

# House Bill 2141

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

## 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**.

Requires that transfer of tax credit follow uniform transfer procedures. Authorizes Department of Revenue to prescribe additional procedural requirements for transfer of credits. Requires certifying agencies to provide information about certification of tax credits to Department of Revenue. Authorizes director of certifying agency to suspend or revoke tax credit certification in certain circumstances. Allows Department of Revenue to collect unpaid taxes in case of suspension or revocation of transferable credit.

Applies to tax credits that are transferred on or after January 1, 2020.  
Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to administration of tax credits; creating new provisions; amending ORS 285C.650, 285C.656, 315.053, 315.138, 315.141, 315.144, 315.164, 315.169, 315.521, 315.622, 315.624, 317.097, 329A.706, 348.621, 442.485, 458.690, 469B.106, 469B.118, 469B.276, 469B.291, 469B.300, 469B.323, 469B.332, 469B.341 and 469B.991; repealing ORS 315.172 and 469B.407; and prescribing an effective date.

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

## ADMINISTRATION OF TAX CREDIT PROVISIONS

**SECTION 1. Sections 2 to 4 of this 2019 Act are added to and made a part of ORS chapter 315.**

**SECTION 2. (1) Transfer of any transferable tax credit that is allowed under this chapter or ORS chapter 316 or 317 and that is transferred on or after January 1, 2020, is conditioned upon compliance with this section and ORS 315.052 and 315.053.**

**(2) The Department of Revenue may require that the person that has earned the credit and the taxpayer that intends to claim the credit jointly file a notice of tax credit transfer with the department on or before the earliest of the following dates:**

**(a) A date 30 days after the transfer of the credit;**

**(b) The date on which the transferee files a return; or**

**(c) The due date, including extensions, of the transferee's return.**

**(3) The notice shall be given on a form prescribed by the department that contains:**

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

**(b) The taxpayer identification number of the transferor and of the transferee;**

**(c) The dates on which the person earning the credit received certifications for the credit;**

**(d) The amount of the credit that is certified, the amount that is being transferred and the amount that is being retained by the transferor; and**

**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 (e) Any other information required by the department.

2 (4)(a) If a tax credit must be claimed over multiple tax years, a transferor may separately  
 3 transfer the entirety of that portion corresponding to each tax year to one or more  
 4 transferees, subject to subsection (5) of this subsection.

5 (b) Any amount of credit that would be allowed due only to a carryforward provision may  
 6 not be transferred.

7 (5) Any transfer of a tax credit or a portion of a tax credit must be completed no later  
 8 than the earliest of the following dates in relation to the tax return on which it is claimed:

9 (a) The original due date of the transferor's return;

10 (b) The date on which the transferor's return is actually filed;

11 (c) The original due date of the transferee's return; or

12 (d) The date on which the transferee's return is actually filed.

13 (6) If the transferor is a tax-exempt entity, the transfer must be completed on or before  
 14 a date one year after the close of the tax year for which the credit receives final certifica-  
 15 tion. As used in this subsection "tax-exempt entity" means a government agency or an or-  
 16 ganization that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code.

17 (7) The transferee shall claim the credit in accordance with the credit provisions for the  
 18 tax years in which the credit is allowed.

19 (8) The department by rule may establish policies and procedures for the implementation  
 20 of this section.

21 **SECTION 3.** (1) For any tax credit that is allowed under this chapter or ORS chapter 316  
 22 or 317 and for which certification, determination of eligibility or other approval from an  
 23 agency other than the Department of Revenue is required and was issued on or after January  
 24 1, 2016, the department may by rule require that the other agency provide information about  
 25 the certification, determination of eligibility or other approval, including the name and tax-  
 26 payer identification number of the taxpayer or other person receiving approval, the date the  
 27 approval was issued in its final form, the approved amount of credit and the first tax year  
 28 for which the credit may be claimed.

29 (2) A taxpayer that is a pass-through entity that has received approval shall provide the  
 30 information described in subsection (1) of this section to the department within two months  
 31 after the close of the tax year in which the approval was issued.

32 (3) The department shall prescribe by rule the manner and the timing of submission of  
 33 the information to the department.

34 **SECTION 4.** (1) Under the procedures for a contested case under ORS chapter 183, the  
 35 director of the agency responsible for certifying or otherwise determining eligibility or  
 36 granting approval for a tax credit allowed under this chapter or ORS chapter 316 or 317 may  
 37 order the suspension, revocation or forfeiture of the tax credit approval or of a portion  
 38 thereof if the director finds that:

39 (a) The approval was obtained by fraud or misrepresentation;

40 (b) The approval was obtained by mistake or miscalculation; or

41 (c) The taxpayer otherwise violates or has violated a provision that allows or provides for  
 42 administration of a tax credit.

43 (2) As soon as an order of revocation under this section becomes final, the director shall  
 44 notify the Department of Revenue and the person that received the tax credit certification,  
 45 or other approval, of the order of revocation. Upon notification, the Department of Revenue

1 immediately shall proceed to collect:

2 (a) If no portion of a credit has been transferred, those taxes not paid by the holder of  
 3 the certificate or other approval as a result of the tax credits provided to the holder under  
 4 the revoked approval, from the holder or a successor in interest to the business interests  
 5 of the holder. All tax credits provided to the holder and attributable to the fraudulently or  
 6 mistakenly obtained approval or portion of the approval shall be forfeited.

7 (b) If all of a credit has been transferred, an amount equal to the amount of the tax  
 8 credits allowable to the transferee under the revoked approval, from the transferor.

9 (c) If a portion of a tax credit has been transferred, those taxes not paid by the  
 10 transferor as a result of the tax credits provided to the transferor pursuant to the revoked  
 11 approval, from the transferor or a successor in interest to the business interests of the  
 12 transferor, and an amount equal to the amount of the tax credits allowable to the transferee  
 13 pursuant to the revoked approval, from the transferor.

14 (3)(a) The Department of Revenue shall have the benefit of all laws of the state pertain-  
 15 ing to the collection of income and excise taxes and may proceed to collect the amounts de-  
 16 scribed in subsection (2) of this section from the person that obtained approval or a  
 17 successor in interest to the business interests of that person. An assessment of tax is not  
 18 necessary and the collection of taxes described in this subsection is not precluded by any  
 19 statute of limitations.

20 (b) For purposes of this subsection, a lender, bankruptcy trustee or other person that  
 21 acquires an interest through bankruptcy or through foreclosure of a security interest is not  
 22 considered to be a successor in interest to the business interests of the person that obtained  
 23 approval.

24 (4) If the approval is ordered revoked pursuant to this section, the holder of the certif-  
 25 icate or other approval shall be denied any further relief in connection with the credit from  
 26 and after the date that the order of revocation becomes final.

27 (5) Notwithstanding subsections (1) to (4) of this section, a certificate or portion of a  
 28 certificate held by a transferee may not be considered revoked for purposes of the  
 29 transferee, the tax credit allowable to the transferee may not be reduced and a transferee  
 30 is not liable under this section.

31 (6) Interest under this section shall accrue at the rate established in ORS 305.220 begin-  
 32 ning the day after the due date of the return on which the credit may first be claimed.

33 (7) The Department of Revenue may collect amounts owed under this section by a part-  
 34 nership from the partnership.

35 **SECTION 5.** ORS 315.053 is amended to read:

36 315.053. An income tax credit allowed under [ORS 315.141, 315.331, 315.336, 315.341 or 315.354  
 37 or section 12, chapter 855, Oregon Laws 2007,] **this chapter or ORS chapter 316 or 317 that is**  
 38 **transferable** may be transferred or sold only to one or more of the following:

- 39 (1) A C corporation.
- 40 (2) An S corporation.
- 41 (3) A personal income taxpayer.

42  
 43 **TRANSFERABLE TAX CREDIT PROVISIONS**

44  
 45 **SECTION 6.** ORS 315.141 is amended to read:

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

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

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

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

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

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

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

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

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

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

16 (C) Agricultural residues;

17 (D) Offal and tallow from animal rendering;

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

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

20 (G) Wastewater solids; or

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

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

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

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

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

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

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

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

36 (2) The Director of the State Department of Energy may adopt rules to define criteria, only as  
37 the criteria apply to organic biomass, to determine additional characteristics of biomass for purposes  
38 of this section.

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

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

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

45 (b) A credit under this section may be claimed in the tax year in which the credit is certified

1 under subsection (5) of this section.

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

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

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

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

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

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

10 (5)(a) The State Department of Energy may establish by rule procedures and criteria for deter-  
11 mining the amount of the tax credit to be certified under this section, consistent with ORS 469B.403.  
12 The department shall provide written certification to taxpayers that are eligible to claim the credit  
13 under this section.

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

17 *[(c) The State Department of Energy shall provide to the Department of Revenue a list, by tax year,*  
18 *of taxpayers for which a credit is certified under this section, upon request of the Department of Re-*  
19 *venue.]*

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

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

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

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

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

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

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

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

44 **(11) The State Department of Energy shall provide information to the Department of**  
45 **Revenue about all certifications issued under this section, if required by section 3 of this 2019**

1 **Act.**

2 (12) **The Director of the State Department of Energy may order the suspension or revo-**  
 3 **cation of a certification issued under this section, as provided in section 4 of this 2019 Act.**

4 **SECTION 7.** ORS 315.144 is amended to read:

5 315.144. (1) A person that has *[obtained]* **earned** a tax credit under ORS 315.141 may transfer  
 6 the credit to a taxpayer subject to tax under ORS chapter 316, 317 or 318. **The transfer must**  
 7 **comply with section 2 of this 2019 Act.**

8 *[(2) A tax credit allowed under ORS 315.141 may be transferred on or before the date on which*  
 9 *the return is due for the tax year in which the credit may first be claimed. After that date, no portion*  
 10 *of a credit allowed under ORS 315.141 may be transferred.]*

11 *[(3) To transfer the tax credit, the taxpayer earning the credit and the taxpayer that will claim the*  
 12 *credit shall, on or before the date prescribed in subsection (2) of this section, jointly file a notice of tax*  
 13 *credit transfer with the Department of Revenue. The notice shall be given on a form prescribed by the*  
 14 *department that contains all of the following:]*

15 *[(a) The name and address of the transferor and transferee;]*

16 *[(b) The amount of the tax credit that is being transferred;]*

17 *[(c) The amount of the tax credit that is being retained by the transferor; and]*

18 *[(d) Any other information required by the department.]*

19 *[(4)]* (2) The State Department of Energy may establish by rule a minimum discounted value of  
 20 a tax credit under this section.

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

23 **SECTION 8.** ORS 315.164 is amended to read:

24 315.164. (1) A taxpayer who is the owner or operator of agriculture workforce housing is allowed  
 25 a credit against the taxes otherwise due under ORS chapter 316, if the taxpayer is a resident indi-  
 26 vidual, or against the taxes otherwise due under ORS chapter 317, if the taxpayer is a corporation.  
 27 The total amount of the credit shall be equal to 50 percent of the eligible costs actually paid or  
 28 incurred by the taxpayer to complete an agriculture workforce housing project, to the extent the  
 29 eligible costs actually paid or incurred by the taxpayer do not exceed the estimate of eligible costs  
 30 approved by the Housing and Community Services Department under ORS 315.167.

31 (2) A taxpayer who is otherwise eligible to claim a credit under this section may elect to  
 32 transfer all or a portion of the credit to a contributor in the manner provided in ORS 315.169.

33 (3)(a) The credit allowed under this section may be taken for the tax year in which the agri-  
 34 culture workforce housing project is completed or in any of the nine tax years succeeding the tax  
 35 year in which the project is completed.

36 (b) The credit allowed in any one tax year may not exceed 20 percent of the amount determined  
 37 under subsection (1) of this section.

38 (4)(a) To claim a credit under this section, a taxpayer must show in each year following the  
 39 completion of an agriculture workforce housing project that the housing continues to be operated  
 40 as agriculture workforce housing.

41 (b) A taxpayer need not make the showing required in paragraph (a) of this subsection if the  
 42 Housing and Community Services Department waives the requirement after the taxpayer has suc-  
 43 cessfully met the requirement for the first five years after completion of the agriculture workforce  
 44 housing project.

45 (c) The Housing and Community Services Department shall determine by rule the factors nec-

1 essary to grant a waiver. Such factors may include a documented decline in a particular area for  
2 agriculture workforce housing.

3 (5) The credit shall apply only to an agriculture workforce housing project that is located within  
4 this state and physically begun on or after January 1, 1990.

5 (6)(a) A credit may not be allowed under this section unless the taxpayer claiming credit under  
6 this section:

7 (A) Obtains a letter of credit approval from the Housing and Community Services Department  
8 pursuant to ORS 315.167; and

9 (B) Files with the [*Department of Revenue*] **Housing and Community Services Department** an  
10 annual certification providing that all occupied units for which credit is being claimed are occupied  
11 by agricultural workers, including agricultural workers who are retired or disabled, and their im-  
12 mediate families.

13 (b) The certification described under this subsection shall be made on the form and in the time  
14 and manner prescribed by the [*Department of Revenue*] **Housing and Community Services De-**  
15 **partment.**

16 (7) Except as provided under subsection (8) of this section, the credit allowed in any one year  
17 may not exceed the tax liability of the taxpayer.

18 (8) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
19 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next  
20 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
21 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
22 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
23 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
24 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried  
25 forward and used in the fifth succeeding tax year, and any credit not used in that fifth succeeding  
26 tax year may be carried forward and used in the sixth succeeding tax year, and any credit not used  
27 in that sixth succeeding tax year may be carried forward and used in the seventh succeeding tax  
28 year, and any credit not used in that seventh succeeding tax year may be carried forward and used  
29 in the eighth succeeding tax year, and any credit not used in that eighth succeeding tax year may  
30 be carried forward and used in the ninth succeeding tax year, but may not be carried forward for  
31 any tax year thereafter.

32 (9)(a) The credit provided by this section is not in lieu of any depreciation or amortization de-  
33 duction for the agriculture workforce housing project to which the taxpayer otherwise may be en-  
34 titled under ORS chapter 316 or 317 for the year.

35 (b) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by  
36 any tax credits allowed under this section.

37 (10) For a taxpayer to receive a credit under this section, the agriculture workforce housing  
38 must:

39 (a) Comply with all occupational safety or health laws, rules, regulations and standards;

40 (b) If registration is required, be registered as a farmworker camp with the Department of  
41 Consumer and Business Services under ORS 658.750;

42 (c) Upon occupancy and if an indorsement is required, be operated by a person who holds a valid  
43 indorsement as a farmworker camp operator under ORS 658.730; and

44 (d) Continue to be operated as agriculture workforce housing for a period of at least 10 years  
45 after the completion of the agriculture workforce housing project, unless a waiver has been granted

1 under subsection (4) of this section.

2 [(11)(a) Pursuant to the procedures for a contested case under ORS chapter 183, the Department  
3 of Revenue may order the disallowance of the credit allowed under this section if it finds, by order,  
4 that:]

5 [(A) The credit was obtained by fraud or misrepresentation; or]

6 **(11) The Director of the Housing and Community Services Department may order the**  
7 **suspension or revocation of a letter of credit approval issued under ORS 315.167 or the dis-**  
8 **allowance of a credit allowed under this section, as provided in section 4 of this 2019 Act:**

9 **(a) For the reasons set forth in section 4 of this 2019 Act; or**

10 [(B)] **(b) In the event that an owner or operator claims or claimed the credit, if the director**  
11 **finds that:**

12 [(i)] **(A)** The taxpayer has failed to continue to substantially comply with the occupational safety  
13 or health laws, rules, regulations or standards;

14 [(ii)] **(B)** After occupancy and if registration is required, the agriculture workforce housing is  
15 not registered as a farmworker camp with the Department of Consumer and Business Services under  
16 ORS 658.750;

17 [(iii)] **(C)** After occupancy and if an indorsement is required, the agriculture workforce housing  
18 is not operated by a person who holds a valid indorsement as a farmworker camp operator under  
19 ORS 658.730; or

20 [(iv)] **(D)** The taxpayer has failed to make a showing that the housing continues to be operated  
21 as agriculture workforce housing as required under subsection (4)(a) of this section and the taxpayer  
22 has not been granted a waiver by the Housing and Community Services Department under sub-  
23 section (4)(b) of this section.

24 [(b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or  
25 other law, all prior tax relief provided to the taxpayer shall be forfeited and the Department of Revenue  
26 shall proceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the  
27 credit.]

28 [(c) If the tax credit is disallowed pursuant to this subsection, the taxpayer shall be denied any  
29 further credit provided under this section, in connection with the agriculture workforce housing project,  
30 as the case may be, from and after the date that the order of disallowance becomes final.]

31 (12) In the event that the agriculture workforce housing is destroyed by fire, flood, natural dis-  
32 aster or act of God before all of the credit has been used, the taxpayer may nevertheless claim the  
33 credit as if no destruction had taken place. In the event of fire, if the fire chief of the fire protection  
34 district or unit determines that the fire was caused by arson, as defined in ORS 164.315 and 164.325,  
35 by the taxpayer or by another at the taxpayer's direction, then the fire chief shall notify the [De-  
36 partment of Revenue] **Housing and Community Services Department**. Upon conviction of arson,  
37 the department [of Revenue] shall disallow the credit in accordance with subsection (11) of this  
38 section.

39 (13)(a) A nonresident individual shall be allowed the credit computed in the same manner and  
40 subject to the same limitations as the credit allowed a resident by this section. However, the credit  
41 shall be prorated using the proportion provided in ORS 316.117.

42 (b) If a change in the [taxable] **tax** year of a taxpayer occurs as described in ORS 314.085, or  
43 if the Department of Revenue terminates the taxpayer's [taxable] **tax** year under ORS 314.440, the  
44 credit allowed by this section shall be prorated or computed in a manner consistent with ORS  
45 314.085.

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

4 (14)(a) The Department of Revenue may adopt rules for carrying out the provisions of this sec-  
 5 tion.

6 **(b) The Housing and Community Services Department may adopt rules for providing let-  
 7 ters of credit approval and granting certification and for monitoring taxpayer compliance  
 8 with this section.**

9 **(15) The Housing and Community Services Department shall provide information to the  
 10 Department of Revenue about all letters of credit approval and certifications granted under  
 11 this section, if required by section 3 of this 2019 Act.**

12 **SECTION 9.** ORS 315.169 is amended to read:

13 315.169. (1) A taxpayer that is a contributor is allowed a credit against the taxes otherwise due  
 14 under ORS chapter 316, if the taxpayer is a resident individual, or ORS chapter 317, if the taxpayer  
 15 is a corporation, to the extent the owner or operator of agriculture workforce housing transferred  
 16 all or a portion of the credit allowed to the owner or operator under ORS 315.164.

17 (2) An owner or operator of agriculture workforce housing may transfer all or a portion of the  
 18 credit allowed to the owner or operator under ORS 315.164 to one or more contributors but the  
 19 amount transferred may not total more than the total credit the owner or operator may claim. **The  
 20 transfer must comply with section 2 of this 2019 Act.**

21 (3) To receive a credit under this section:

22 (a) The contributor must obtain a letter of credit approval from the Housing and Community  
 23 Services Department under ORS 315.167; or

24 (b) If the owner or operator of agriculture workforce housing elects to transfer all or a portion  
 25 of the credit allowed under ORS 315.164 after the date that a letter of credit approval has been is-  
 26 sued to the owner or operator, the owner or operator and the contributor must *[jointly file a state-  
 27 ment with the Department of Revenue stating the portion of the credit the contributor is allowed to  
 28 claim and any other information the department may require by rule]* **comply with section 2 of this  
 29 2019 Act.**

30 (4) A contributor remains eligible to receive a credit under this section even if the owner or  
 31 operator of the agriculture workforce housing becomes ineligible for the credit as a result of:

32 (a) Failure to file the annual certification under ORS 315.164 (6);

33 (b) Failure to continue to substantially comply with occupational safety or health laws, rules,  
 34 regulations or standards under ORS 315.164 (10);

35 (c) Failure to register as a farmworker camp with the Department of Consumer and Business  
 36 Services under ORS 658.750;

37 (d) Failure of the operator to hold a valid indorsement as a farmworker camp operator under  
 38 ORS 658.730; or

39 (e) Failure to comply with any other rules or provisions relating to the operation or mainte-  
 40 nance of the agriculture workforce housing after work on the agriculture workforce housing project  
 41 has been completed.

42 *[(5)(a) A contributor does not remain eligible to receive a credit under this section if the Depart-  
 43 ment of Revenue finds, by order of a disallowance of credit and pursuant to the procedures for a con-  
 44 tested case under ORS chapter 183, that the contributor obtained the credit by fraud or  
 45 misrepresentation, including a finding that the housing did not comply with all occupational safety or*

1 *health laws, rules, regulations and standards applicable for agriculture workforce housing at the time*  
2 *the housing was completed.]*

3 [(b) *If the credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or other*  
4 *law, all prior tax relief provided to the taxpayer shall be forfeited and the department shall proceed to*  
5 *collect those taxes not paid by the taxpayer as a result of the prior granting of the credit.]*

6 [(c) *If the credit is disallowed pursuant to this subsection, the taxpayer shall be denied any further*  
7 *credit provided under this section, in connection with the agriculture workforce housing project, as the*  
8 *case may be, from and after the date that the order of disallowance becomes final.]*

9 [(6)(a)] **(5)(a)** The credit allowed under this section may be taken for the tax year in which the  
10 agriculture workforce housing project is completed or in any of the nine tax years succeeding the  
11 tax year in which the project is completed.

12 (b) The credit allowed in any one tax year may not exceed 20 percent of the amount determined  
13 under subsection (2) of this section that was transferred to the contributor claiming the credit.

14 [(7)] **(6)** Except as provided under subsection [(8)] **(7)** of this section, the credit allowed in any  
15 one year may not exceed the tax liability of the taxpayer.

16 [(8)] **(7)** Any tax credit otherwise allowable under this section that is not used by the taxpayer  
17 in a particular tax year may be carried forward and offset against the taxpayer's tax liability for  
18 the next succeeding tax year. Any credit remaining unused in [*such*] **the** next succeeding tax year  
19 may be carried forward and used in the second succeeding tax year, and likewise any credit not used  
20 in that second succeeding tax year may be carried forward and used in the third succeeding tax  
21 year, and any credit not used in that third succeeding tax year may be carried forward and used in  
22 the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be  
23 carried forward and used in the fifth succeeding tax year, and any credit not used in that fifth  
24 succeeding tax year may be carried forward and used in the sixth succeeding tax year, and any  
25 credit not used in that sixth succeeding tax year may be carried forward and used in the seventh  
26 succeeding tax year, and any credit not used in that seventh succeeding tax year may be carried  
27 forward and used in the eighth succeeding tax year, and any credit not used in that eighth suc-  
28 ceeding tax year may be carried forward and used in the ninth succeeding tax year, but may not  
29 be carried forward for any tax year thereafter.

30 [(9)(a)] **(8)(a)** A nonresident individual shall be allowed the credit computed in the same manner  
31 and subject to the same limitations as the credit allowed a resident by this section. However, the  
32 credit shall be prorated using the proportion provided in ORS 316.117.

33 (b) If a change in the [*taxable*] **tax** year of a taxpayer occurs as described in ORS 314.085, or  
34 if the Department of **Revenue** terminates the taxpayer's [*taxable*] **tax** year under ORS 314.440, the  
35 credit allowed by this section shall be prorated or computed in a manner consistent with ORS  
36 314.085.

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

40 [(10)] **(9)** The Department of **Revenue** may adopt rules for carrying out the provisions of this  
41 section.

42 **SECTION 10.** ORS 317.097, as amended by section 24, chapter 101, Oregon Laws 2018, and  
43 section 3, chapter 111, Oregon Laws 2018, is amended to read:

44 317.097. (1) As used in this section:

45 (a) "Annual rate" means the yearly interest rate specified on the note, and not the annual per-

1 centage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

2 (b) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed  
3 by the lending institution, and other charges related to the cost of obtaining credit.

4 (c) "Lending institution" means any insured institution, as that term is defined in ORS 706.008,  
5 any mortgage banking company that maintains an office in this state or any community development  
6 corporation that is organized under the Oregon Nonprofit Corporation Law.

7 (d) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

8 (e) "Nonprofit corporation" means a corporation that is exempt from income taxes under section  
9 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2017.

10 (f) "Preservation project" means housing that was previously developed as affordable housing  
11 with a contract for rent assistance from the United States Department of Housing and Urban De-  
12 velopment or the United States Department of Agriculture and that is being acquired by a spon-  
13 soring entity.

14 (g) "Qualified assignee" means any investor participating in the secondary market for real estate  
15 loans.

16 (h) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling  
17 interest in the real property that is financed by a qualified loan. A controlling interest includes a  
18 controlling interest in the general partner of a limited partnership that owns the real property.

19 (i) "Qualified loan" means:

20 (A) A loan that meets the criteria stated in subsection (5) of this section or that is made to re-  
21 finance a loan that meets the criteria described in subsection (5) of this section; or

22 (B) The purchase by a lending institution of bonds, as defined in ORS 286A.001, issued on behalf  
23 of the Housing and Community Services Department, the proceeds of which are used to finance or  
24 refinance a loan that meets the criteria described in subsection (5) of this section.

25 (j) "Sponsoring entity" means a nonprofit corporation, nonprofit cooperative, state governmental  
26 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,  
27 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,  
28 nonprofit cooperative, state governmental entity, local unit of government or housing authority.

29 (2) The Department of Revenue shall allow a credit against taxes otherwise due under this  
30 chapter for the [taxable] tax year to a lending institution that makes a qualified loan certified by  
31 the Housing and Community Services Department as provided in subsection (7) of this section. The  
32 amount of the credit is equal to the difference between:

33 (a) The amount of finance charge charged by the lending institution during the [taxable] tax  
34 year at an annual rate less than the market rate for a qualified loan that is made before January  
35 1, 2026, that complies with the requirements of this section; and

36 (b) The amount of finance charge that would have been charged during the [taxable] tax year  
37 by the lending institution for the qualified loan for housing construction, development, acquisition  
38 or rehabilitation measured at the annual rate charged by the lending institution for nonsubsidized  
39 loans made under like terms and conditions at the time the qualified loan for housing construction,  
40 development, acquisition or rehabilitation is made.

41 (3) The maximum amount of credit for the difference between the amounts described in sub-  
42 section (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of  
43 the qualified loan during the tax year for which the credit is claimed.

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

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

7 (5) To be eligible for the tax credit allowable under this section, a lending institution must make  
 8 a qualified loan by either purchasing bonds, as defined in ORS 286A.001, issued on behalf of the  
 9 Housing and Community Services Department, the proceeds of which are used to finance or refi-  
 10 nance a loan that meets the criteria stated in this subsection, or by making a loan directly to:

11 (a) An individual or individuals who own a dwelling, participate in an owner-occupied commu-  
 12 nity rehabilitation program and are certified by the local government or its designated agent as  
 13 having an income level when the loan is made of less than 80 percent of the area median income;

14 (b) A qualified borrower who:

15 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation  
 16 of housing; and

17 (B) Provides a written certification executed by the Housing and Community Services Depart-  
 18 ment that the:

19 (i) Housing created by the loan is or will be occupied by households earning less than 80 percent  
 20 of the area median income; and

21 (ii) Full amount of savings from the reduced interest rate provided by the lending institution is  
 22 or will be passed on to the tenants in the form of reduced housing payments;

23 (c) Subject to subsection (14) of this section, a qualified borrower who:

24 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation  
 25 of housing consisting of a manufactured dwelling park; and

26 (B) Provides a written certification executed by the Housing and Community Services Depart-  
 27 ment that the housing will continue to be operated as a manufactured dwelling park during the pe-  
 28 riod for which the tax credit is allowed; or

29 (d) A qualified borrower who:

30 (A) Uses the loan proceeds to finance acquisition or rehabilitation of housing consisting of a  
 31 preservation project; and

32 (B) Provides a written certification executed by the Housing and Community Services Depart-  
 33 ment that the housing preserved by the loan:

34 (i) Is or will be occupied by households earning less than 80 percent of the area median income;  
 35 and

36 (ii) Is the subject of a rent assistance contract with the United States Department of Housing  
 37 and Urban Development or the United States Department of Agriculture that will be maintained by  
 38 the qualified borrower.

39 (6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this sec-  
 40 tion must be treated the same as a loan that meets the criteria stated in subsection (5) of this sec-  
 41 tion.

42 (7) For a qualified loan to be eligible for the tax credit allowable under this section, the Housing  
 43 and Community Services Department must execute a written certification for the qualified loan that:

44 (a) Specifies the period, not to exceed 20 years, as determined by the Housing and Community  
 45 Services Department, during which the tax credit is allowed for the qualified loan; and

1 (b) States that the qualified loan is within the limitation imposed by subsection (8) of this sec-  
2 tion.

3 (8) The Housing and Community Services Department may certify qualified loans that are eligi-  
4 ble under subsection (5) of this section if the total credits attributable to all qualified loans eligible  
5 for credits under this section and then outstanding do not exceed \$25 million for any fiscal year. In  
6 making loan certifications under subsection (7) of this section, the Housing and Community Services  
7 Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax  
8 credits in those areas of the state that are determined by the Oregon Housing Stability Council to  
9 have the greatest need for affordable housing.

10 (9) The tax credit provided for in this section may be taken whether or not:

11 (a) The financial institution is eligible to take a federal income tax credit under section 42 of  
12 the Internal Revenue Code with respect to the project financed by the qualified loan; or

13 (b) The project receives financing from bonds, the interest on which is exempt from federal  
14 taxation under section 103 of the Internal Revenue Code.

15 (10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the pur-  
16 chase of bonds, the interest of which is exempt from federal taxation under section 103 of the  
17 Internal Revenue Code, the amount of finance charge that would have been charged under sub-  
18 section (2)(b) of this section is determined by reference to the finance charge that would have been  
19 charged if the federally tax exempt bonds had been issued and the tax credit under this section did  
20 not apply.

21 (11) A lending institution may sell a qualified loan for which a certification has been executed  
22 to a qualified assignee whether or not the lending institution retains servicing of the qualified loan  
23 so long as a designated lending institution maintains records, annually verified by a loan servicer,  
24 that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

25 (12) Notwithstanding any other provision of law, a lending institution that is a community de-  
26 velopment corporation organized under the Oregon Nonprofit Corporation Law may transfer all or  
27 part of a tax credit allowed under this section to one or more other lending institutions that are  
28 stockholders or members of the community development corporation or that otherwise participate  
29 through the community development corporation in the making of one or more qualified loans for  
30 which the tax credit under this section is allowed. **The transfer must comply with section 2 (2)**  
31 **and (3) of this 2019 Act.**

32 (13) The lending institution shall file an annual statement with the Housing and Community  
33 Services Department, specifying that it has conformed with all requirements imposed by law to  
34 qualify for a tax credit under this section.

35 (14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified borrower on a loan to  
36 finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park  
37 under subsection (5)(c) of this section must be:

38 (a) A nonprofit corporation, manufactured dwelling park nonprofit cooperative, state govern-  
39 mental entity, local unit of government as defined in ORS 466.706 or housing authority; or

40 (b) A nonprofit corporation or housing authority that has a controlling interest in the real  
41 property that is financed by a qualified loan. A controlling interest includes a controlling interest  
42 in the general partner of a limited partnership that owns the real property.

43 (15) The Housing and Community Services Department and the Department of Revenue may  
44 adopt rules to carry out the provisions of this section.

45 **(16) The Housing and Community Services Department shall provide information to the**

1 **Department of Revenue about all certifications executed under this section, if required by**  
 2 **section 3 of this 2019 Act.**

3 **SECTION 11.** ORS 469B.106 is amended to read:

4 469B.106. (1) Subject to the limitations in section 75, chapter 730, Oregon Laws 2011, any person  
 5 may claim a tax credit under ORS 316.116 if the person:

- 6 (a) Meets the requirements of ORS 316.116;
- 7 (b) Meets the requirements of ORS 469B.100 to 469B.118; and
- 8 (c) Pays, subject to subsection (9) of this section, all or a portion of the costs of an alternative  
 9 energy device.

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

14 (3) Verification of the purchase, construction or installation of an alternative energy device  
 15 shall be made in writing on a form provided by the *[Department of Revenue]* **State Department of**  
 16 **Energy** and, if applicable, shall contain:

- 17 (a) The location of the alternative energy device;
- 18 (b) A description of the type of device;
- 19 (c) If the device was constructed or installed by a contractor, evidence that the contractor has  
 20 any license, bond, insurance and permit required to sell and construct or install the alternative en-  
 21 ergy device;

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

- 24 (A) A statement of the reasonably expected energy savings of the device;
- 25 (B) A copy of consumer information published by the State Department of Energy;
- 26 (C) An operating manual for the alternative energy device; and
- 27 (D) A copy of the contractor's certification certificate or alternative energy device system cer-  
 28 tificate for the alternative energy device, as appropriate;
- 29 (e) If the device was not constructed or installed by a contractor, evidence that:

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

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

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

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

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

41 (i) Any other information that the Director of the State Department of Energy *[or the Depart-*  
 42 *ment of Revenue]* determines is necessary.

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

1 alternative energy device.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (5) Prior to commencing installation of alternative energy devices, installers of third-party al-  
34 ternative energy device installations must apply to the State Department of Energy to reserve  
35 credits on behalf of owners of residential property. Installers may reserve credit for no more than  
36 25 installations under this subsection in one application.

37 (6) To claim the tax credit, the verification form described in subsection (3) of this section shall  
38 be [submitted] **retained** with the taxpayer's tax [return] **records** for the year the alternative energy  
39 device is placed in service or the immediately succeeding tax year. A copy of the contractor's cer-  
40 tification certificate or alternative energy device system certificate also shall be [submitted] **re-**  
41 **tained**.

42 (7) The verification form and contractor's certificate or alternative energy device system certif-  
43 icate described under this section shall be effective for purposes of tax relief allowed under ORS  
44 316.116.

45 (8) The verification form and contractor's certificate described under this section may be

1 transferred to the first purchaser of a dwelling who intends to use the dwelling as a principal or  
2 secondary residence. **The transfer must comply with section 2 of this 2019 Act.**

3 (9) Any person that pays the present value of the tax credit for an alternative energy device  
4 provided under ORS 316.116 and 469B.100 to 469B.118 to the person who constructs or installs the  
5 alternative energy device shall be entitled to claim the credit in the manner and subject to rules  
6 adopted by the Department of Revenue to carry out the purposes of this subsection. The State De-  
7 partment of Energy may establish by rule uniform discount rates to be used in calculating the  
8 present value of a tax credit under this subsection. **The transfer must comply with section 2 of  
9 this 2019 Act.**

10 (10) **The State Department of Energy shall provide information to the Department of  
11 Revenue about all verifications and certifications issued under this section, if required by  
12 section 3 of this 2019 Act.**

13 **SECTION 12.** ORS 469B.118 is amended to read:

14 469B.118. [(1) Upon the Department of Revenue's own motion, or upon request of the State De-  
15 partment of Energy, the Department of Revenue may initiate proceedings for the forfeiture of a tax  
16 credit allowed under ORS 316.116 if:]

17 [(a) The verification was fraudulent because of a misrepresentation by the taxpayer;]

18 [(b) The verification was fraudulent because of a misrepresentation by the contractor;]

19 (1) **The Director of the State Department of Energy may order the forfeiture of a tax  
20 credit allowed under ORS 316.116, as provided in section 4 of this 2019 Act:**

21 (a) **For the reasons set forth in section 4 of this 2019 Act; or**

22 (b) **If the director finds that:**

23 [(c)] (A) The alternative energy device has not been constructed, installed or operated in sub-  
24 stantial compliance with the requirements of ORS 469B.100 to 469B.118; or

25 [(d)] (B) The taxpayer failed to consent to an inspection of the constructed or installed alter-  
26 native energy device by the State Department of Energy after a reasonable, written request for such  
27 an inspection by the State Department of Energy.

28 (2) [Pursuant to the procedures for a contested case under ORS chapter 183,] The Director of the  
29 State Department of Energy may order the revocation of a contractor certificate issued under ORS  
30 469B.106, **as provided in section 4 of this 2019 Act:**

31 (a) **For the reasons set forth in section 4 of this 2019 Act; or**

32 (b) If the director finds that:

33 [(a) The contractor certificate was obtained by fraud or misrepresentation by the contractor certif-  
34 icate holder;]

35 [(b)] (A) The contractor's performance for the alternative energy device for which the contrac-  
36 tor is issued a certificate under ORS 469B.106 does not meet industry standards; or

37 [(c)] (B) The contractor has misrepresented to the customer either the tax credit program or the  
38 nature or quality of the alternative energy device.

39 [(3) If the tax credit allowed under ORS 316.116 for the purchase, construction or installation of  
40 an alternative energy device is ordered forfeited due to an action of the taxpayer under subsection  
41 (1)(a), (c) or (d) of this section, all prior tax relief provided to the taxpayer shall be forfeited and the  
42 Department of Revenue shall proceed to collect those taxes not paid by the taxpayer as a result of the  
43 tax credit relief under ORS 316.116.]

44 [(4)] (3) If the tax credit for the construction or installation of an alternative energy device is  
45 ordered forfeited due to an action of the contractor [under subsection (1)(b) of this section], the De-

1 partment of Revenue shall proceed to collect, from the contractor, an amount equivalent to those  
2 taxes not paid by the taxpayer as a result of the tax credit relief under ORS 316.116. [As long as]  
3 **If** the forfeiture is due to an action of the contractor and not to an action of the taxpayer, the as-  
4 sessment of [such] **these** taxes shall be levied on the contractor and not on the taxpayer.  
5 Notwithstanding ORS 314.835, the Department of Revenue may disclose information from income tax  
6 returns or reports to the extent such disclosure is necessary to collect amounts from contractors  
7 under this subsection.

8 [(5)] (4) In order to obtain information necessary to verify eligibility and amount of the tax  
9 credit, the State Department of Energy or its representative may inspect an alternative energy de-  
10 vice that has been purchased, constructed or installed. The inspection shall be made only with the  
11 consent of the owner of the dwelling. Failure to consent to the inspection is grounds for the forfei-  
12 ture of any tax credit relief under ORS 316.116. The Department of Revenue shall proceed to collect  
13 any taxes due according to subsection [(4)] (3) of this section. For electrical generating alternative  
14 energy devices, the State Department of Energy may obtain energy consumption records for the  
15 dwelling the device serves, for a 12-month period, in order to verify eligibility and amount of the tax  
16 credit.

17 **SECTION 12a.** ORS 469B.991 is amended to read:

18 469B.991. (1) The Director of the State Department of Energy may impose a civil penalty against  
19 a contractor if a contractor certificate is revoked under ORS 469B.118. The amount of the penalty  
20 shall be equal to the total amount of tax relief estimated to have been provided under ORS 316.116  
21 to the contractor or to purchasers of the system for which a contractor's certificate has been re-  
22 voked.

23 (2) The State Department of Energy may not collect any of the amount of a civil penalty imposed  
24 under subsection (1) of this section from a purchaser of the system for which the final certificate  
25 has been revoked. [*However, the Department of Revenue shall proceed under ORS 469B.118 (3) to*  
26 *collect taxes not paid by a taxpayer if the tax credit is ordered forfeited because of that taxpayer's*  
27 *fraud or misrepresentation under ORS 469B.118 (1)(a).]*

28 (3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

29 (4) A penalty recovered under this section shall be paid into the State Treasury and credited to  
30 the General Fund and is available for general governmental expenses.

31 **SECTION 13.** ORS 469B.276 is amended to read:

32 469B.276. (1) The owner of a project may transfer a tax credit for the project in exchange for  
33 a cash payment equal to the present value of the potential tax credit, as determined at the time of  
34 the application for preliminary certification. If the tax credit is subject to recertification, only that  
35 portion of the tax credit that has been recertified may be transferred. **The transfer must comply**  
36 **with section 2 of this 2019 Act.**

37 (2) The State Department of Energy shall establish by rule a formula to be employed in the de-  
38 termination of prices of credits transferred under this section. In establishing the formula the de-  
39 partment shall incorporate inflation projections and market real rate of return.

40 (3) The department shall recalculate credit transfer prices quarterly, employing the formula es-  
41 tablished under subsection (2) of this section.

42 **SECTION 14.** ORS 469B.291 is amended to read:

43 469B.291. (1) The Director of the State Department of Energy may issue a final certification for  
44 an energy conservation project under this section only if:

45 (a) The project was installed or constructed under a preliminary certificate of approval issued

1 under ORS 469B.288, unless preliminary certification is waived under ORS 469B.285 (5);

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

5 (c) The project was installed or constructed in accordance with the applicable provisions of ORS  
6 469B.270 to 469B.306 and any applicable rules or standards adopted by the director.

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

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

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

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

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

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

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

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

20 (e) Information sufficient to demonstrate that the project will remain in operation for at least  
21 five years, unless the director by rule specifies another period of operation;

22 (f) Documentation of compliance with applicable state and local laws and regulations and li-  
23 censing and permitting requirements as defined by the director;

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

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

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

32 (5) After the filing of the application under this section, the director may issue the certificate  
33 together with any conditions, including conditions imposed by a performance agreement, that the  
34 director determines are appropriate to promote the purposes of ORS 315.331 and 469B.270 to  
35 469B.306. If the applicant is an entity subject to regulation by the Public Utility Commission, the  
36 director may consult with the commission prior to issuance of the certificate. The action of the di-  
37 rector shall include certification of the actual cost of the project. However, the director may not  
38 certify an amount for tax credit purposes that is more than the amount approved in the preliminary  
39 certificate issued for the project.

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

45 (7) Upon approval of an application for final certification of a project, the director shall certify

1 the project. The final certification shall indicate the amount of projected energy savings attributable  
2 to the project and the total project cost.

3 (8) The director may establish by rule timelines and intermediate deadlines for submission of  
4 application materials.

5 **(9) The State Department of Energy shall provide information to the Department of Re-**  
6 **venue about all certifications issued under this section, if required by section 3 of this 2019**  
7 **Act.**

8 **SECTION 15.** ORS 469B.300 is amended to read:

9 469B.300. *[(1) Under the procedures for a contested case under ORS chapter 183, the Director of*  
10 *the State Department of Energy may order the revocation of a certificate issued under ORS 469B.291]*

11 **(1) The Director of the State Department of Energy may order the suspension or revo-**  
12 **cation of a certificate or a portion of a certificate issued under ORS 469B.291, as provided in**  
13 **section 4 of this 2019 Act:**

14 **(a) For the reasons set forth in section 4 of this 2019 Act; or**

15 **(b) If the director finds that:**

16 *[(a) The certification was obtained by fraud or misrepresentation;]*

17 *[(b)]* **(A)** The holder of the certificate or the operator of the project has failed to construct or  
18 operate the project in compliance with the plans, specifications and *[procedures]* **contract terms** in  
19 the certificate; or

20 *[(c)]* **(B)** The project is no longer in operation.

21 *[(2) As soon as an order of revocation under this section becomes final, the director shall notify the*  
22 *Department of Revenue and the project owner, contract purchaser or lessee of the order of revocation.*  
23 *Upon notification, the Department of Revenue immediately shall proceed to collect those taxes not paid*  
24 *by the certificate holder as a result of the tax credits provided to the certificate holder under ORS*  
25 *315.331, from the certificate holder or a successor in interest to the business interests of the certificate*  
26 *holder. All prior tax credits provided to the holder of the certificate by virtue of the certificate shall*  
27 *be forfeited.]*

28 *[(3)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to the*  
29 *collection of income and excise taxes and may proceed to collect the amounts described in subsection*  
30 *(2) of this section from the person that obtained certification from the State Department of Energy, or*  
31 *any successor in interest to the business interests of that person. An assessment of tax is not necessary*  
32 *and a statute of limitation does not preclude the collection of taxes described in this subsection.]*

33 *[(b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires an*  
34 *interest through bankruptcy or through foreclosure of a security interest is not considered to be a suc-*  
35 *cessor in interest to the business interests of the person that obtained certification.]*

36 *[(4) If the certificate is ordered revoked pursuant to subsection (1)(b) of this section, the certificate*  
37 *holder shall be denied any further relief under ORS 315.331 in connection with the project from and*  
38 *after the date that the order of revocation becomes final.]*

39 *[(5) Notwithstanding subsections (1) to (4) of this section, a certificate or portion of a certificate*  
40 *held by a transferee under ORS 469B.276 may not be considered revoked for purposes of the transferee,*  
41 *the tax credit allowable to the transferee under ORS 469B.276 may not be reduced, and a transferee*  
42 *is not liable under subsections (2) to (4) of this section.]*

43 *[(6)]* **(2)** If the project owner is subject to a performance agreement requiring recertification  
44 under ORS 469B.298, the certificate shall be considered revoked as to any portion of the tax credit  
45 that has not previously received approval under a recertification application that was required to

1 have been filed pursuant to ORS 469B.298.

2 **SECTION 16.** ORS 469B.323 is amended to read:

3 469B.323. (1) The owner of a transportation project may transfer a tax credit for the project in  
4 exchange for a cash payment equal to the present value of the tax credit. **The transfer must**  
5 **comply with section 2 of this 2019 Act.**

6 (2) The State Department of Energy shall establish by rule a formula to be employed in the de-  
7 termination of prices of credits transferred under this section. In establishing the formula the de-  
8 partment shall incorporate inflation projections and market real rate of return.

9 (3) The department shall recalculate credit transfer prices quarterly, employing the formula es-  
10 tablished under subsection (2) of this section.

11 **SECTION 17.** ORS 469B.341 is amended to read:

12 469B.341. **The Director of the State Department of Energy may order the suspension or**  
13 **revocation of a certificate or a portion of a certificate issued under ORS 469B.332, as pro-**  
14 **vided in section 4 of this 2019 Act, for the reasons set forth in section 4 of this 2019 Act or**  
15 **if the director finds that:**

16 (1) **The holder of the certificate or the operator of the transportation project has failed**  
17 **to acquire or perform the project in compliance with the plans, specifications and contract**  
18 **terms in the certificate; or**

19 (2) **The project is no longer in operation.**

20 *[(1) Under the procedures for a contested case under ORS chapter 183, the Director of the State*  
21 *Department of Energy may order the revocation of a certificate issued under ORS 469B.332 if the di-*  
22 *rector finds that:]*

23 *[(a) The certification was obtained by fraud or misrepresentation;]*

24 *[(b) The holder of the certificate or the operator of the transportation project has failed to acquire*  
25 *or perform the project in compliance with the plans, specifications and contract terms in the certificate;*  
26 *or]*

27 *[(c) The project is no longer in operation.]*

28 (2) *As soon as an order of revocation under this section becomes final, the director shall notify the*  
29 *Department of Revenue and the project owner, contract purchaser or lessee of the order of revocation.*  
30 *Upon notification, the Department of Revenue immediately shall proceed to collect those taxes not paid*  
31 *by the certificate holder as a result of the tax credits provided to the certificate holder under ORS*  
32 *315.336, from the certificate holder or a successor in interest to the business interests of the certificate*  
33 *holder. All prior tax credits provided to the holder of the certificate by virtue of the certificate shall*  
34 *be forfeited.]*

35 *[(3)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to the*  
36 *collection of income and excise taxes and may proceed to collect the amounts described in subsection*  
37 *(2) of this section from the person that obtained certification from the State Department of Energy, or*  
38 *any successor in interest to the business interests of that person. An assessment of tax is not necessary*  
39 *and a statute of limitation does not preclude the collection of taxes described in subsection (2) of this*  
40 *section.]*

41 *[(b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires an*  
42 *interest through bankruptcy or through foreclosure of a security interest is not considered to be a suc-*  
43 *cessor in interest to the business interests of the person that obtained certification.]*

44 (4) *If the certificate is ordered revoked pursuant to subsection (1)(b) of this section, the certificate*  
45 *holder shall be denied any further relief under ORS 315.336 in connection with the project from and*

1 *after the date that the order of revocation becomes final.]*

2 *[(5) Notwithstanding subsections (1) to (4) of this section, a certificate or portion of a certificate*  
 3 *held by a transferee under ORS 469B.323 may not be considered revoked for purposes of the transferee,*  
 4 *the tax credit allowable to the transferee under ORS 469B.323 may not be reduced, and a transferee*  
 5 *is not liable under subsections (2) to (4) of this section.]*

6 **SECTION 18.** ORS 469B.332 is amended to read:

7 469B.332. (1) A final certification for a transportation project may not be issued by the Director  
 8 of the State Department of Energy under this section unless:

9 (a) The project was acquired or performed under a preliminary certificate of approval issued  
 10 under ORS 469B.329;

11 (b) The applicant demonstrates the ability to provide the information required by ORS 469B.326  
 12 (2) and does not violate any condition that may be imposed as described in subsection (4) of this  
 13 section; and

14 (c) The project was acquired or performed in accordance with the applicable provisions of ORS  
 15 469B.320 to 469B.347 and any applicable rules or standards adopted by the director.

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

17 (a) If the person received preliminary certification for the project under ORS 469B.329; and

18 (b) After completion of the acquisition or performance of the project.

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

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

22 (b)(A) The actual cost of the project attested to by a certified public accountant who is not an  
 23 employee of the applicant or the applicant's completed audit in compliance with federal Office of  
 24 Management and Budget Circular A-133; or

25 (B) If the actual cost of the project is less than \$50,000, copies of receipts for acquisition and  
 26 performance of the project;

27 (c) The amount of the credit under ORS 315.336 that is to be claimed;

28 (d) The number and types of jobs, directly connected to the allowance of the credit, created by  
 29 the acquisition and performance of the project over the five-year period beginning on the date of  
 30 issuance of the preliminary certification under ORS 469B.329;

31 (e) Information sufficient to demonstrate that the project will remain in operation for at least  
 32 five years, unless the director by rule specifies another period of 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; 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 commission prior to issuance of the  
 41 certificate. The action of the director shall include certification of the actual cost of the project.  
 42 However, the director may not certify an amount for tax credit purposes that is more than the  
 43 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 may establish by rule timelines and intermediate deadlines for submission of  
 8 application materials.

9 **(8) The State Department of Energy shall provide information to the Department of Re-**  
 10 **venue about all certifications issued under this section, if required by section 3 of this 2019**  
 11 **Act.**

12  
 13 **CERTIFICATION OF OTHER THAN TRANSFERABLE**  
 14 **TAX CREDIT PROVISIONS**  
 15

16 **SECTION 19.** ORS 315.521 is amended to read:

17 315.521. (1) There shall be allowed a credit against the taxes that are otherwise due under ORS  
 18 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, based on amounts  
 19 contributed in the tax year to a university venture development fund established under ORS 350.550,  
 20 to the extent the university that established the fund issued a tax credit certificate to the taxpayer.

21 (2) The total amount of the credit allowed to a taxpayer shall equal 60 percent of the contribu-  
 22 tion amount stated on the tax credit certificate, but may not exceed \$600,000.

23 (3) The credit allowed under this section in any one tax year may not exceed the tax liability  
 24 of the taxpayer for the tax year.

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

31 (5) In the case of a credit allowed under this section for purposes of ORS chapter 316:

32 (a) A nonresident shall be allowed the credit in the same manner and subject to the same limi-  
 33 tations as a resident. However, the credit shall be prorated using the proportion provided in ORS  
 34 316.117.

35 (b) If a change in the tax year of a taxpayer occurs as described in ORS 314.085 or if the De-  
 36 partment of Revenue terminates the taxpayer's tax year under ORS 314.440, the credit shall be  
 37 prorated or computed in a manner consistent with ORS 314.085.

38 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
 39 resident occurs, the credit shall be determined in a manner consistent with ORS 316.117.

40 (6) A taxpayer claiming a credit under this section shall add to federal taxable income for  
 41 Oregon tax purposes any amount that is deducted for federal tax purposes and that also serves as  
 42 the basis for the credit allowed under this section.

43 **(7) All universities that issue tax credit certificates under this section shall provide in-**  
 44 **formation to the Department of Revenue about all taxpayers that are eligible for a tax credit**  
 45 **under this section, if required by section 3 of this 2019 Act.**

1        **SECTION 20.** ORS 315.622 is amended to read:

2        315.622. (1) A resident or nonresident individual who is certified as eligible under ORS 442.561  
 3 to 442.570 and who is licensed as an emergency medical services provider under ORS chapter 682  
 4 shall be allowed a credit against the taxes that are otherwise due under ORS chapter 316 if the  
 5 Office of Rural Health certifies that the individual provides volunteer emergency medical services  
 6 in a rural area that comprise at least 20 percent of the total emergency medical services provided  
 7 by the individual in the tax year.

8        (2) The amount of the credit shall equal \$250.

9        (3) A nonresident shall be allowed the credit under this section in the proportion provided in  
 10 ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from nonresi-  
 11 dent to resident occurs, the credit allowed by this section shall be determined in a manner consist-  
 12 ent with ORS 316.117.

13        (4) As used in this section, “rural area” means a geographic area that is located at least 25  
 14 miles from any city with a population of 30,000 or more.

15        **(5) The Office of Rural Health shall provide information to the Department of Revenue**  
 16 **about all taxpayers that are eligible for a tax credit under this section, if required by section**  
 17 **3 of this 2019 Act.**

18        **SECTION 21.** ORS 285C.650 is amended to read:

19        285C.650. (1) A qualified community development entity that seeks to have an equity investment  
 20 or long-term debt security certified as a qualified equity investment and eligible for a tax credit  
 21 under ORS 315.533 shall apply to the Oregon Business Development Department. The department  
 22 shall establish by rule application procedures for applications for certification. The entity must  
 23 submit an application on a form that the department provides that includes:

24        (a) The entity’s name, address, tax identification number and evidence of the entity’s certifica-  
 25 tion as a qualified community development entity.

26        (b) A copy of an allocation agreement executed by the entity, or its controlling entity, and the  
 27 Community Development Financial Institutions Fund that includes the State of Oregon in its service  
 28 area.

29        (c) A certificate executed by an executive officer of the entity attesting that the allocation  
 30 agreement remains in effect and has not been revoked or canceled by the Community Development  
 31 Financial Institutions Fund.

32        (d) A description of the proposed purchase price, structure and purchaser of the equity invest-  
 33 ment or long-term debt security.

34        (e) The name and tax identification number of any person eligible to claim a tax credit, under  
 35 ORS 315.533, allowed as a result of the certification of the qualified equity investment.

36        (f) Information regarding the proposed use of proceeds from the issuance of the qualified equity  
 37 investment.

38        (g) A nonrefundable application fee of \$20,000. This fee shall be paid to the department and shall  
 39 be required for each application submitted.

40        (2) Within 15 days after receipt of a completed application containing the information necessary  
 41 for the department to certify a proposed equity investment, including the payment of the application  
 42 fee, the department shall grant or deny the application in full or in part. If the department denies  
 43 any part of the application, the department shall inform the qualified community development entity  
 44 of the grounds for the denial. If the qualified community development entity provides any additional  
 45 information required by the department or otherwise completes its application within 15 days after

1 the notice of denial, the application shall be considered completed as of the original date of sub-  
2 mission. If the qualified community development entity fails to provide the information or complete  
3 its application within the 15-day period, the application remains denied and must be resubmitted in  
4 full with a new submission date.

5 (3) If the application is deemed complete, the department shall certify the proposed equity in-  
6 vestment or long-term debt security as a qualified equity investment and eligible for a tax credit  
7 under ORS 315.533, subject to the limitations in ORS 315.536. The department shall provide written  
8 notice of the certification to the qualified community development entity. The notice shall include  
9 the names of those taxpayers who are eligible to utilize the credits and their respective credit  
10 amounts. If the names of the persons or entities that are eligible to utilize the credits change due  
11 to a transfer of a qualified equity investment or a change in an allocation pursuant to ORS 315.536,  
12 the qualified community development entity shall notify the department of **the transfer of** the  
13 change **as provided in section 2 (2) and (3) of this 2019 Act.**

14 (4)(a) Except as provided in paragraph (b) of this subsection, within 60 days after receiving no-  
15 tice of certification, a qualified community development entity shall issue the qualified equity in-  
16 vestment and receive cash in the amount of the certified purchase price. The qualified community  
17 development entity must provide the department with evidence of the receipt of the cash investment  
18 within 10 business days after receipt.

19 (b) For a qualified equity investment described in ORS 285C.653 (2), a qualified community de-  
20 velopment entity shall issue the qualified equity investment during the period beginning July 1, 2012,  
21 and ending 60 days after receiving notice of certification. If the qualified equity investment is issued  
22 prior to the submission of an application for certification under this section, the qualified community  
23 development entity must provide the department with evidence of the qualified equity investment  
24 and of receipt of the cash investment at the time of application for certification.

25 (c) If a qualified community development entity does not receive the cash investment and issue  
26 the qualified equity investment on or before the 60th day following receipt of the certification no-  
27 tice, the certification shall lapse and the entity may not issue the qualified equity investment with-  
28 out reapplying to the department for certification. A certification that lapses reverts to the  
29 department and may be reissued only in accordance with the application process outlined in this  
30 section.

31 (5) The department shall certify qualified equity investments in the order applications are re-  
32 ceived by the department. Applications received on the same day shall be deemed to have been  
33 received simultaneously. For applications received on the same day and deemed complete, the de-  
34 partment shall certify, consistent with remaining tax credit capacity, qualified equity investments  
35 in proportionate percentages based upon the ratio of the amount of qualified equity investment re-  
36 quested in an application to the total amount of qualified equity investments requested in all appli-  
37 cations received on the same day. If a pending request cannot be fully certified because of the  
38 limitation in ORS 285C.653, the department shall certify the portion that may be certified unless the  
39 qualified community development entity elects to withdraw its request rather than receive partial  
40 credit.

41 (6) A qualified community development entity that is certified under this section shall pay an  
42 annual evaluation fee of \$1,000 to the department.

43 (7) The department shall establish by rule procedures to administer the provisions of this sec-  
44 tion, including the allocation of tax credits issued for qualified equity investments.

45 **(8) The Oregon Business Development Department shall provide information to the De-**

1 **partment of Revenue about all certifications issued under this section, if required by section**  
 2 **3 of this 2019 Act.**

3 **SECTION 22.** ORS 285C.656 is amended to read:

4 285C.656. (1) **The Director of the Oregon Business Development Department may order**  
 5 **the suspension or revocation of a certificate or a portion of a certificate issued under ORS**  
 6 **315.533, as provided in section 4 of this 2019 Act.**

7 [(1)] (2) The [*Department of Revenue*] **Oregon Business Development Department** may recap-  
 8 ture any portion of a tax credit allowed under ORS 315.533 if:

9 (a) Any amount of federal tax credit that might be available with respect to the qualified equity  
 10 investment that generated the tax credit under ORS 315.533 is recaptured under section 45D of the  
 11 Internal Revenue Code. The department's recapture shall be proportionate to the federal recapture  
 12 with respect to the qualified equity investment.

13 (b) The qualified community development entity redeems or makes a principal repayment with  
 14 respect to the qualified equity investment that generated the tax credit prior to the final credit al-  
 15 lowance date of the qualified equity investment. The department's recapture shall be proportionate  
 16 to the amount of the redemption or repayment with respect to the qualified equity investment.

17 (c) The qualified community development entity fails to invest at least 85 percent of the pur-  
 18 chase price of the qualified equity investment in qualified low-income community investments within  
 19 12 months of the issuance of the qualified equity investment and maintain the same level of invest-  
 20 ment in qualified low-income community investments until the last credit allowance date for the  
 21 qualified equity investment. For purposes of calculating the amount of qualified low-income commu-  
 22 nity investments held by a qualified community development entity, an investment shall be consid-  
 23 ered held by the entity even if the investment has been sold or repaid provided that the entity  
 24 reinvests an amount equal to the capital returned to or recovered from the original investment, ex-  
 25 clusive of any profits realized, in another qualified active low-income community business in this  
 26 state within 12 months of the receipt of the capital. A qualified community development entity may  
 27 not be required to reinvest capital returned from qualified low-income community investments after  
 28 the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were  
 29 used to make the qualified low-income community investment, and the qualified low-income commu-  
 30 nity investment shall be considered held by the issuer through the qualified equity investment's final  
 31 credit allowance date.

32 [(2)] (3) The department shall provide notice to the qualified community development entity of  
 33 any proposed recapture of tax credits pursuant to **subsection (2) of this section**. The entity shall  
 34 have 90 days to cure any deficiency indicated in the department's original recapture notice and  
 35 avoid the recapture. If the entity fails or is unable to cure the deficiency within the 90-day period,  
 36 the department shall provide the entity and the taxpayer from whom the credit is to be  
 37 [*recaptured*] **collected** with a final order of recapture. Any tax credit for which a final recapture  
 38 order has been issued shall be recaptured by the department from the taxpayer who claimed the tax  
 39 credit on a tax return.

40 **SECTION 23.** ORS 315.138 is amended to read:

41 315.138. (1) There shall be allowed a credit against tax due under ORS chapter 316, or if the  
 42 taxpayer is a corporation, under ORS chapter 317, for taxpayers that install screening devices, by-  
 43 pass devices or fishways, pursuant to ORS 498.306 or 509.585, and the diversion is not part of a  
 44 hydroelectric project required to be licensed under the Federal Energy Regulatory Commission.  
 45 Except as allowed in subsection (4) of this section, the credit shall be taken in the tax year in which

1 the final certification is issued under subsection (10) of this section.

2 (2) The credit shall be equal to 50 percent of the taxpayer's net certified costs of installing a  
3 screening device, by-pass device or fishway. The total credit allowed *[shall]* **may** not exceed \$5,000  
4 per device installed.

5 (3) The credit allowed in any one year *[shall]* **may** not exceed the tax liability of the taxpayer.

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

15 (5) The credit provided by this section shall be in addition to and not in lieu of any depreciation  
16 or amortization deduction to which the taxpayer otherwise may be entitled with respect to the in-  
17 stallation of a screening device, by-pass device or fishway. The taxpayer's adjusted basis for de-  
18 termining gain or loss *[shall]* **may** not be further decreased by any tax credits allowed under this  
19 section.

20 (6) In the case of a credit allowed under this section for purposes of ORS chapter 316:

21 (a) A nonresident shall be allowed the credit in the same manner and subject to the same limi-  
22 tations as a resident. However, the credit shall be prorated using the proportion provided in ORS  
23 316.117.

24 (b) If a change in the *[taxable]* **tax** year of a taxpayer occurs as described in ORS 314.085, or  
25 if the Department of Revenue terminates the taxpayer's *[taxable]* **tax** year under ORS 314.440, the  
26 credit allowed by this section shall be prorated or computed in a manner consistent with ORS  
27 314.085.

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

31 (7) To qualify for the credit the taxpayer must be issued a certificate by the State Department  
32 of Fish and Wildlife.

33 (8) To obtain credit under subsection (1) of this section, any person proposing to apply for cer-  
34 tification of a screening device, by-pass device or fishway, before installing the screening device,  
35 by-pass device or fishway, shall file a request for preliminary certification with the State Depart-  
36 ment of Fish and Wildlife. The request shall be in a form prescribed by the State Department of Fish  
37 and Wildlife. The following conditions shall apply:

38 (a) Within 30 days of the receipt of a request for preliminary certification, the State Department  
39 of Fish and Wildlife may require, as a condition precedent to issuance of a preliminary certificate  
40 of approval, the submission of plans and specifications. After examination thereof, the State De-  
41 partment of Fish and Wildlife may request corrections and revisions to the plans and specifications.  
42 The State Department of Fish and Wildlife may also require any pertinent information necessary to  
43 determine whether the proposed screening device, by-pass device or fishway is in accordance with  
44 State Department of Fish and Wildlife requirements.

45 (b) If the State Department of Fish and Wildlife determines that the proposed screening device,

1 by-pass device or fishway is in accordance with State Department of Fish and Wildlife requirements,  
2 it shall issue a preliminary certificate approving the screening device, by-pass device or fishway. If  
3 the State Department of Fish and Wildlife determines that the screening device, by-pass device or  
4 fishway does not comply with State Department of Fish and Wildlife requirements, the State De-  
5 partment of Fish and Wildlife shall issue an order denying certification.

6 (c) If within 90 days of the receipt of plans, specifications or any subsequently requested re-  
7 visions or corrections to the plans and specifications or any other information required pursuant to  
8 this section, the State Department of Fish and Wildlife fails to issue a preliminary certificate of  
9 approval and the State Department of Fish and Wildlife fails to issue an order denying certification,  
10 the preliminary certificate shall be considered to have been issued. The capital investment must  
11 comply with the plans, specifications and any corrections or revisions thereto, if any, previously  
12 submitted.

13 (d) Within 30 days from the date of mailing of the order, any person against whom an order is  
14 directed pursuant to paragraph (b) of this subsection may demand a hearing. The demand shall be  
15 in writing, shall state the grounds for hearing and shall be mailed to the State Fish and Wildlife  
16 Director. The hearing shall be conducted in accordance with the applicable provisions of ORS  
17 chapter 183.

18 (9) A screening device, by-pass device or fishway that is installed by the State Department of  
19 Fish and Wildlife pursuant to ORS 498.306 (8) in response to noncompliance by the person respon-  
20 sible for the water diversion is not eligible for the credit provided in subsection (1) of this section.

21 (10) Upon completion and pursuant to application for final certification, final certification shall  
22 be issued by the State Department of Fish and Wildlife if the screening device, by-pass device or  
23 fishway was constructed and installed in accordance with State Department of Fish and Wildlife  
24 requirements. Final certification shall include a statement of the costs of installation as verified by  
25 the State Department of Fish and Wildlife. The credit allowed under this section shall be claimed  
26 first for the tax year of the taxpayer in which final certification is issued.

27 **(11) The State Department of Fish and Wildlife shall provide information to the Depart-**  
28 **ment of Revenue about all certifications issued under this section, if required by section 3**  
29 **of this 2019 Act.**

30 **(12) The State Fish and Wildlife Director may order the suspension or revocation of a**  
31 **certification issued under this section, as provided in section 4 of this 2019 Act, for the rea-**  
32 **sons set forth in section 4 of this 2019 Act or if the holder of the certificate fails to meet**  
33 **State Department of Fish and Wildlife requirements.**

34 *[(11) Pursuant to the procedures for a contested case under ORS chapter 183, the State Department*  
35 *of Fish and Wildlife may order the revocation of the certificate issued under this section of any tax-*  
36 *payer, if it finds that:]*

37 *[(a) The certificate was obtained by fraud or misrepresentation; or]*

38 *[(b) The holder of the certificate fails to meet State Department of Fish and Wildlife*  
39 *requirements.]*

40 *[(12) As soon as the order of revocation under this section has become final the State Department*  
41 *of Fish and Wildlife shall notify the Department of Revenue of such order.]*

42 *[(13) If the certificate of a screening device, by-pass device or fishway is ordered revoked pursuant*  
43 *to subsection (11) of this section, all prior tax relief provided to the holder of the certificate by virtue*  
44 *of the certificate shall be forfeited and the Department of Revenue shall proceed to collect those taxes*  
45 *not paid by the certificate holder as a result of the tax relief provided to the holder.]*

1        [(14) *If the certificate of a screening device, by-pass device or fishway is ordered revoked pursuant*  
 2 *to subsection (11) of this section, the certificate holder shall be denied any further relief provided under*  
 3 *this section in connection with the screening device, by-pass device or fishway, as the case may be, from*  
 4 *and after the date that the order of revocation becomes final.*]

5        [(15)] (13) In the event that the screening device, by-pass device or fishway is destroyed by flood,  
 6 natural disaster or act of God before all of the credit has been used, the taxpayer may nevertheless  
 7 claim the credit as if no destruction had taken place.

8        [(16)] (14) Screening devices, by-pass devices or fishways that are financed by funds obtained  
 9 from the Water Development Fund, pursuant to ORS 541.700 to 541.855, [*shall not be*] **are not** eli-  
 10 gible for the credit under any circumstances.

11        [(17)] (15) The State Department of Fish and Wildlife shall adopt rules for carrying out the  
 12 provisions of this section and report to the interim committee created under ORS 171.605 to 171.640  
 13 to make studies of and inquiries into state revenue matters.

14        **SECTION 24.** ORS 315.624 is amended to read:

15        315.624. (1) A resident or nonresident individual physician licensed under ORS chapter 677 who  
 16 is engaged in the practice of medicine qualifies for an annual credit against the taxes that are oth-  
 17 erwise due under ORS chapter 316 if the physician provides medical care to residents of an Oregon  
 18 Veterans' Home.

19        (2) The amount of the credit allowed under this section shall be equal to the lesser of:

20        (a) \$1,000 for every eight residents to whom the physician provides care at an Oregon Veterans'  
 21 Home; or

22        (b) \$5,000.

23        (3) The credit allowed under this section may not exceed the tax liability of the taxpayer for the  
 24 tax year, and a credit allowed under this section that is unused may not be carried forward to a  
 25 succeeding tax year.

26        (4) A nonresident shall be allowed the credit described in this section in the proportion provided  
 27 in ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from non-  
 28 resident to resident occurs, the credit allowed by this section shall be determined in a manner  
 29 consistent with ORS 316.117.

30        (5) In order to qualify for the tax credit allowed under this section, the physician claiming the  
 31 credit [*must submit with the physician's tax return*] **must obtain** a letter from the Oregon Veterans'  
 32 Home at which the physician provided care to residents, confirming that the physician missed no  
 33 more than five percent of the physician's scheduled visits with residents of the home during the tax  
 34 year, **and must retain the letter with the physician's tax records.**

35        (6) In the case of a shareholder of a corporation or a member of a partnership, only the care  
 36 provided by the individual shareholder or partner shall be considered, and the full amount of the  
 37 credit shall be allowed to each shareholder or partner who qualifies in an individual capacity.

38        (7) The Director of Veterans' Affairs shall assist the Department of Revenue in determining if  
 39 a taxpayer claiming a credit under this section qualifies for the credit **and shall provide informa-**  
 40 **tion if required by section 3 of this 2019 Act to the Department of Revenue about all physi-**  
 41 **cians to whom the Oregon Veterans' Home has issued letters as provided under subsection**  
 42 **(5) of this section.**

43        (8) **The director may order the suspension or revocation of a certificate issued under this**  
 44 **section, as provided in section 4 of this 2019 Act.**

45        **SECTION 25.** ORS 329A.706 is amended to read:

1 329A.706. (1) For the purpose of implementing the program established under ORS 329A.703, the  
 2 Early Learning Council, in collaboration with the Office of Child Care, shall:

3 (a) Adopt rules.

4 (b) Identify child care goals that are consistent with the purposes provided in ORS 329A.703 (2).  
 5 The goals identified under this paragraph shall take into account state resources and needs.

6 (2)(a) The Office of Child Care shall issue tax credit certificates in the chronological order in  
 7 which the contributions are received by the office. The office shall issue tax credit certificates to  
 8 contributors until the total value of all certificates issued by the office for the calendar year equals  
 9 \$500,000. Each issued certificate shall state the value of the contribution being certified as eligible  
 10 for the tax credit allowed under ORS 315.213.

11 (b) The Office of Child Care may not issue a tax credit certificate to a taxpayer to the extent  
 12 the credit value to be certified, when added to the total credit value previously certified by the of-  
 13 fice under paragraph (a) of this subsection for the calendar year exceeds \$500,000.

14 *[(c) The Office of Child Care shall send a copy of all tax credit certificates issued under this section*  
 15 *to the Department of Revenue.]*

16 *[(d)]* (c) Qualified contributions shall be deposited in the Child Care Fund.

17 (3) A taxpayer that receives a notice of denial of a tax credit certificate or that receives a tax  
 18 credit certificate issued for an amount that is less than the amount contributed may request a refund  
 19 for the amount contributed within 90 days of the denial or issuance of the certificate by the Office  
 20 of Child Care. The Office of Child Care must send notice of a denial or changed amount and refund  
 21 the amount for which a tax credit will not be granted within 30 days after receiving the request.  
 22 The refund shall be made from the Child Care Fund.

23 (4) The Early Learning Council may establish by rule any other provisions required to imple-  
 24 ment the program established under ORS 329A.700 to 329A.712.

25 **(5) The Office of Child Care shall provide information to the Department of Revenue**  
 26 **about all tax credit certificates issued under subsection (2) of this section, if required by**  
 27 **section 3 of this 2019 Act.**

28 **SECTION 26.** ORS 348.621 is amended to read:

29 348.621. (1) An application for tax credit certification shall be filed by an employer that has  
 30 obtained program certification under ORS 348.618 or that has applied for program certification and  
 31 is awaiting *[such]* **program** certification by the Director of the Office of Student Access and Com-  
 32 pletion.

33 (2) The application for tax credit certification shall be filed by the employer with the director.  
 34 The application shall be filed at the time prescribed by the director, but no later than October 1  
 35 of the calendar year in which begins the tax year for which a credit under ORS 315.237 will be  
 36 claimed.

37 (3) The application shall be filed on a form prescribed by the director and shall contain the in-  
 38 formation required by the director, including the amount of scholarship moneys the employer has  
 39 provided or intends to provide to employees or dependents during the calendar year for which tax  
 40 credit certification is being sought and the number of employees employed by the employer for the  
 41 calendar year.

42 (4) The director shall consider applications in the chronological order in which the applications  
 43 are received and shall approve applications to the extent the amount set forth in the application,  
 44 when added to the total amount already certified by the director for the calendar year under this  
 45 section, does not exceed \$1 million.

1 (5) An employer may not receive tax credit certification:

2 (a) For an amount that is greater than \$1 million;

3 (b) If the employer employs fewer than four full-time equivalent employees for the calendar year;

4 or

5 (c) If the employer employs more than 250 employees for the calendar year.

6 (6) The director shall send written notice of the amount of the tax credit certification, or written  
7 notice that no amount is being certified, to the employer [*and to the Department of Revenue*] within  
8 60 days of the date an application is filed under this section.

9 (7) The employer shall keep the written certification in the employer's records for at least five  
10 years and shall furnish the certification to the Department of Revenue if requested.

11 **(8) The Office of Student Access and Completion shall provide information to the De-**  
12 **partment of Revenue about all tax credit certifications issued under this section, if required**  
13 **by section 3 of this 2019 Act.**

14 **(9) The Executive Director of the Office of Student Access and Completion may order the**  
15 **suspension or revocation of a tax credit certification issued under ORS 348.618, as provided**  
16 **in section 4 of this 2019 Act.**

17 **SECTION 27.** ORS 442.485 is amended to read:

18 442.485. The responsibilities of the Office of Rural Health shall include but not be limited to:

19 (1) Coordinating statewide efforts for providing health care in rural areas.

20 (2) Accepting and processing applications from communities interested in developing health care  
21 delivery systems. Application forms shall be developed by the agency.

22 (3) Through the agency, applying for grants and accepting gifts and grants from other govern-  
23 mental or private sources for the research and development of rural health care programs and fa-  
24 cilities.

25 (4) Serving as a clearinghouse for information on health care delivery systems in rural areas.

26 (5) Helping local health care delivery systems develop ongoing funding sources.

27 (6) Developing enabling legislation to facilitate further development of rural health care delivery  
28 systems.

29 **(7) Providing information to the Department of Revenue about all certifications for tax**  
30 **credits allowed under ORS 315.613, 315.616, 315.619 and 315.622, if required by section 3 of this**  
31 **2019 Act.**

32 **(8) The Office of Rural Health may order the suspension or revocation of a certificate**  
33 **or a portion of a certificate issued under ORS 315.613 or 315.622, as provided in section 4 of**  
34 **this 2019 Act.**

35 **SECTION 28.** ORS 458.690 is amended to read:

36 458.690. (1) Notwithstanding ORS 315.271, a fiduciary organization selected under ORS 458.695  
37 may qualify as the recipient of account contributions that qualify the contributor for a tax credit  
38 under ORS 315.271 only if the fiduciary organization structures the accounts to have the following  
39 features:

40 (a) The fiduciary organization matches amounts deposited by the account holder according to a  
41 formula established by the fiduciary organization. The fiduciary organization shall maintain on de-  
42 posit in the account not less than \$1 nor more than \$5 for each \$1 deposited by the account holder.

43 (b) The matching deposits by the fiduciary organization to the individual development account  
44 are placed in:

45 (A) A savings account jointly held by the account holder and the fiduciary organization and

1 requiring the signatures of both for withdrawals;

2 (B) A savings account that is controlled by the fiduciary organization and is separate from the  
3 savings account of the account holder; or

4 (C) In the case of an account established for the purpose described in ORS 458.685 (1)(c), a  
5 savings network account for higher education under ORS 178.300 to 178.355, in which the fiduciary  
6 organization is the account owner as defined in ORS 178.300.

7 (2) Account holders may not accrue more than \$3,000 of matching funds under subsection (1) of  
8 this section from state-directed moneys in any 12-month period. A fiduciary organization may desig-  
9 nate a lower amount as a limit on annual matching funds. A fiduciary organization shall maintain  
10 on deposit sufficient funds to cover the matching deposit agreements for all individual development  
11 accounts managed by the organization.

12 (3) The Housing and Community Services Department shall adopt rules to establish a maximum  
13 total amount of state-directed moneys that may be deposited as matching funds into an individual  
14 development account.

15 (4) **The Housing and Community Services Department shall provide information to the  
16 Department of Revenue about all individual development account contributors that are  
17 qualified for a tax credit under ORS 315.271, if required by section 3 of this 2019 Act.**

18  
19 **BIOMASS CREDIT REVOCABILITY**

20  
21 **SECTION 29. ORS 315.172 and 469B.407 are repealed.**

22  
23 **APPLICABILITY DATE**

24  
25 **SECTION 30. Section 2 of this 2019 Act applies to tax credits that are transferred on or  
26 after January 1, 2020.**

27  
28 **CAPTIONS**

29  
30 **SECTION 31. The unit captions used in this 2019 Act are provided only for the conven-  
31 ience of the reader and do not become part of the statutory law of this state or express any  
32 legislative intent in the enactment of this 2019 Act.**

33  
34 **EFFECTIVE DATE**

35  
36 **SECTION 32. This 2019 Act takes effect on the 91st day after the date on which the 2019  
37 regular session of the Eightieth Legislative Assembly adjourns sine die.**