] **Oregon**
 8 **Energy Commission**, the director may enter into a performance agreement with the applicant and
 9 award a grant under this section to the applicant. The grant provided for in the performance
 10 agreement may not exceed 35 percent of the cost of the project and may not exceed \$250,000 per
 11 system. If construction does not begin within 12 months of an award under this section, the per-
 12 formance agreement shall be void and the State Department of Energy shall revoke the grant.

13 (3) The director may, in accordance with ORS chapter 183, deny a grant under this section if
 14 the director determines that:

15 (a) The system does not comply with the provisions of ORS 469B.250 to 469B.265 and applicable
 16 rules and standards;

17 (b) The applicant was directly involved in an act for which the director has levied civil penalties
 18 or revoked, canceled or suspended any certification under ORS 315.326 or 469B.130 to 469B.169, or
 19 any grant under ORS 469B.250 to 469B.265; or

20 (c) The applicant or the principal, director, officer, owner, majority shareholder or member of
 21 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in
 22 arrears for payments owed to any government agency while in any capacity with direct or indirect
 23 control over a business.

24 (4) The department shall reduce the amount of grant allowable to an applicant if, when combined
 25 with other government incentives or grants available to the applicant, the amount calculated under
 26 subsection (2) of this section exceeds 75 percent of the total system cost calculated under this sec-
 27 tion.

28 (5) Upon determination by the director that the applicant has violated the provisions of the
 29 performance agreement or ORS 469B.250 to 469B.265, the applicant will be liable to the department
 30 for all grant moneys disbursed to the applicant.

31 **SECTION 64.** ORS 469B.259 is amended to read:

32 469B.259. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**
 33 **Energy Commission** may adopt a schedule of reasonable fees that the State Department of Energy
 34 may require of applicants for a grant for a renewable energy production system under ORS 469B.250
 35 to 469B.265 or for tax credit certification under ORS 315.326. Before the adoption or revision of the
 36 fees, the department shall estimate the total cost of the program to the department. The fees shall
 37 be used to recover the anticipated cost of administering and enforcing the provisions of ORS
 38 469B.250 to 469B.265, including filing, investigating, granting and rejecting applications for grant
 39 or tax credit certification and ensuring compliance with ORS 315.326, 315.329 and 469B.250 to
 40 469B.265 and shall be designed not to exceed the total cost estimated by the department. Any excess
 41 fees shall be held by the department and shall be used by the department to reduce any future fee
 42 increases. The fee may vary according to the size and complexity of the system. The fee is not
 43 considered part of the cost of the system for which a grant is being sought.

44 **SECTION 65.** ORS 469B.262 is amended to read:

45 469B.262. (1) The total amount of potential tax credits for certified renewable energy develop-

1 ment contributions in this state may not, at the time of certification under ORS 315.326, exceed:

2 (a) \$3 million for any biennium; or

3 (b) \$750,000 for the six months beginning July 1, 2017, and ending December 31, 2017.

4 (2) In the event that the Director of the State Department of Energy receives applications for
5 grants under ORS 469B.256 in excess of the contributions received pursuant to ORS 315.326, the
6 director shall allocate the issuance of grants according to standards and criteria established by rule
7 by the *[director]* **Oregon Energy Commission**.

8 **SECTION 66.** ORS 469B.265 is amended to read:

9 469B.265. The *[State Department of Energy]* **Oregon Energy Commission** shall by rule establish
10 policies and procedures for the administration and enforcement of the provisions of ORS 315.326,
11 315.329 and 469B.250 to 469B.265, including standards for what constitutes a single renewable en-
12 ergy production system.

13 **SECTION 67.** ORS 469B.273 is amended to read:

14 469B.273. (1) In determining the priority of any energy conservation project for tax credits,
15 preference shall be given to those projects that have the highest energy savings over the five-year
16 credit allowance period per tax credit dollar.

17 (2) In administering this section, the Director of the State Department of Energy shall compare
18 projects of similar technology types against each other, take into account the amount of energy
19 saved over the life of the equipment, market or industry sector, expected lifespan of the project
20 compared to the simple payback period, whether the energy savings of the project benefit a party
21 other than the owner and any other factors defined in *[State Department of Energy]* rule **by the**
22 **Oregon Energy Commission**. The **State Department of Energy** may certify less than the total cost
23 of any project based on this evaluation.

24 **SECTION 68.** ORS 469B.276 is amended to read:

25 469B.276. (1) The owner of a project may transfer a tax credit for the project in exchange for
26 a cash payment equal to the present value of the potential tax credit, as determined at the time of
27 the application for preliminary certification. If the tax credit is subject to recertification, only that
28 portion of the tax credit that has been recertified may be transferred.

29 (2) The *[State Department of Energy]* **Oregon Energy Commission** shall establish by rule a
30 formula to be employed in the determination of prices of credits transferred under this section. In
31 establishing the formula the *[department]* **commission** shall incorporate inflation projections and
32 market real rate of return.

33 (3) The **State Department of Energy** shall recalculate credit transfer prices quarterly, employ-
34 ing the formula established under subsection (2) of this section.

35 **SECTION 69.** ORS 469B.279 is amended to read:

36 469B.279. The *[State Department of Energy]* **Oregon Energy Commission** shall by rule establish
37 the following standards relating to energy conservation projects:

38 (1) In consultation with the Department of Consumer and Business Services Building Codes Di-
39 vision, standards relating to energy savings in new construction.

40 (2) Standards relating to what constitutes a replacement of inefficient equipment.

41 (3) Standards for the determination of total project cost.

42 (4) Standards for the application of third party review of research and development projects by
43 a qualified third party selected by the Director of the State Department of Energy, as required in
44 ORS 469B.285.

45 **SECTION 70.** ORS 469B.285 is amended to read:

1 469B.285. (1) Prior to the installation or construction of an energy conservation project, any
2 person may apply to the State Department of Energy for preliminary certification under ORS
3 469B.288 if:

4 (a) The project complies with the standards adopted by the [*Director of the State Department of*
5 *Energy*] **Oregon Energy Commission**; and

6 (b) The applicant will be the owner, contract purchaser or lessee of the project at the time of
7 installation or construction of the project.

8 (2) An application for preliminary certification shall be made in writing on a form prepared by
9 the department and shall contain:

10 (a) A statement that the applicant plans to acquire, construct or install a project that substan-
11 tially reduces the consumption of purchased energy or uses energy more efficiently.

12 (b) A detailed description of the project and its operation and information showing that the
13 project will operate as represented in the application and remain in operation for at least five years,
14 unless the [*director*] **commission** by rule specifies another period of operation.

15 (c) Information on the amount by which consumption of purchased energy by the applicant will
16 be reduced, and, if applicable, information about the expected level of sustainable building practices
17 project performance.

18 (d) The anticipated total project cost.

19 (e) Information on the number and type of jobs, directly connected to the allowance of the
20 credit, that will be:

21 (A) Created by the project; and

22 (B) Sustained throughout the construction, installation and operation of the project.

23 (f) Information demonstrating that the project will comply with applicable state and local laws
24 and regulations and obtain required licenses and permits.

25 (g) Information relating to the standards described in ORS 469B.279.

26 (h) A recommendation for a research and development project as demonstrative of innovation
27 that has been made by a qualified third party selected by the Director **of the State Department**
28 **of Energy**.

29 (i) Any other information the [*director*] **commission** considers necessary to determine whether
30 the project is in accordance with the provisions of ORS 469B.270 to 469B.306, and any applicable
31 rules or standards adopted by the [*director*] **commission**.

32 (3) An application for preliminary certification shall be accompanied by a fee established under
33 ORS 469B.294. The director may refund all or a portion of the fee if the application for certification
34 is rejected.

35 (4) The director may allow an applicant to file the application for preliminary certification after
36 the start of installation or construction of the project if the director finds that:

37 (a) Filing the application before the start of installation or construction is inappropriate because
38 special circumstances render filing earlier unreasonable; and

39 (b) The project would otherwise qualify for certification under ORS 469B.270 to 469B.306.

40 (5) The [*director*] **commission** may, by rule, waive preliminary certification under ORS 469B.288,
41 or may establish an informational filing system in place of preliminary certification, for projects
42 that:

43 (a) Have eligible costs of less than \$20,000;

44 (b) Consist of measures that the director determines to be eligible for waiver of preliminary
45 certification; and

1 (c) Comply with any other requirements established by the [director] **commission**.

2 (6) A preliminary certification shall remain valid for a period of three calendar years after the
3 date on which the preliminary certification is issued by the director, after which the certification
4 becomes invalid even if:

5 (a) The applicant is awaiting identification of a pass-through partner; or

6 (b) The preliminary certification has been amended.

7 **SECTION 71.** ORS 469B.288 is amended to read:

8 469B.288. (1) The Director of the State Department of Energy may require an applicant for
9 certification of an energy conservation project to submit plans, specifications and contract terms,
10 and after examination of the plans, specifications and terms may request corrections and revisions.

11 (2) If the director determines that the project is technically feasible and should operate in ac-
12 cordance with the representations made by the applicant, and is in accordance with the provisions
13 of ORS 469B.270 to 469B.306 and any applicable rules or standards adopted by the [director] **Oregon**
14 **Energy Commission**, the director may issue a preliminary certificate approving the installation or
15 construction of the project. The certificate shall indicate the potential amount of tax credit allow-
16 able and shall list any conditions for claiming the credit.

17 (3) In accordance with ORS chapter 183, the director may issue an order altering, conditioning,
18 suspending or denying preliminary certification if the director determines that:

19 (a) The project does not comply with the provisions of ORS 469B.270 to 469B.306 and applicable
20 rules and standards;

21 (b) The applicant has previously received preliminary or final certification for the project;

22 (c) The applicant was directly involved in an act for which the director has levied civil penalties
23 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169 or 469B.270 to
24 469B.306; or

25 (d) The applicant or the principal, director, officer, owner, majority shareholder or member of
26 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in
27 arrears for payments owed to any government agency while in any capacity with direct or indirect
28 control over a business.

29 **SECTION 72.** ORS 469B.291 is amended to read:

30 469B.291. (1) The Director of the State Department of Energy may issue a final certification for
31 an energy conservation project under this section only if:

32 (a) The project was installed or constructed under a preliminary certificate of approval issued
33 under ORS 469B.288, unless preliminary certification is waived under ORS 469B.285 (5);

34 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.285
35 (2) and does not violate any condition that may be imposed as described in subsections (4) and (5)
36 of this section; and

37 (c) The project was installed or constructed in accordance with the applicable provisions of ORS
38 469B.270 to 469B.306 and any applicable rules or standards adopted by the [director] **Oregon Energy**
39 **Commission**.

40 (2) Any person may apply to the State Department of Energy for final certification of a project:

41 (a) If the person received preliminary certification for the project under ORS 469B.288; and

42 (b) After completion of the installation or construction of the project.

43 (3) An application for final certification shall be made in writing on a form prepared by the
44 department and shall contain:

45 (a) A statement that the conditions of the preliminary certification have been complied with;

1 (b) The actual cost of the project attested to by a certified public accountant who is not an
2 employee of the applicant or, if the actual cost of the project is less than \$50,000, copies of receipts
3 for purchase and installation of the project;

4 (c) The amount of the credit under ORS 315.331 that is to be claimed;

5 (d) The number and type of jobs, directly connected to the allowance of the credit, that will be
6 created by the operation and maintenance of the project over the five-year period beginning with
7 the year of preliminary certification under ORS 469B.288;

8 (e) Information sufficient to demonstrate that the project will remain in operation for at least
9 five years, unless the [*director*] **Oregon Energy Commission** by rule specifies another period of
10 operation;

11 (f) Documentation of compliance with applicable state and local laws and regulations and li-
12 censing and permitting requirements as defined by the [*director*] **Oregon Energy Commission**;

13 (g) Information, if applicable, pertaining to prior recommendation of the project by a qualified
14 third party selected by the director; and

15 (h) Any other information determined by the director to be necessary prior to issuance of a final
16 certificate, including inspection of the project by the department.

17 (4) As part of the final certification process, the director may require the applicant to enter into
18 a performance agreement with the department. The performance agreement may include a recertif-
19 ication requirement under ORS 469B.298 and any additional requirements that the director deter-
20 mines are appropriate to promote the purposes of ORS 315.331 and 469B.270 to 469B.306.

21 (5) After the filing of the application under this section, the director may issue the certificate
22 together with any conditions, including conditions imposed by a performance agreement, that the
23 director determines are appropriate to promote the purposes of ORS 315.331 and 469B.270 to
24 469B.306. If the applicant is an entity subject to regulation by the Public Utility Commission, the
25 director may consult with the **Public Utility** Commission prior to issuance of the certificate. The
26 action of the director shall include certification of the actual cost of the project. However, the di-
27 rector may not certify an amount for tax credit purposes that is more than the amount approved in
28 the preliminary certificate issued for the project.

29 (6) Except as otherwise provided in ORS 469B.298, if the director rejects an application for final
30 certification, or certifies a lesser amount of credit than was claimed in the application, the director
31 shall send to the applicant written notice of the action, together with a statement of the findings
32 and reasons for the action, by certified mail, before the 60th day after the filing of the application.
33 Failure of the director to act constitutes rejection of the application.

34 (7) Upon approval of an application for final certification of a project, the director shall certify
35 the project. The final certification shall indicate the amount of projected energy savings attributable
36 to the project and the total project cost.

37 (8) The [*director*] **Oregon Energy Commission** may establish by rule timelines and intermediate
38 deadlines for submission of application materials.

39 **SECTION 73.** ORS 469B.294 is amended to read:

40 469B.294. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**
41 **Energy Commission** may adopt a schedule of reasonable fees that the State Department of Energy
42 may require of applicants for preliminary or final certification or recertification of an energy con-
43 servation project under ORS 469B.270 to 469B.306. Before the adoption or revision of the fees, the
44 department shall estimate the total cost of the program to the department. The fees shall be used
45 to recover the anticipated cost of administering and enforcing the provisions of ORS 469B.270 to

1 469B.306, including filing, investigating, granting and rejecting applications for certification or re-
 2 certification and ensuring compliance with ORS 469B.270 to 469B.306 and shall be designed not to
 3 exceed the total cost estimated by the department. Any excess fees shall be held by the department
 4 and shall be used by the department to reduce any future fee increases. The fee may vary according
 5 to the size and complexity of the project. The fee is not considered part of the cost of the project
 6 to be certified.

7 **SECTION 74.** ORS 469B.303 is amended to read:

8 469B.303. (1) The total amount of potential tax credits for all energy conservation projects in
 9 this state may not, at the time of preliminary certification under ORS 469B.288, exceed:

10 (a) \$28 million for any biennium; or

11 (b) \$7.5 million for the six months beginning July 1, 2017, and ending December 31, 2017.

12 (2) In the event that the Director of the State Department of Energy receives applications for
 13 preliminary certification with a total amount of certified costs for potential tax credits in excess of
 14 the limitations in subsection (1) of this section, the director shall allocate the issuance of prelimi-
 15 nary certifications according to standards and criteria established by rule by the *[director]* **Oregon**
 16 **Energy Commission**.

17 **SECTION 75.** ORS 469B.306 is amended to read:

18 469B.306. The *[State Department of Energy]* **Oregon Energy Commission** shall by rule establish
 19 policies and procedures for the administration and enforcement of the provisions of ORS 315.331 and
 20 469B.270 to 469B.306 and section 36, chapter 730, Oregon Laws 2011, including standards for what
 21 constitutes a single energy conservation project.

22 **SECTION 76.** ORS 469B.323 is amended to read:

23 469B.323. (1) The owner of a transportation project may transfer a tax credit for the project in
 24 exchange for a cash payment equal to the present value of the tax credit.

25 (2) The *[State Department of Energy]* **Oregon Energy Commission** shall establish by rule a
 26 formula to be employed in the determination of prices of credits transferred under this section. In
 27 establishing the formula the *[department]* **commission** shall incorporate inflation projections and
 28 market real rate of return.

29 (3) The *[department]* **State Department of Energy** shall recalculate credit transfer prices
 30 quarterly, employing the formula established under subsection (2) of this section.

31 **SECTION 77.** ORS 469B.326 is amended to read:

32 469B.326. (1) Prior to the acquisition or performance of a transportation project, a person may
 33 apply to the State Department of Energy for preliminary certification for the project under ORS
 34 469B.329 if:

35 (a) The project complies with the standards adopted by the *[Director of the State Department of*
 36 *Energy]* **Oregon Energy Commission**; and

37 (b) The applicant will be the owner, contract purchaser or lessee of the project at the time of
 38 acquisition or performance of the project.

39 (2) An application for preliminary certification shall be made in writing on a form prepared by
 40 the department and shall contain:

41 (a) A statement that the applicant plans to acquire or perform a project that substantially re-
 42 duces the consumption of purchased petroleum energy.

43 (b) A detailed description of the project and its operation and information showing that the
 44 project will operate as represented in the application and remain in operation for at least five years,
 45 unless the *[director]* **commission** by rule specifies another period of operation.

1 (c) Information on the amount by which consumption of purchased petroleum energy by the ap-
 2 plicant will be reduced, and, if applicable, information about the expected level of project perform-
 3 ance.

4 (d) The anticipated total project cost.

5 (e) Information on the number and types of jobs, directly connected to the allowance of the
 6 credit, that will be:

7 (A) Created by the project; and

8 (B) Sustained throughout the acquisition and performance of the project.

9 (f) Information demonstrating that the project will comply with applicable state and local laws
 10 and regulations and obtain required licenses and permits.

11 (g) Any other information the [*director*] **commission** considers necessary to determine whether
 12 the project is in accordance with the provisions of ORS 469B.320 to 469B.347, and any applicable
 13 rules or standards adopted by the [*director*] **commission**.

14 (3) An application for preliminary certification shall be accompanied by a fee established under
 15 ORS 469B.335. The Director **of the State Department of Energy** may refund all or a portion of
 16 the fee if the application for certification is rejected.

17 (4) The director may allow an applicant to file the application for preliminary certification after
 18 the start of acquisition or performance of the project if the director finds that:

19 (a) Filing the application before the start of acquisition or performance is inappropriate because
 20 special circumstances render filing earlier unreasonable; and

21 (b) The project would otherwise qualify for certification under ORS 469B.320 to 469B.347.

22 (5) A preliminary certification shall remain valid for a period of three calendar years after the
 23 date on which the preliminary certification is issued by the director, after which the certification
 24 becomes invalid even if:

25 (a) The applicant is awaiting identification of a pass-through partner; or

26 (b) The preliminary certification has been amended.

27 **SECTION 78.** ORS 469B.329 is amended to read:

28 469B.329. (1) The Director of the State Department of Energy may require an applicant for
 29 certification of a transportation project to submit plans, specifications and contract terms, and after
 30 examination of the plans, specifications and terms may request corrections and revisions.

31 (2) If the director determines that the project is technically feasible and should operate in ac-
 32 cordance with the representations made by the applicant, and is in accordance with the provisions
 33 of ORS 469B.320 to 469B.347 and any applicable rules or standards adopted by the [*director*] **Oregon**
 34 **Energy Commission**, the director may issue a preliminary certificate approving the acquisition or
 35 performance of the project. The certificate shall indicate the potential amount of tax credit allow-
 36 able and shall list any conditions for claiming the credit.

37 (3) In accordance with ORS chapter 183, the director may issue an order altering, conditioning,
 38 suspending or denying preliminary certification if the director determines that:

39 (a) The project does not comply with the provisions of ORS 469B.320 to 469B.347 and applicable
 40 rules and standards;

41 (b) The applicant has previously received preliminary or final certification for the project;

42 (c) The applicant was directly involved in an act for which the director has levied civil penalties
 43 or revoked, canceled or suspended any certification under ORS 469B.130 to 469B.169 or 469B.320 to
 44 469B.347; or

45 (d) The applicant or the principal, director, officer, owner, majority shareholder or member of

1 the applicant, or the manager of the applicant if the applicant is a limited liability company, is in
 2 arrears for payments owed to any government agency while in any capacity with direct or indirect
 3 control over a business.

4 **SECTION 79.** ORS 469B.332 is amended to read:

5 469B.332. (1) A final certification for a transportation project may not be issued by the Director
 6 of the State Department of Energy under this section unless:

7 (a) The project was acquired or performed under a preliminary certificate of approval issued
 8 under ORS 469B.329;

9 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.326
 10 (2) and does not violate any condition that may be imposed as described in subsection (4) of this
 11 section; and

12 (c) The project was acquired or performed in accordance with the applicable provisions of ORS
 13 469B.320 to 469B.347 and any applicable rules or standards adopted by the [*director*] **Oregon Energy**
 14 **Commission.**

15 (2) A person may apply to the State Department of Energy for final certification of a project:

16 (a) If the person received preliminary certification for the project under ORS 469B.329; and

17 (b) After completion of the acquisition or performance of the project.

18 (3) An application for final certification shall be made in writing on a form prepared by the
 19 department and shall contain:

20 (a) A statement that the conditions of the preliminary certification have been complied with;

21 (b)(A) The actual cost of the project attested to by a certified public accountant who is not an
 22 employee of the applicant or the applicant's completed audit in compliance with federal Office of
 23 Management and Budget Circular A-133; or

24 (B) If the actual cost of the project is less than \$50,000, copies of receipts for acquisition and
 25 performance of the project;

26 (c) The amount of the credit under ORS 315.336 that is to be claimed;

27 (d) The number and types of jobs, directly connected to the allowance of the credit, created by
 28 the acquisition and performance of the project over the five-year period beginning on the date of
 29 issuance of the preliminary certification under ORS 469B.329;

30 (e) Information sufficient to demonstrate that the project will remain in operation for at least
 31 five years, unless the [*director*] **Oregon Energy Commission** by rule specifies another period of
 32 operation;

33 (f) Documentation of compliance with applicable state and local laws and regulations and li-
 34 censing and permitting requirements as defined by the [*director*] **Oregon Energy Commission**; and

35 (g) Any other information determined by the director to be necessary prior to issuance of a final
 36 certificate, including inspection of the project by the department.

37 (4) After the filing of the application under this section, the director may issue the certificate
 38 together with any conditions that the director determines are appropriate to promote the purposes
 39 of ORS 315.336 and 469B.320 to 469B.347. If the applicant is an entity subject to regulation by the
 40 Public Utility Commission, the director may consult with the **Public Utility Commission** prior to
 41 issuance of the certificate. The action of the director shall include certification of the actual cost
 42 of the project. However, the director may not certify an amount for tax credit purposes that is more
 43 than the amount of credit approved in the preliminary certificate issued for the project.

44 (5) If the director rejects an application for final certification, or certifies a lesser amount of
 45 credit than was claimed in the application, the director shall send to the applicant written notice

1 of the action, together with a statement of the findings and reasons for the action, by certified mail,
 2 before the 60th day after the filing of the application. Failure of the director to act constitutes re-
 3 jection of the application.

4 (6) Upon approval of an application for final certification of a project, the director shall certify
 5 the project. The final certification shall indicate the amount of projected energy savings attributable
 6 to the project and the certified cost of the project.

7 (7) The [*director*] **Oregon Energy Commission** may establish by rule timelines and intermediate
 8 deadlines for submission of application materials.

9 **SECTION 80.** ORS 469B.335 is amended to read:

10 469B.335. By rule and after hearing, the [*Director of the State Department of Energy*] **Oregon**
 11 **Energy Commission** may adopt a schedule of reasonable fees that the State Department of Energy
 12 may require of applicants for preliminary or final certification of a transportation project under ORS
 13 469B.320 to 469B.347. Before the adoption or revision of the fees, the department shall estimate the
 14 total cost of the program to the department. The fees shall be used to recover the anticipated cost
 15 of administering and enforcing the provisions of ORS 469B.320 to 469B.347, including filing, investi-
 16 gating, granting and rejecting applications for certification and ensuring compliance with ORS
 17 469B.320 to 469B.347 and shall be designed not to exceed the total cost estimated by the department.
 18 Any excess fees shall be held by the department and shall be used by the department to reduce any
 19 future fee increases. The fee may vary according to the size and complexity of the project. The fee
 20 is not considered part of the cost of the project to be certified.

21 **SECTION 81.** ORS 469B.347 is amended to read:

22 469B.347. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule establish
 23 policies and procedures for the administration and enforcement of the provisions of ORS 315.336 and
 24 469B.320 to 469B.347, including standards for what constitutes a single transportation project.

25 **SECTION 82.** ORS 469B.400 is amended to read:

26 469B.400. The [*State Department of Energy*] **Oregon Energy Commission** shall by rule identify
 27 categories of fuel blend and solid biofuel that qualify for the personal income tax credit allowed
 28 under ORS 315.465.

29 **SECTION 83.** ORS 470.050 is amended to read:

30 470.050. As used in this chapter, unless the context requires otherwise:

31 (1) "Alternative fuel project" means:

32 (a) Equipment, including vehicles that are not used primarily for personal, family or household
 33 purposes, that is modified or acquired directly from a factory and that:

34 (A) Uses an alternative fuel including electricity, biofuel, gasohol with at least 20 percent de-
 35 natured alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other
 36 fuel approved by the Director of the State Department of Energy; and

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

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

41 (2) "Applicant" means an applicant for a loan to construct a small scale local energy project.

42 (3) "Base efficiency package" means the package of energy efficiency upgrades or renewable
 43 energy projects for a property that, when energy savings, project repayment costs, tax or other in-
 44 centives, loan offset grants and other relevant economic factors are considered, is estimated to not
 45 increase the utility bill of the customer over the loan repayment term.

1 (4) "Committee" means the Small Scale Local Energy Project Advisory Committee created under
2 ORS 470.070.

3 (5) "Cooperative" means a cooperative corporation organized under ORS chapter 62.

4 (6) "Director" means the Director of the State Department of Energy appointed under ORS
5 469.040.

6 (7) "Eligible federal agency" means a federal agency or public corporation created by the federal
7 government that proposes to use a loan for a small scale local energy project. "Eligible federal
8 agency" does not include a federal agency or public corporation created by the federal government
9 that proposes to use a loan for a small scale local energy project to generate electricity for sale.

10 (8) "Eligible state agency" means a state officer, board, commission, department, institution,
11 branch or agency of the state whose costs are paid wholly or in part from funds held in the State
12 Treasury.

13 (9) "Energy efficiency and sustainable technology loan" means a loan for a small scale local
14 energy project that is repayable by means of:

15 (a) A charge included with the participant's utility customer account billing; or

16 (b) An alternative repayment method identified by the department and the borrower and speci-
17 fied in the loan agreement.

18 (10) "Energy Project Bond Loan Fund" means the fund established under ORS 470.580.

19 (11) "Energy Project Supplemental Fund" means the fund established under ORS 470.570.

20 (12) "Energy Revenue Bond Repayment Fund" means the fund established under ORS 470.585.

21 (13) "Energy savings projection" means an examination of the energy performance and site
22 characteristics of a property that, at a minimum, identifies:

23 (a) A base efficiency package; and

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

26 (14) "Jobs, Energy and Schools Fund" means the fund established under ORS 470.575.

27 (15) "Loan" includes the purchase or other acquisition of evidence of indebtedness and money
28 used for the purchase or other acquisition of evidence of indebtedness.

29 (16) "Loan contract" means the evidence of indebtedness and all instruments used in the pur-
30 chase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or mu-
31 nicipal corporations that are tax exempt entities, a loan contract may include a lease purchase
32 agreement with respect to personal property.

33 (17) "Loan offset grant" means moneys from the Jobs, Energy and Schools Fund that are used
34 to help offset the initial project costs or loan payments for energy efficiency, renewable energy and
35 energy conservation projects.

36 (18) "Loan repayment charge" means an amount charged to a utility customer account through
37 on-bill financing as a mechanism for the repayment of an energy efficiency and sustainable tech-
38 nology loan.

39 (19) "Municipal corporation" has the meaning given in ORS 297.405 and also includes any Indian
40 tribe or authorized Indian tribal organization or any combination of two or more of these tribes or
41 organizations acting jointly in connection with a small scale local energy project.

42 (20) "On-bill financing" means a mechanism for collecting the repayment of an energy efficiency
43 and sustainable technology loan through a utility customer account billing system.

44 (21) "Optional package" means measures for promoting energy efficiency or the use of renewable
45 energy:

- 1 (a) That are in addition to the measures described in the customer's base efficiency package;
- 2 (b) For which a customer has the ability to repay; and
- 3 (c) That the sustainable energy project manager believes to be feasible for the site.

4 (22) "Oregon business" means a sole proprietorship, partnership, company, cooperative, corpo-
 5 ration or other form of business entity that is organized or authorized to do business under Oregon
 6 law for profit.

7 (23) "Primary contractor" means a contractor that:

- 8 (a) Has entered into a contract with an owner of property for which a proposed small scale local
 9 energy project will be located;
- 10 (b) Is responsible for the completion of the small scale local energy project;
- 11 (c) Undertakes to complete the small scale local energy project; and
- 12 (d) Is responsible for any subcontractors performing work on the small scale local energy
 13 project.

14 (24) "Public Purpose Fund Administrator" means the entity designated by the Public Utility
 15 Commission to administer moneys collected by a company through the public purpose charge de-
 16 scribed under ORS 757.612.

17 (25) "Recycling project" means a facility or equipment that converts waste into a new and usa-
 18 ble product.

19 (26) "Small business" means:

20 (a) An Oregon business that is:

- 21 (A) A retail or service business employing 50 or fewer persons at the time the loan is made; or
- 22 (B) An industrial or manufacturing business employing 200 or fewer persons at the time the loan
 23 is made; or

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

- 28 (A) Fifty or fewer persons if the subsidiary is a retail or service business; and
- 29 (B) Two hundred or fewer if the subsidiary is an industrial or manufacturing business.

30 (27) "Small scale local energy program loan" means a loan for a small scale local energy project
 31 other than an energy efficiency and sustainable technology loan.

32 (28) "Small scale local energy project" means any of the following:

- 33 (a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or
 34 indirectly uses or enables the use of, by the applicant or another person, renewable resources in-
 35 cluding, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to
 36 produce energy, including heat, electricity and substitute fuels, to meet a local community or re-
 37 gional energy need in this state.
- 38 (b) A system, mechanism or series of mechanisms located primarily in Oregon or providing
 39 substantial benefits to Oregon that directly or indirectly conserves energy or enables the conserva-
 40 tion of energy by the applicant or another person, including energy used in transportation.

41 (c) A recycling project.

42 (d) An alternative fuel project.

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

1 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility
 2 that directly or indirectly reduces the amount of energy needed for the construction and operation
 3 of the facility and that meets the sustainable building practices standard established by the [*State*
 4 *Department of Energy*] **Oregon Energy Commission** by rule. For purposes of this paragraph, “sys-
 5 tem, mechanism or series of mechanisms” includes related and integrated upgrades to attain com-
 6 pliance with standards set in the State of Oregon Structural Specialty Code and Fire and Life Safety
 7 Code, and seismic safety upgrades.

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

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

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

15 (30) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Article XI-J
 16 of the Oregon Constitution and appropriated to the State Department of Energy under ORS 470.130.

17 (31) “Sustainable energy project manager” means the organization responsible for promoting the
 18 energy efficiency and sustainable technology loan program or the clean energy deployment program
 19 and related incentives for energy efficiency and renewable energy at the neighborhood and commu-
 20 nity level.

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

24 **SECTION 84.** ORS 470.080 is amended to read:

25 470.080. (1) After consultation with the Small Scale Local Energy Project Advisory Committee,
 26 the [*Director of the State Department of Energy*] **Oregon Energy Commission** shall establish by rule
 27 standards and criteria for small scale local energy projects to be funded under this chapter other
 28 than projects funded through energy efficiency and sustainable technology loans. The standards and
 29 criteria shall operate to encourage diversity in projects funded, give preference to the maximum
 30 extent practical to projects proposed by individuals and small businesses, ensure acceptability of
 31 environmental impacts and shall require consideration of the potential contribution of a project if
 32 developed at other suitable locations to meeting the energy needs of this state. The standards and
 33 criteria shall give the least preference to projects proposed by an eligible federal agency.

34 (2) All applications submitted under ORS 470.060 shall be reviewed by the State Department of
 35 Energy. The department may request that the applicant submit additional information or revise the
 36 application. The department shall:

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

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

41 (3) After concluding its review, unless the application meets the criteria established by the
 42 committee under subsection (4) of this section, the department shall refer the application and its
 43 findings and recommendation to the committee for its review. The department shall notify the ap-
 44 plicant of the date, time and place of any oral presentation to the committee on the application. The
 45 committee shall review the application and the department’s findings and recommendations and ad-

1 vise the Director **of the State Department of Energy** whether the proposed small scale local en-
 2 ergy project meets the criteria established by the [*director*] **commission** under subsection (1) of this
 3 section, whether the project should be financed with moneys from the Small Scale Local Energy
 4 Project Loan Fund and in what amount the loan should be made if approved.

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

7 **SECTION 85.** ORS 470.140 is amended to read:

8 470.140. (1) In accordance with the applicable provisions of ORS chapter 183, the [*Director of the*
 9 *State Department of Energy*] **Oregon Energy Commission** may adopt rules considered necessary to
 10 carry out the purposes of this chapter.

11 (2) The Director **of the State Department of Energy** shall submit to the Legislative Assembly
 12 and the Governor a biennial report of the transactions of the Small Scale Local Energy Project Loan
 13 Fund and the Small Scale Local Energy Project Administration and Bond Sinking Fund in such de-
 14 tail as will accurately indicate the condition of the funds.

15 **SECTION 86.** ORS 470.150 is amended to read:

16 470.150. Except as provided in ORS 470.155 and 470.170, if the Director of the State Department
 17 of Energy approves the financing of a small scale local energy project, the director, on behalf of the
 18 state, and the applicant may enter into a loan contract, secured by a first lien or by other good and
 19 sufficient collateral in the manner provided in ORS 470.155 to 470.210. For purposes of this section,
 20 the interest of the State Department of Energy under a lease purchase contract entered into with
 21 an eligible federal or state agency or a municipal corporation may constitute good and sufficient
 22 collateral. The contract:

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

27 (2) Shall provide a plan for repayment by the applicant of moneys borrowed from the loan fund
 28 used for the development of the small scale local energy project and interest on those moneys used
 29 at a rate of interest the director determines is necessary to provide adequate funds to recover the
 30 administrative expenses incurred in connection with the loan. The director shall set the interest rate
 31 at an incremental rate above the interest rate on the underlying bonds in an amount sufficient to
 32 recover all program-related costs including, but not limited to, implementation, financing, adminis-
 33 tration and promotional costs for the program. The incremental rate for projects proposed by an
 34 eligible federal agency shall be greater than the incremental rate charged to any other govern-
 35 mental borrower. The repayment plan, among other matters:

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

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

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

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

5 (e) May set forth a procedure for formal declaration of default of payment by the director, in-
6 cluding formal notification of all relevant federal, state and local agencies; and further, a procedure
7 for notification of all relevant federal, state and local agencies that declaration of default has been
8 rescinded when appropriate.

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

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

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

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

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

21 (a) For an energy efficiency and sustainable technology loan that relies on an on-bill financing
22 system for the collection of a loan repayment charge, an agreement by the applicant to notify a
23 person acquiring ownership of, or an interest in, the property from the applicant that the loan re-
24 payment charge will be transferred to the utility customer account of the person acquiring the
25 ownership or interest unless the loan is discharged before or at the time the ownership or interest
26 transfers;

27 (b) A plainly worded acknowledgment by the applicant that failure to make payments as re-
28 quired under the loan agreement may result in the foreclosure of a property lien or other debt col-
29 lection actions;

30 (c) A waiver stating that the applicant waives any jurisdictional or other irregularities or de-
31 fects in:

32 (A) The energy efficiency and sustainable technology loan program;

33 (B) A small scale local energy project;

34 (C) The small scale local energy program loan provisions;

35 (D) This chapter; or

36 (E) [Department] **Oregon Energy Commission** rules that relate in any way to the loan repay-
37 ment charge, real property lien provisions or any form or combination of loan security or to the
38 requirement to satisfy the loan obligation;

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

42 (e) A description of any other conditions required by the department.

43 **SECTION 87.** ORS 470.535 is amended to read:

44 470.535. (1) The Director of the State Department of Energy shall initiate the certification pro-
45 cess for a sustainable energy project manager by publishing a request for proposals.

1 (2) An applicant for certification as a sustainable energy project manager shall submit informa-
2 tion to the director that includes:

3 (a) Background information about the applicant including, but not limited to, the qualifications,
4 relevant experience, financial status and staff of the applicant;

5 (b) A proposed plan for implementing and administering the goals and requirements of the en-
6 ergy efficiency and sustainable technology loan program in the utility service territory; and

7 (c) Any additional information required by the [*director*] **Oregon Energy Commission** by rule.

8 (3) After reviewing all applications received, the director may select a sustainable energy
9 project manager. In selecting the sustainable energy project manager, the director shall consider the
10 following factors:

11 (a) The organizational experience of the applicant and the capacity of the applicant to success-
12 fully implement the energy efficiency and sustainable technology loan program goals and require-
13 ments.

14 (b) The strength of the applicant's proposed plan for implementing the goals and requirements
15 of the energy efficiency and sustainable technology loan program.

16 (c) The cost at which the applicant can conduct outreach, promotion, loan applicant support and
17 project verification services necessary to implement the energy efficiency and sustainable technol-
18 ogy loan program.

19 (d) Any other factors the [*director*] **commission** adopts by rule or directive.

20 (4) An applicant may not be certified as a sustainable energy project manager if the applicant
21 has a fiduciary or other obligation that creates an actual or apparent conflict of interest that may
22 interfere with achieving the goals of the energy efficiency and sustainable technology loan program.

23 **SECTION 88.** ORS 470.540 is amended to read:

24 470.540. (1) Upon selecting a proposed sustainable energy project manager, the Director of the
25 State Department of Energy shall notify all unsuccessful applicants for the position that another
26 candidate is proposed for appointment. The director shall negotiate with the proposed sustainable
27 energy project manager regarding any modifications to the service cost estimates or other features
28 of the applicant's proposed plan that are necessary to ensure that the applicant will meet the goals
29 and requirements of the energy efficiency and sustainable technology loan program and [*State De-*
30 *partment of Energy*] **Oregon Energy Commission** rules.

31 (2) To the extent practicable, the director shall certify a sustainable energy project manager not
32 later than four months after publication of the request for proposals and not later than two months
33 after the selection of the proposed sustainable energy project manager. However, the director may
34 at any time select a different applicant as the proposed sustainable energy project manager or may
35 reinstate the certification process.

36 (3) Upon deciding to certify the proposed sustainable energy project manager, the director shall
37 give notice of the decision to all unsuccessful candidates, the public and the Small Scale Local En-
38 ergy Project Advisory Committee. The director may approve the final certification of the sustainable
39 energy project manager if:

40 (a) A request to appeal under ORS 470.545 is not filed within 15 days after the date the notice
41 is sent; and

42 (b) The committee does not undertake a review of the proposed certification within 15 days after
43 the date the notice is sent.

44 **SECTION 89.** ORS 470.560 is amended to read:

45 470.560. (1) The [*State Department of Energy*] **Oregon Energy Commission** shall adopt rules

1 establishing certification standards for primary contractors participating in the construction of small
 2 scale local energy projects financed through the energy efficiency and sustainable technology loan
 3 program. The [*department*] **commission** shall design the standards to ensure that the project work
 4 performed by a primary contractor holding the certification and all the primary contractor's sub-
 5 contractors is of high quality and will result in a high degree of customer satisfaction.

6 (2) The certification standards established by the [*department*] **commission** must, at a minimum,
 7 require that the primary contractor:

8 (a) Prove that the primary contractor and the primary contractor's subcontractors have suffi-
 9 cient skill to successfully install energy efficiency, renewable energy or weatherization projects.

10 (b) Not be a contractor listed by the Commissioner of the Bureau of Labor and Industries under
 11 ORS 279C.860 as ineligible to receive a contract or subcontract for public works.

12 (c) Be an equal opportunity employer or small business or be a disadvantaged business enter-
 13 prise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran
 14 owns or an emerging small business, as those terms are defined in ORS 200.005.

15 (d) Demonstrate a history of compliance with the rules and other requirements of the Con-
 16 struction Contractors Board and of the Workers' Compensation Division and the Occupational
 17 Safety and Health Division of the Department of Consumer and Business Services.

18 (e) Employ at least 80 percent of employees used for energy efficiency and sustainable technol-
 19 ogy loan program projects from the local work force, if a sufficient supply of skilled workers is
 20 available locally.

21 (f) Demonstrate a history of compliance with federal and state wage and hour laws.

22 (g) Pay wages to employees used for energy efficiency and sustainable technology loan program
 23 projects at a rate equal to at least 180 percent of the state minimum wage.

24 (3) The [*State Department of Energy*] **commission** shall consult with the Public Purpose Fund
 25 Administrator and utilities when developing certification standards for primary contractors.

26 (4) The Construction Contractors Board may issue a qualifying primary contractor a certifica-
 27 tion authorizing the primary contractor to participate in the construction of small scale local energy
 28 projects financed through the energy efficiency and sustainable technology loan program. A primary
 29 contractor seeking certification shall apply to the board as provided under ORS 701.119.

30 (5) The [*State Department of Energy*] **commission** shall identify certified primary contractors
 31 that provide employees with health insurance benefits as preferred service providers and may take
 32 other actions as practicable to encourage certified primary contractors to provide employees with
 33 health insurance benefits.

34 **SECTION 90.** ORS 470.600 is amended to read:

35 470.600. To achieve the energy efficiency and sustainable technology loan program goals de-
 36 scribed in ORS 470.500, the Director of the State Department of Energy may enter into agreements
 37 to disburse supplemental capital funds through the Small Scale Local Energy Project Loan Fund and
 38 the Energy Project Supplemental Fund if:

39 (1) The director estimates that interest rates and total costs to program applicants that would
 40 result from the use of the supplemental capital funds are lower than would result from the use of
 41 bond proceeds; and

42 (2) The supplemental capital funds are made subject to any requirements adopted by the
 43 [*director*] **Oregon Energy Commission** by rule to ensure adequate protection of project moneys.

44 **SECTION 91.** ORS 470.655 is amended to read:

45 470.655. (1) Except as provided in ORS 470.650, an applicant for an energy efficiency and

1 sustainable technology loan approved by the State Department of Energy shall pay the department
 2 a project initiation fee. Upon request of the loan applicant, the department may add all or part of
 3 a project initiation fee to the principal of an issued loan. The *[department]* **Oregon Energy Com-**
 4 **mission** may establish the fee amount by rule, not to exceed four percent of the approved loan
 5 amount. If the *[department]* **commission** does not establish the fee amount, the fee shall be two
 6 percent of the approved loan amount.

7 (2) The *[Director of the State Department of Energy]* **commission** may by rule establish a base
 8 efficiency package fee for energy efficiency and sustainable technology loans if the loans are not
 9 financed by moneys from the Jobs, Energy and Schools Fund. The fee may not exceed 10 percent
 10 of the estimated economic benefit for the base efficiency package. Any fees collected by the de-
 11 partment under this subsection shall be deposited in the fund.

12 **SECTION 92.** ORS 470.665 is amended to read:

13 470.665. (1) If a consumer-owned utility has established an on-bill financing system, an energy
 14 efficiency and sustainable technology loan shall be repaid by on-bill financing unless the loan
 15 agreement specifies that the State Department of Energy and the borrower have agreed to an al-
 16 ternative method for ensuring repayment of the loan.

17 (2) Unless the Director of the State Department of Energy grants a consumer-owned utility a
 18 waiver under subsection (4) of this section, the on-bill financing system of the utility must:

19 (a) Enable a customer to make a single payment to satisfy the periodic utility charges and re-
 20 payment on an energy efficiency and sustainable technology loan;

21 (b) Provide a clearly identifiable line item or separate statement in the utility bill that shows
 22 the energy efficiency and sustainable technology loan repayment amount; and

23 (c) Direct energy efficiency and sustainable technology loan repayment amounts collected by the
 24 utility to the appropriate sustainable energy project manager or to the department for deposit to the
 25 credit of the Small Scale Local Energy Project Administration and Bond Sinking Fund, Energy
 26 Project Bond Loan Fund or Energy Project Supplemental Fund.

27 (3) The *[director]* **Oregon Energy Commission** may not adopt any rule that imposes responsi-
 28 bility for the repayment of an energy efficiency and sustainable technology loan on the utility.

29 (4) The director may waive the requirement that a consumer-owned utility provide on-bill fi-
 30 nancing for one or more loans if the director determines, after consultation with the Bonneville
 31 Power Administration, that providing the on-bill financing is not practicable. If the director grants
 32 a waiver under this subsection, the utility shall bill the affected customers for loan repayment sep-
 33 arately from any utility customer account or customer meter billings.

34 **SECTION 93.** ORS 470.710 is amended to read:

35 470.710. (1) The *[State Department of Energy]* **Oregon Energy Commission** shall collaborate
 36 with the State Workforce and Talent Development Board and other interested parties to identify
 37 opportunities for apprenticeship and for job training and development that would further the goals
 38 of ORS 470.500 to 470.710 and provide valuable skills to Oregon workers.

39 (2) In adopting any rules for carrying out apprenticeship and job training and development under
 40 the energy efficiency and sustainable technology loan program, the *[department]* **commission** and
 41 the board shall consult with representatives from:

42 (a) State workforce programs;

43 (b) Organized labor;

44 (c) The State Apprenticeship and Training Council;

45 (d) The Bureau of Labor and Industries; and

1 (e) Consumer advocacy organizations.

2 (3) In addition to consulting with entities described in subsection (2) of this section, in adopting
3 any rules for carrying out apprenticeship and job training and development under the energy effi-
4 ciency and sustainable technology loan program, the [*department*] **commission** and the board may
5 seek input from organizations representing construction contractors.

6 **SECTION 94.** ORS 470.720 is amended to read:

7 470.720. All investor-owned utilities and consumer-owned utilities that have customers enrolled
8 in energy efficiency and sustainable technology loan programs shall, at the request of the Director
9 of the State Department of Energy, provide the director with the following information in aggre-
10 gated form regarding the loans:

11 (1) Repayment performance;

12 (2) Default rates;

13 (3) Energy savings data; and

14 (4) Any other information specified by rule adopted by the [*director*] **Oregon Energy Commis-**
15 **sion** pursuant to ORS 470.140.

16 **SECTION 95.** ORS 470.810 is amended to read:

17 470.810. (1) The State Department of Energy shall establish the clean energy deployment pro-
18 gram to provide grants and loans to support energy efficiency or clean energy projects in this state.
19 The [*department*] **Oregon Energy Commission** shall establish criteria for qualifications of the
20 projects by rule.

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

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

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

31 (3) The department may contract for the implementation of the clean energy deployment pro-
32 gram in all or parts of this state with a sustainable energy project manager as defined in ORS
33 470.050.

34 **SECTION 96.** ORS 701.532 is amended to read:

35 701.532. (1) The Construction Contractors Board shall certify an individual as a home energy
36 assessor if the individual meets the requirements of this section and of any rule adopted by the
37 board under this section. A home energy assessor certificate must be renewed annually.

38 (2) The board shall require that an applicant for a home energy assessor certificate present
39 proof of passing a training program designated by the [*State Department of Energy*] **Oregon Energy**
40 **Commission** under ORS 469.703.

41 (3) The board may adopt rules to regulate the practice of assigning home energy performance
42 scores, including:

43 (a) Prescribing the form and manner of applying for a home energy assessor certificate;

44 (b) Establishing procedures for the issuance, renewal or revocation of a home energy assessor
45 certificate; and

1 (c) Establishing fees necessary for the administration of ORS 701.527 to 701.536 that do not ex-
2 ceed the following amounts:

3 (A) \$100 for application for a home energy assessor certificate;

4 (B) \$100 for issuance of an initial one-year home energy assessor certificate; and

5 (C) \$100 for renewal of a one-year home energy assessor certificate.

6 **SECTION 97.** ORS 757.528 is amended to read:

7 757.528. (1) Unless modified by rule by the [*State Department of Energy*] **Oregon Energy Com-**
8 **mission** as provided in this section, the greenhouse gas emissions standard that applies to
9 consumer-owned utilities is 1,100 pounds of greenhouse gases per megawatt-hour for a generating
10 facility.

11 (2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions
12 standard includes only carbon dioxide emissions.

13 (3) For purposes of applying the emissions standard to cogeneration facilities, the [*department*]
14 **Oregon Energy Commission** shall establish an output-based methodology to ensure that the cal-
15 culation of emissions of greenhouse gases for cogeneration facilities recognizes the total usable en-
16 ergy output of the process and includes all greenhouse gases emitted by the facility in the
17 production of both electrical and thermal energy.

18 (4) The [*department*] **Oregon Energy Commission** shall review the greenhouse gas emissions
19 standard established under this section no more than once every three years. After public notice
20 and hearing, and consultation with the Public Utility Commission, the [*department*] **Oregon Energy**
21 **Commission** may:

22 (a) Modify the emissions standard to include other greenhouse gases as defined in ORS 468A.210,
23 with the other greenhouse gases expressed as their carbon dioxide equivalent; and

24 (b) Modify the emissions standard based upon current information on the rate of greenhouse gas
25 emissions from a commercially available combined-cycle natural gas generating facility that:

26 (A) Employs a combination of one or more gas turbines and one or more steam turbines and
27 produces electricity in the steam turbines from waste heat produced by the gas turbines;

28 (B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordi-
29 nating Council; and

30 (C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.

31 (5) In modifying the greenhouse gas emissions standard, the [*department*] **Oregon Energy**
32 **Commission** shall:

33 (a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions
34 through cogeneration recognizes the total usable energy output of the process and includes all
35 greenhouse gases emitted by the generating facility in the production of both electrical and thermal
36 energy; and

37 (b) Consider the effects of the emissions standard on system reliability and overall costs to
38 electricity consumers.

39 (6) If upon a review conducted pursuant to subsection (4) of this section, the [*department*]
40 **Oregon Energy Commission** determines that a mandatory greenhouse gas emissions limit has been
41 established pursuant to state or federal law, the [*department*] **Oregon Energy Commission** shall
42 issue a report to the appropriate legislative committees of the Legislative Assembly stating which
43 portions, if any, of the greenhouse gas emissions standard are no longer necessary as a matter of
44 state law.

45 **SECTION 98.** ORS 757.533 is amended to read:

1 757.533. (1)(a) A governing board of a consumer-owned utility may not enter into a long-term
 2 financial commitment unless the baseload electricity acquired under the commitment is produced by
 3 a generating facility that complies with a greenhouse gas emissions standard established under ORS
 4 757.528.

5 (b) A generating facility complies with the greenhouse gas emissions standard established under
 6 ORS 757.528 if the rate of emissions of the facility does not exceed the emissions standard.

7 (c) In determining whether a generating facility complies with the emissions standard, the total
 8 emissions associated with producing baseload electricity at the generating facility shall be included
 9 in determining the rate of emissions of greenhouse gases. The total emissions associated with
 10 producing electricity at the generating facility do not include emissions associated with transporta-
 11 tion, fuel extraction or other life-cycle emissions associated with obtaining the fuel for the facility.

12 (2) Notwithstanding subsection (1) of this section, the emissions standard does not apply to
 13 greenhouse gas emissions produced by a generating facility owned by a consumer-owned utility or
 14 contracted through a long-term financial commitment if the emissions:

15 (a) Come from a facility powered exclusively by renewable energy sources described in ORS
 16 469A.025;

17 (b) Come from a cogeneration facility in this state that is fueled by natural gas, synthetic gas,
 18 distillate fuels, waste gas or a combination of these fuels, and that is producing energy, in service
 19 for tax purposes, commercially operable, or in rates as of July 1, 2010, until the facility is subject
 20 to a new long-term financial commitment; or

21 (c) Come from a generating facility that has in place a plan to be a low-carbon emission re-
 22 source, as determined by the State Department of Energy, pursuant to sufficient technical docu-
 23 mentation, within seven years of commencing plant operations.

24 (3) The governing board may provide an exemption for an individual generating facility from the
 25 emissions performance standard to address:

26 (a) Unanticipated electricity system reliability needs;

27 (b) Catastrophic events or threat of significant financial harm that may arise from unforeseen
 28 circumstances; or

29 (c) Long-term financial commitments between members of a joint operating entity recognized
 30 under federal law or the joint operating entity's predecessor organization, or with the joint operat-
 31 ing entity for a baseload resource that the consumer-owned utility had an ownership interest in
 32 prior to July 1, 2010.

33 (4) A governing board shall report to the consumer-owned utility's customers or members and
 34 to the State Department of Energy information on any case-by-case exemption from the emissions
 35 performance standard granted by the governing board.

36 (5) For purposes of ORS 757.522 to 757.536, a long-term financial commitment for a consumer-
 37 owned utility does not include agreements to purchase electricity from the Bonneville Power Ad-
 38 ministration.

39 (6) The [department] **Oregon Energy Commission** by rule shall establish:

40 (a) Standards for identifying contracts for electricity for which the emissions cannot readily be
 41 determined with any specificity; and

42 (b) Emissions to be attributed to such contracts for purposes of determining compliance with the
 43 emissions standard established under ORS 757.528.

44 **SECTION 99.** ORS 757.538 is amended to read:

45 757.538. The Public Utility Commission and the [State Department of Energy] **Oregon Energy**

1 **Commission** shall adopt rules as necessary to implement ORS 757.522 to 757.536.

2 **SECTION 100.** ORS 757.600 is amended to read:

3 757.600. As used in ORS 757.600 to 757.689, unless the context requires otherwise:

4 (1) "Aggregate" means combining retail electricity consumers into a buying group for the pur-
5 chase of electricity and related services.

6 (2) "Ancillary services" means services necessary or incidental to the transmission and delivery
7 of electricity from generating facilities to retail electricity consumers, including but not limited to
8 scheduling, load shaping, reactive power, voltage control and energy balancing services.

9 (3) "Commission" means the Public Utility Commission.

10 (4) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an
11 electric cooperative.

12 (5) "Default supplier" means an electricity service supplier or electric company that has a legal
13 obligation to provide electricity services to a consumer, as determined by the commission.

14 (6) "Direct access" means the ability of a retail electricity consumer to purchase electricity and
15 certain ancillary services, as determined by the commission for an electric company or the govern-
16 ing body of a consumer-owned utility, directly from an entity other than the distribution utility.

17 (7) "Direct service industrial consumer" means an end user of electricity that obtains electricity
18 directly from the transmission grid and not through a distribution utility.

19 (8) "Distribution" means the delivery of electricity to retail electricity consumers through a
20 distribution system consisting of local area power poles, transformers, conductors, meters, sub-
21 stations and other equipment.

22 (9) "Distribution utility" means an electric utility that owns and operates a distribution system
23 connecting the transmission grid to the retail electricity consumer.

24 (10) "Economic utility investment" means all electric company investments, including plants and
25 equipment and contractual or other legal obligations, properly dedicated to generation or conser-
26 vation, that were prudent at the time the obligations were assumed but the full benefits of which
27 are no longer available to consumers as a direct result of ORS 757.600 to 757.667, absent transition
28 credits. "Economic utility investment" does not include costs or expenses disallowed by the com-
29 mission in a prudence review or other proceeding, to the extent of such disallowance, and does not
30 include fines or penalties authorized and imposed under state or federal law.

31 (11) "Electric company" means an entity engaged in the business of distributing electricity to
32 retail electricity consumers in this state, but does not include a consumer-owned utility.

33 (12) "Electric cooperative" means an electric cooperative corporation organized under ORS
34 chapter 62 or under the laws of another state if the service territory of the electric cooperative
35 includes a portion of this state.

36 (13) "Electric utility" means an electric company or consumer-owned utility that is engaged in
37 the business of distributing electricity to retail electricity consumers in this state.

38 (14) "Electricity" means electric energy, measured in kilowatt-hours, or electric capacity,
39 measured in kilowatts, or both.

40 (15) "Electricity services" means electricity distribution, transmission, generation or
41 generation-related services.

42 (16) "Electricity service supplier" means a person or entity that offers to sell electricity services
43 available pursuant to direct access to more than one retail electricity consumer. "Electricity ser-
44 vice supplier" does not include an electric utility selling electricity to retail electricity consumers
45 in its own service territory.

1 (17) "Governing body" means the board of directors or the commissioners of an electric coop-
2 erative or people's utility district, or the council or board of a city with respect to a municipal
3 electric utility.

4 (18) "Load" means the amount of electricity delivered to or required by a retail electricity
5 consumer at a specific point of delivery.

6 (19) "Low-income weatherization" means repairs, weatherization and installation of energy effi-
7 cient appliances and fixtures for low-income residences for the purpose of enhancing energy effi-
8 ciency.

9 (20) "Municipal electric utility" means an electric distribution utility owned and operated by or
10 on behalf of a city.

11 (21) "New renewable energy resource" means a renewable energy resource project, or a new
12 addition to an existing renewable energy resource project, or the electricity produced by the project,
13 that is not in operation on July 23, 1999. "New renewable energy resource" does not include any
14 portion of a renewable energy resource project under contract to the Bonneville Power Adminis-
15 tration on or before July 23, 1999.

16 (22) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.

17 (23) "People's utility district" has the meaning given that term in ORS 261.010.

18 (24) "Portfolio access" means the ability of a retail electricity consumer to choose from a set
19 of product and pricing options for electricity determined by the governing board of a consumer-
20 owned utility and may include product and pricing options offered by the utility or by an electricity
21 service supplier.

22 (25) "Power generation company" means a company engaged in the production and sale of
23 electricity to wholesale customers, including but not limited to independent power producers, affil-
24 iated generation companies, municipal and state authorities, provided the company is not regulated
25 by the commission.

26 (26) "Qualifying expenditures" means those expenditures for energy conservation measures that
27 have a simple payback period of not less than one year and not more than 10 years, and expen-
28 ditures for the above-market costs of new renewable energy resources, provided that the [*State De-*
29 *partment of Energy*] **Oregon Energy Commission** by rule may establish a limit on the maximum
30 above-market cost for renewable energy that is allowed as a credit.

31 (27) "Renewable energy resources" means:

32 (a) Electricity generation facilities fueled by wind, waste, solar or geothermal power or by low-
33 emission nontoxic biomass based on solid organic fuels from wood, forest and field residues.

34 (b) Dedicated energy crops available on a renewable basis.

35 (c) Landfill gas and digester gas.

36 (d) Hydroelectric facilities located outside protected areas as defined by federal law in effect
37 on July 23, 1999.

38 (28) "Residential electricity consumer" means an electricity consumer who resides at a dwelling
39 primarily used for residential purposes. "Residential electricity consumer" does not include retail
40 electricity consumers in a dwelling typically used for residency periods of less than 30 days, in-
41 cluding hotels, motels, camps, lodges and clubs. As used in this subsection, "dwelling" includes but
42 is not limited to single family dwellings, separately metered apartments, adult foster homes, manu-
43 factured dwellings, recreational vehicles and floating homes.

44 (29) "Retail electricity consumer" means the end user of electricity for specific purposes such
45 as heating, lighting or operating equipment, and includes all end users of electricity served through

1 the distribution system of an electric utility on or after July 23, 1999, whether or not each end user
2 purchases the electricity from the electric utility.

3 (30) "Site" means a single contiguous area of land containing buildings or other structures that
4 are separated by not more than 1,000 feet, or buildings and related structures that are intercon-
5 nected by facilities owned by a single retail electricity consumer and that are served through a
6 single electric meter.

7 (31) "Transition charge" means a charge or fee that recovers all or a portion of an uneconomic
8 utility investment.

9 (32) "Transition credit" means a credit that returns to consumers all or a portion of the benefits
10 from an economic utility investment.

11 (33) "Transmission facility" means the plant and equipment used to transmit electricity in
12 interstate commerce.

13 (34) "Undue market power" means the unfair or improper exercise of influence to increase or
14 decrease the availability or price of a service or product in a manner inconsistent with competitive
15 markets.

16 (35) "Uneconomic utility investment" means all electric company investments, including plants
17 and equipment and contractual or other legal obligations, properly dedicated to generation, conser-
18 vation and workforce commitments, that were prudent at the time the obligations were assumed but
19 the full costs of which are no longer recoverable as a direct result of ORS 757.600 to 757.667, absent
20 transition charges. "Uneconomic utility investment" does not include costs or expenses disallowed
21 by the commission in a prudence review or other proceeding, to the extent of such disallowance, and
22 does not include fines or penalties as authorized by state or federal law.

23 **SECTION 101.** ORS 757.612 is amended to read:

24 757.612. (1) There is established an annual public purpose expenditure standard for electric
25 companies and Oregon Community Power to fund new cost-effective energy conservation, new mar-
26 ket transformation efforts, the above-market costs of new renewable energy resources and new
27 low-income weatherization. The public purpose expenditure standard shall be funded by the public
28 purpose charge described in subsection (2) of this section.

29 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-
30 cess to retail electricity consumers, except residential electricity consumers, the electric company
31 or Oregon Community Power shall collect a public purpose charge from all of the retail electricity
32 consumers located within the electric company's or Oregon Community Power's service area until
33 January 1, 2026. Except as provided in paragraph (b) of this subsection, the public purpose charge
34 shall be equal to three percent of the total revenues collected by the electric company, Oregon
35 Community Power or the electricity service supplier from retail electricity consumers for electricity
36 services, distribution services, ancillary services, metering and billing, transition charges and other
37 types of costs included in electric rates on July 23, 1999.

38 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use
39 per year, the electric company or Oregon Community Power, whichever serves territory that abuts
40 the greatest percentage of the site of the aluminum plant, shall collect from the aluminum company
41 a public purpose charge equal to one percent of the total revenue from the sale of electricity ser-
42 vices to the aluminum plant from any source.

43 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this
44 section relating to electric companies and Oregon Community Power.

45 (b) Except as provided in paragraph (e) of this subsection, funds collected through public pur-

1 pose charges under subsection (2) of this section shall be allocated as follows:

2 (A) Sixty-three percent for new cost-effective energy conservation and new market transforma-
3 tion efforts.

4 (B) Nineteen percent for the above-market costs of constructing and operating new renewable
5 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20
6 megawatts or less.

7 (C) Thirteen percent for new low-income weatherization.

8 (D) Five percent for deposit in the Housing and Community Services Department Electricity
9 Public Purpose Charge Fund established by ORS 456.587 (1) for the purpose of providing grants as
10 described in ORS 458.625 (2).

11 (c) The costs of administering subsections (1) to (6) of this section for an electric company or
12 Oregon Community Power shall be paid out of the funds collected through public purpose charges.
13 The commission may require an electric company or Oregon Community Power to direct funds col-
14 lected through public purpose charges to state agencies responsible for implementing subsections (1)
15 to (6) of this section in order to pay the costs of administering subsections (1) to (6) of this section.

16 (d) The commission shall direct the manner in which public purpose charges are collected and
17 spent by an electric company or Oregon Community Power and may require an electric company
18 or Oregon Community Power to expend funds through competitive bids or other means designed to
19 encourage competition, except that funds dedicated for new low-income weatherization shall be di-
20 rected to the Housing and Community Services Department for purposes related to new low-income
21 weatherization. The commission may also require funds collected through public purpose charges to
22 be paid to a nongovernmental entity for investment in public purposes described in subsection (1)
23 of this section. Notwithstanding any other provision of this subsection:

24 (A) If an electric company collected the funds, at least 80 percent of the funds allocated for new
25 cost-effective energy conservation shall be spent within the service area of the electric company;
26 or

27 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated
28 for new cost-effective energy conservation shall be spent within the service area of Oregon Com-
29 munity Power.

30 (e)(A) The first 10 percent of funds collected each year by an electric company or Oregon
31 Community Power under subsection (2) of this section shall be distributed to school districts that
32 are located in the service territory of the electric company or Oregon Community Power. The funds
33 shall be distributed to individual school districts according to the weighted average daily member-
34 ship (ADMw) of each school district for the prior fiscal year as calculated under ORS 327.013. The
35 commission shall establish by rule a methodology for distributing a proportionate share of funds
36 under this paragraph to school districts that are only partially located in the service territory of the
37 electric company or Oregon Community Power.

38 (B) A school district that receives funds under this paragraph shall use the funds first to pay
39 for energy audits for schools located within the school district. A school district may not expend
40 additional funds received under this paragraph on a school until an energy audit has been completed
41 for that school. To the extent practicable, a school district shall coordinate with the State De-
42 partment of Energy and incorporate federal funding in complying with this paragraph. Following
43 completion of an energy audit for an individual school, the school district may expend funds received
44 under this paragraph to implement the energy audit. Once an energy audit has been conducted and
45 completely implemented for each school within the school district, the school district may expend

1 funds received under this paragraph for any of the following purposes:

2 (i) Conducting additional energy audits. A school district shall conduct an energy audit prior to
3 expending funds on any other purpose authorized under this paragraph unless the school district has
4 performed an energy audit within the three years immediately prior to receiving the funds.

5 (ii) Weatherizing school district facilities and upgrading the energy efficiency of school district
6 facilities.

7 (iii) Energy conservation education programs.

8 (iv) Purchasing electricity from environmentally focused sources.

9 (v) Investing in renewable energy resources.

10 (f) The commission may not establish a different public purpose charge than the public purpose
11 charge described in subsection (2) of this section.

12 (g) If the commission requires funds collected through public purpose charges to be paid to a
13 nongovernmental entity, the entity shall:

14 (A) Include on the entity's board of directors an ex officio member designated by the commis-
15 sion, who shall also serve on the entity's nominating committee for filling board vacancies.

16 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-
17 terest to be filed with the commission on or prior to April 15 of each calendar year for public review
18 in a form similar to the statement of economic interest required for public officials under ORS
19 244.060.

20 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest
21 at regular meetings of the entity's governing body when such conflicts arise, and require an officer
22 or director to abstain from participating in any discussion or voting on any item where that officer
23 or director has an actual conflict of interest. For the purposes of this subparagraph, "actual conflict
24 of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.

25 (D) Annually, arrange for an independent auditor to audit the entity's financial statements, and
26 direct the auditor to file an audit opinion with the commission for public review.

27 (E) Annually file with the commission the entity's budget, action plan and quarterly and annual
28 reports for public review.

29 (F) At least once every five years, contract for an independent management evaluation to review
30 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a
31 report with the commission for public review.

32 (h) The commission may remove from the board of directors of a nongovernmental entity an of-
33 ficer or director who fails to provide an annual disclosure of economic interest, or who fails to de-
34 clare an actual or potential conflict of interest, as described in paragraph (g)(B) and (C) of this
35 subsection, if the failure is connected to the allocation or expenditure of funds collected through
36 public purpose charges and paid to the entity.

37 (4)(a) An electric company that satisfies its obligations under this section:

38 (A) Has no further obligation to invest in new cost-effective energy conservation, new market
39 transformation or new low-income weatherization, or to provide a commercial energy conservation
40 services program; and

41 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

42 (b) Oregon Community Power, for any period during which Oregon Community Power collects
43 a public purpose charge under subsection (2) of this section:

44 (A) Has no further obligation to invest in new cost-effective energy conservation, new market
45 transformation or new low-income weatherization, or to provide a commercial energy conservation

1 services program; and

2 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

3 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
4 any site in the prior year shall receive a credit against public purpose charges billed by an electric
5 company or Oregon Community Power for that site. The amount of the credit shall be equal to the
6 total amount of qualifying expenditures for new cost-effective energy conservation, not to exceed 68
7 percent of the annual public purpose charges, and the above-market costs of new renewable energy
8 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public
9 purpose charges, less administration costs incurred under this paragraph and paragraphs (b) and (c)
10 of this subsection. The credit may not exceed, on an annual basis, the lesser of:

11 (A) The amount of the retail electricity consumer's qualifying expenditures; or

12 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
13 dedicated to new cost-effective energy conservation, new market transformation or the above-market
14 costs of new renewable energy resources.

15 (b) To obtain a credit under paragraph (a) of this subsection, a retail electricity consumer shall
16 file with the State Department of Energy a description of the proposed conservation project or new
17 renewable energy resource and a declaration that the retail electricity consumer plans to incur the
18 qualifying expenditure. The State Department of Energy shall issue a notice of precertification
19 within 30 days of receipt of the filing, if such filing is consistent with paragraph (a) of this sub-
20 section. The credit may be taken after a retail electricity consumer provides a letter from a certified
21 public accountant to the State Department of Energy verifying that the precertified qualifying ex-
22 penditure has been made.

23 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
24 are not used in one year may be carried forward for use in subsequent years.

25 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
26 any site in the prior year may request that the State Department of Energy hire an independent
27 auditor to assess the potential for conservation investments at the site. If the independent auditor
28 determines there is no available conservation measure at the site that would have a simple payback
29 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
30 obligation for public purpose charges related to the site. If the independent auditor determines that
31 there are potential conservation measures available at the site, the retail electricity consumer shall
32 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the
33 public purpose charges less the estimated cost of available conservation measures.

34 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-
35 agraph unless a subsequent independent audit determines that new conservation investment oppor-
36 tunities are available. The State Department of Energy may require that a new independent audit
37 be performed on the site to determine whether new conservation measures are available, provided
38 that the independent audits occur no more than once every two years.

39 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
40 paragraph.

41 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
42 for the public purpose expenditures of their energy suppliers. The [State Department of Energy]
43 **Oregon Energy Commission** shall adopt rules to determine eligible expenditures and the method
44 by which such credits are accounted for and used. The [State Department of Energy] **Oregon Energy**
45 **Commission** also shall adopt methods to account for eligible public purpose expenditures made

1 through consortia or collaborative projects.

2 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an
3 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-
4 ment assistance in an amount determined under paragraph (b) of this subsection.

5 (b) The **Public Utility** Commission shall establish the amount to be collected by each electric
6 company from retail electricity consumers, and the rates to be charged by each electric company
7 to retail electricity consumers, so that the forecasted collection by all electric companies in calen-
8 dar year 2018 is \$20 million. In subsequent calendar years, the commission may not decrease the
9 rates below those established for calendar year 2018. The commission may temporarily adjust the
10 rates if forecasted collections or actual collections are less than \$20 million in any calendar year.
11 A retail electricity consumer may not be required to pay more than \$500 per month per site for
12 low-income electric bill payment assistance.

13 (c) Funds collected through the low-income electric bill payment assistance charge shall be paid
14 into the Housing and Community Services Department Low-Income Electric Bill Payment Assistance
15 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
16 used by the Housing and Community Services Department solely for purposes related to low-income
17 electric bill payment assistance and for the Housing and Community Services Department's cost of
18 administering this subsection. Funds collected by an electric company or Oregon Community Power
19 under this subsection shall be expended in the service area of the electric company or Oregon
20 Community Power from which the funds are collected.

21 (d)(A) The Housing and Community Services Department shall determine the manner in which
22 funds collected under this subsection will be allocated by the Housing and Community Services
23 Department to energy assistance program providers for the purpose of providing low-income bill
24 payment and crisis assistance.

25 (B) The Housing and Community Services Department, in consultation with electric companies,
26 shall investigate and may implement alternative delivery models to effectively reduce service dis-
27 connections and related costs to retail electricity consumers and electric utilities.

28 (C) Priority assistance shall be directed to low-income electricity consumers who are in danger
29 of having their electricity service disconnected.

30 (D) The Housing and Community Services Department shall maintain records and provide those
31 records upon request to an electric company, Oregon Community Power and the Citizens' Utility
32 Board established under ORS chapter 774 on a quarterly basis. Records maintained must include
33 the numbers of low-income electricity consumers served, the average amounts paid to low-income
34 electricity consumers and the type of assistance provided to low-income electricity consumers.
35 Electric companies and Oregon Community Power shall, if requested, provide the Housing and
36 Community Services Department with aggregate data relating to low-income electricity consumers
37 served on a quarterly basis to support program development.

38 (e) Interest on moneys deposited in the Housing and Community Services Department Low-
39 Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to pro-
40 vide bill payment and crisis assistance to electricity consumers whose primary source of heat is not
41 electricity.

42 (f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon
43 Community Power to provide reduced rates or other bill payment or crisis assistance or low-income
44 program assistance to a low-income household eligible for assistance under the federal Low Income
45 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

1 (8) For purposes of this section, “retail electricity consumers” includes any direct service in-
 2 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
 3 tric utility.

4 (9) For purposes of this section, funds collected by Oregon Community Power through public
 5 purpose charges are not considered moneys received from electric utility operations.

6
 7 **OPERATIVE DATES**

8
 9 **SECTION 102.** (1) Except as provided in subsections (2) and (3) of this section, sections
 10 2 to 10 and 13 to 15 of this 2018 Act and the amendments to statutes by sections 1, 11, 12 and
 11 16 to 101 of this 2018 Act become operative July 1, 2019.

12 (2) The members of the Oregon Energy Commission may be appointed and the State De-
 13 partment of Energy and the Director of the State Department of Energy may take any action
 14 before the operative date specified in subsection (1) of this section that is necessary to enable
 15 the department and the director to exercise, on and after the operative date specified in
 16 subsection (1) of this section, the duties, functions and powers of the department and the
 17 director pursuant to sections 2 to 10 and 13 to 15 of this 2018 Act and the amendments to
 18 statutes by sections 1, 11, 12 and 16 to 101 of this 2018 Act.

19 (3) The transfer of duties, functions and powers by section 6 of this 2018 Act does not
 20 become operative until the members of the Oregon Energy Commission have been appointed
 21 and have qualified. Until appointment and qualification, the State Department of Energy and
 22 the Director of the State Department of Energy shall continue to perform the duties and
 23 functions and exercise the powers.

24
 25 **CAPTIONS**

26
 27 **SECTION 103.** The unit captions used in this 2018 Act are provided only for the conven-
 28 ience of the reader and do not become part of the statutory law of this state or express any
 29 legislative intent in the enactment of this 2018 Act.

30
 31 **EMERGENCY CLAUSE**

32
 33 **SECTION 104.** This 2018 Act being necessary for the immediate preservation of the public
 34 peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect
 35 on its passage.

36 _____