

Senate Bill 267

Sponsored by Senator OLSEN (Presession filed.)

SUMMARY

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

Transfers duties, functions and powers of State Department of Energy related to issuance of loans for small scale local energy projects to Oregon Business Development Department. Becomes operative on January 1, 2020.

Requires loan contracts to make loans payable in full in event that Director of Oregon Business Development Department formally declares default of payment of loan or that project that is subject of loan fails to meet standards and criteria for projects. Becomes operative on January 1, 2020.

Repeals certain provisions related to small scale local energy projects. Abolishes funds associated with provisions. Transfers moneys from abolished funds to Small Scale Local Energy Project Loan Fund.

Appropriates moneys from General Fund to Oregon Business Development Department for purposes of Act.

Repeals energy efficiency and sustainable technology loan program.

Requires State Department of Energy to conduct audit of certain department activities.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to small scale local energy projects; creating new provisions; amending ORS 223.680, 470.050, 470.060, 470.070, 470.080, 470.090, 470.110, 470.120, 470.130, 470.135, 470.140, 470.145, 470.150, 470.160, 470.170, 470.180, 470.190, 470.200, 470.210, 470.230, 470.270, 470.300, 470.310, 470.810, 470.815 and 757.247; repealing ORS 470.100, 470.500, 470.505, 470.510, 470.515, 470.520, 470.525, 470.530, 470.535, 470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575, 470.580, 470.585, 470.590, 470.595, 470.600, 470.605, 470.610, 470.615, 470.620, 470.630, 470.635, 470.640, 470.645, 470.650, 470.655, 470.660, 470.665, 470.670, 470.675, 470.680, 470.685, 470.690, 470.695, 470.700, 470.710, 470.715, 470.720, 701.108 and 701.119; and declaring an emergency.

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

SMALL SCALE LOCAL ENERGY PROJECTS AND CLEAN ENERGY DEPLOYMENT PROGRAM (Transfer of Duties, Functions and Powers)

SECTION 1. Except for the duty to establish by rule standards and criteria for small scale local energy projects under ORS 470.080 (1), the duties, functions and powers of the State Department of Energy related to the issuance of loans for small scale local energy projects under ORS chapter 470 are imposed upon, transferred to and vested in the Oregon Business Development Department.

(Records and Property)

SECTION 2. (1) The Director of the State Department of Energy shall deliver to the

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 Oregon Business Development Department all records and property within the jurisdiction
 2 of the director that relate to the duties, functions and powers transferred by section 1 of this
 3 2019 Act, and the Director of the Oregon Business Development Department shall take pos-
 4 session of the records and property.

5 (2) The Governor shall resolve any dispute between the State Department of Energy and
 6 the Oregon Business Development Department relating to transfers of records and property
 7 under this section, and the Governor's decision is final.

8
 9 (Unexpended Revenues)

10
 11 **SECTION 3.** (1) The unexpended balances of amounts authorized to be expended by the
 12 State Department of Energy for the biennium beginning July 1, 2019, from revenues dedi-
 13 cated, continuously appropriated, appropriated or otherwise made available for the purpose
 14 of administering and enforcing the duties, functions and powers transferred by section 1 of
 15 this 2019 Act are transferred to and are available for expenditure by the Oregon Business
 16 Development Department for the biennium beginning July 1, 2019, for the purpose of admin-
 17 istering and enforcing the duties, functions and powers transferred by section 1 of this 2019
 18 Act.

19 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
 20 expenditures by the State Department of Energy remain applicable to expenditures by the
 21 Oregon Business Development Department under this section.

22
 23 (Action, Proceeding, Prosecution)

24
 25 **SECTION 4.** The transfer of duties, functions and powers to the Oregon Business Devel-
 26 opment Department by section 1 of this 2019 Act does not affect any action, proceeding or
 27 prosecution involving or with respect to the duties, functions and powers begun before and
 28 pending at the time of the transfer, except that the Oregon Business Development Depart-
 29 ment is substituted for the State Department of Energy in the action, proceeding or prose-
 30 cution.

31
 32 (Liability, Duty, Obligation)

33
 34 **SECTION 5.** (1) Nothing in sections 1 to 7 of this 2019 Act, the amendments to statutes
 35 by sections 8 to 33 of this 2019 Act or the repeal of ORS 470.100 by section 39 of this 2019
 36 Act relieves a person of a liability, duty or obligation accruing under or with respect to the
 37 duties, functions and powers transferred by section 1 of this 2019 Act. The Oregon Business
 38 Development Department may undertake the collection or enforcement of any such liability,
 39 duty or obligation.

40 (2) The rights and obligations of the State Department of Energy legally incurred under
 41 contracts, leases and business transactions executed, entered into or begun before the op-
 42 erative date specified in section 40 of this 2019 Act accruing under or with respect to the
 43 duties, functions and powers transferred by section 1 of this 2019 Act are transferred to the
 44 Oregon Business Development Department. For the purpose of succession to these rights
 45 and obligations, the Oregon Business Development Department is a continuation of the State

1 Department of Energy and not a new authority.

2
3 (Rules)

4
5 **SECTION 6.** Notwithstanding the transfer of duties, functions and powers by section 1
6 of this 2019 Act, the rules of the State Department of Energy with respect to such duties,
7 functions or powers that are in effect on the operative date specified in section 40 of this 2019
8 Act continue in effect until superseded or repealed by rules of the Oregon Business Devel-
9 opment Department. References in the rules of the State Department of Energy to the State
10 Department of Energy or an officer or employee of the State Department of Energy are
11 considered to be references to the Oregon Business Development Department or an officer
12 or employee of the Oregon Business Development Department.

13 **SECTION 7.** Whenever, in any uncodified law or resolution of the Legislative Assembly
14 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
15 the context of the duties, functions and powers transferred by section 1 of this 2019 Act,
16 reference is made to the State Department of Energy, or an officer or employee of the State
17 Department of Energy whose duties, functions or powers are transferred by section 1 of this
18 2019 Act, the reference is considered to be a reference to the Oregon Business Development
19 Department or an officer or employee of the Oregon Business Development Department who
20 by this 2019 Act is charged with carrying out the duties, functions and powers.

21
22 (Amendments to Statutes)

23
24 **SECTION 8.** ORS 470.050 is amended to read:

25 470.050. As used in this chapter, unless the context requires otherwise:

26 (1) “Alternative fuel project” means:

27 (a) Equipment, including vehicles that are not used primarily for personal, family or household
28 purposes, that is modified or acquired directly from a factory and that:

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

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

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

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

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

42 [(4)] (3) “Committee” means the Small Scale Local Energy Project Advisory Committee created
43 under ORS 470.070.

44 [(5)] (4) “Cooperative” means a cooperative [corporation organized under ORS chapter 62.

45 [(6) “Director” means the Director of the State Department of Energy appointed under ORS

1 469.040.]

2 [(7)] (5) “Eligible federal agency” means a federal agency or public corporation created by the
3 federal government that proposes to use a loan for a small scale local energy project. “Eligible
4 federal agency” does not include a federal agency or public corporation created by the federal
5 government that proposes to use a loan for a small scale local energy project to generate electricity
6 for sale.

7 [(8)] (6) “Eligible state agency” means a state officer, board, commission, department, institution,
8 branch or agency of the state whose costs are paid wholly or in part from funds held in the State
9 Treasury.

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

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

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

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

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

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

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

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

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

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

24 [(15)] (7) “Loan” includes the purchase or other acquisition of evidence of indebtedness and
25 money used for the purchase or other acquisition of evidence of indebtedness.

26 [(16)] (8) “Loan contract” means the evidence of indebtedness and all instruments used in the
27 purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or
28 municipal corporations that are tax exempt entities, a loan contract may include a lease purchase
29 agreement with respect to personal property.

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

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

36 [(19)] (9) “Municipal corporation” has the meaning given in ORS 297.405 and also includes any
37 Indian tribe or authorized Indian tribal organization or any combination of two or more of these
38 tribes or organizations acting jointly in connection with a small scale local energy project.

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

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

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

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

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

1 [(22)] **(10)** “Oregon business” means a sole proprietorship, partnership, company, cooperative,
2 corporation or other form of business entity that is organized or authorized to do business under
3 Oregon law for profit.

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

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

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

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

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

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

14 [(25)] **(11)** “Recycling project” means a facility or equipment that converts waste into a new and
15 usable product.

16 [(26)] **(12)** “Small business” means:

17 (a) An Oregon business that is:

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

19 (B) An industrial or manufacturing business employing 200 or fewer persons at the time the loan
20 is made; or

21 (b) An Oregon subsidiary of a sole proprietorship, partnership, company, cooperative, corpo-
22 ration or other form of business entity for which the total number of employees for both the sub-
23 sidiary and the parent sole proprietorship, partnership, company, cooperative, corporation or other
24 form of business entity at the time the loan is made is:

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

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

27 [(27)] *“Small scale local energy program loan” means a loan for a small scale local energy project*
28 *other than an energy efficiency and sustainable technology loan.*

29 [(28)] **(13)** “Small scale local energy project” means any of the following:

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

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

38 (c) A recycling project.

39 (d) An alternative fuel project.

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

43 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility
44 that directly or indirectly reduces the amount of energy needed for the construction and operation
45 of the facility and that meets the sustainable building practices standard established by the [State

1 *Department of Energy]* **Oregon Business Development Department** by rule. For purposes of this
 2 paragraph, “system, mechanism or series of mechanisms” includes related and integrated upgrades
 3 to attain compliance with standards set in the State of Oregon Structural Specialty Code and Fire
 4 and Life Safety Code, and seismic safety upgrades.

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

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

10 [(29)] (14) “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the
 11 fund created under ORS 470.300.

12 [(30)] (15) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Arti-
 13 cle XI-J of the Oregon Constitution and appropriated to the [*State*] department [*of Energy*] under
 14 ORS 470.130.

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

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

22 **SECTION 9.** ORS 470.060 is amended to read:

23 470.060. (1) The following may file with the [*State Department of Energy*] **Oregon Business**
 24 **Development Department** an application to obtain moneys for a small scale local energy project
 25 as provided in this chapter:

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

27 (b) An Oregon business;

28 (c) A nonprofit or public cooperative;

29 (d) A nonprofit corporation;

30 (e) An eligible federal agency;

31 (f) An eligible state agency;

32 (g) A public corporation created by this state;

33 (h) An intergovernmental entity created pursuant to an intergovernmental agreement under ORS
 34 190.003 to 190.130;

35 (i) A special district;

36 (j) A local improvement district;

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

38 (L) A municipal corporation.

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

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

43 (b) State whether any purposes other than energy production, but consistent with energy pro-
 44 duction, will be served by the proposed small scale local energy project, and the nature of the other
 45 purposes, if any.

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

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

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

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

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

16 **SECTION 10.** ORS 470.070 is amended to read:

17 470.070. (1) The Director of the *[State Department of Energy]* **Oregon Business Development**
18 **Department** shall appoint a Small Scale Local Energy Project Advisory Committee to review ap-
19 plications made under ORS 470.060 and rules adopted under ORS 470.080*[, other than applications for*
20 *energy efficiency and sustainable technology loans,]* and make recommendations regarding those ap-
21 plications to the director.

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

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

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

34 **SECTION 11.** ORS 470.080 is amended to read:

35 470.080. (1) After consultation with the Small Scale Local Energy Project Advisory Committee
36 **and the Director of the Oregon Business Development Department**, the Director of the State
37 Department of Energy shall establish by rule standards and criteria for small scale local energy
38 projects to be funded under this chapter *[other than projects funded through energy efficiency and*
39 *sustainable technology loans]*. The standards and criteria shall operate to encourage diversity in
40 projects funded, give preference to the maximum extent practical to projects proposed by individuals
41 and small businesses, ensure acceptability of environmental impacts and shall require consideration
42 of the potential contribution of a project if developed at other suitable locations to meeting the en-
43 ergy needs of this state. The standards and criteria shall give the least preference to projects pro-
44 posed by an eligible federal agency.

45 (2) All applications submitted under ORS 470.060 shall be reviewed by the *[State Department of*

1 *Energy*] **Oregon Business Development Department**. The department may request that the appli-
 2 cant submit additional information or revise the application. The department shall:

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

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

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

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

18 **SECTION 12.** ORS 470.090 is amended to read:

19 470.090. (1) After consideration of the recommendation of the Small Scale Local Energy Project
 20 Advisory Committee or the [*State Department of Energy*] **Oregon Business Development Depart-**
 21 **ment** as provided by ORS 470.080, the Director of the [*State Department of Energy*] **Oregon Busi-**
 22 **ness Development Department** may approve or reject the financing of a small scale local energy
 23 project described in an application filed as provided in ORS 470.060, using moneys in the Small Scale
 24 Local Energy Project Loan Fund. Approval of a loan by the director shall include a certification
 25 of the amount of the loan.

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

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

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

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

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

35 (e) The applicant is qualified, creditworthy and responsible and is willing and able to enter into
 36 a contract with the director for development and repayment as provided in ORS 470.150 [*or*
 37 *470.645*];

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

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

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

44 (i) Except for a proposed space heating project for a dwelling under paragraph (h) of this sub-
 45 section, the loan does not finance any project for which the projected economic value of the energy

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

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

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

9 **SECTION 13.** ORS 470.110 is amended to read:

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

15 **SECTION 14.** ORS 470.120 is amended to read:

16 470.120. If the applicant receives from any source other than the Small Scale Local Energy
17 Project Loan Fund¹, *the Energy Project Supplemental Fund or the Energy Project Bond Loan Fund*²
18 any moneys to assist in the development of the **small scale local energy** project, the amount of the
19 loan to the applicant from the Small Scale Local Energy Project Loan Fund¹, *Energy Project Sup-*
20 *plemental Fund or Energy Project Bond Loan Fund*² shall be limited to that amount necessary for
21 the development of those portions of the project not funded by other sources.

22 **SECTION 15.** ORS 470.130 is amended to read:

23 470.130. All moneys in the Small Scale Local Energy Project Loan Fund created by Article XI-J
24 of the Oregon Constitution are appropriated continuously to the *[State Department of Energy]*
25 **Oregon Business Development Department** and shall be used for the purposes authorized under
26 this chapter.

27 **SECTION 16.** ORS 470.135 is amended to read:

28 470.135. The duties of the Director of the Oregon Department of Administrative Services to es-
29 tablish, maintain and keep accounts of, and make disbursements or transfers out of, the funds and
30 accounts established or identified in the two bond indentures, as supplemented, dated June 1, 1981,
31 and September 1, 1985, that relate to the Small Scale Local Energy Project Loan Program estab-
32 lished by Article XI-J of the Oregon Constitution and this chapter are transferred to the *[State De-*
33 *partment of Energy]* **Oregon Business Development Department**. Notwithstanding the transfer of
34 these fiscal functions to the *[State Department of Energy]* **Oregon Business Development Depart-**
35 **ment**, in accordance with ORS 291.015 (2), the *[State Department of Energy's]* **Oregon Business**
36 **Development Department's** performance of these fiscal functions shall remain subject to the con-
37 trol of the Oregon Department of Administrative Services.

38 **SECTION 17.** ORS 470.140 is amended to read:

39 470.140. (1) In accordance with the applicable provisions of ORS chapter 183 **and except as**
40 **provided by ORS 470.080 (1)**, the Director of the *[State Department of Energy]* **Oregon Business**
41 **Development Department** may adopt rules considered necessary to carry out the purposes of this
42 chapter.

43 (2) The director shall submit to the Legislative Assembly and the Governor a biennial report
44 of the transactions of the Small Scale Local Energy Project Loan Fund and the Small Scale Local
45 Energy Project Administration and Bond Sinking Fund in such detail as will accurately indicate the

1 condition of the funds.

2 **SECTION 18.** ORS 470.145 is amended to read:

3 470.145. The [*State Department of Energy*] **Oregon Business Development Department** shall
 4 develop, implement and periodically update a marketing plan to inform potential applicants of the
 5 availability of small scale local energy project loans. The first priority of the marketing plan shall
 6 be to inform individuals and small businesses that small scale local energy project loans are avail-
 7 able.

8 **SECTION 19.** ORS 470.150 is amended to read:

9 470.150. Except as provided in ORS 470.155 and 470.170, if the Director of the [*State Department*
 10 *of Energy*] **Oregon Business Development Department** approves the financing of a small scale
 11 local energy project, the director, on behalf of the state, and the applicant may enter into a loan
 12 contract, secured by a first lien or by other good and sufficient collateral in the manner provided
 13 in ORS 470.155 to 470.210. For purposes of this section, the interest of the [*State Department of En-*
 14 *ergy*] **Oregon Business Development Department** under a lease purchase contract entered into
 15 with an eligible federal or state agency or a municipal corporation may constitute good and suffi-
 16 cient collateral. The contract:

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

21 (2) Shall provide a plan for repayment by the applicant of moneys borrowed from the loan fund
 22 used for the development of the small scale local energy project and interest on those moneys used
 23 at a rate of interest the director determines is necessary to provide adequate funds to recover the
 24 administrative expenses incurred in connection with the loan. The director shall set the interest rate
 25 at an incremental rate above the interest rate on the underlying bonds in an amount sufficient to
 26 recover all program-related costs including, but not limited to, implementation, financing, adminis-
 27 tration and promotional costs for the program. The incremental rate for projects proposed by an
 28 eligible federal agency shall be greater than the incremental rate charged to any other govern-
 29 mental borrower. The repayment plan, among other matters:

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

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

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

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

44 (e) [*May*] **Shall** set forth a procedure for formal declaration of default of payment by the direc-
 45 tor, including formal notification of all relevant federal, state and local agencies; and further, a

1 procedure for notification of all relevant federal, state and local agencies that declaration of default
2 has been rescinded when appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 *[(D) This chapter; or]*

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

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

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

41 **SECTION 20.** ORS 470.160 is amended to read:

42 470.160. If the Director of the [State Department of Energy] **Oregon Business Development**
43 **Department** approves a loan for a small scale local energy project, the State Treasurer shall pay
44 moneys for such project from the Small Scale Local Energy Project Loan Fund [or Energy Project
45 Bond Loan Fund] in accordance with the terms of the loan contract, as prescribed by the director.

1 **SECTION 21.** ORS 470.170 is amended to read:

2 470.170. [(1)(a)] (1) [*Except as otherwise provided in this subsection,*] When a loan is made under
 3 this chapter to an applicant other than a municipal corporation, the loan shall be secured pursuant
 4 to a mortgage, trust deed, security agreement, pledge, assignment or similar instrument, by a secu-
 5 rity interest or lien on real or personal property in the full amount of the loan or as the Director
 6 of the [*State Department of Energy*] **Oregon Business Development Department** shall require for
 7 adequate security, including but not limited to long-term leasehold interests or equitable interests
 8 in real property or personal property. In lieu of, or in addition to, any of the collateral otherwise
 9 described in this [*paragraph*] **subsection**, the applicant may secure the loan by providing credit
 10 enhancement, including but not limited to a letter of credit or payment bond, or a guaranty ac-
 11 ceptable to the director.

12 [(b) *To the extent consistent with any declaration, pledge or agreement for bonds issued under ORS*
 13 *470.220 to 470.290, an energy efficiency and sustainable technology loan shall be secured as provided*
 14 *in ORS 470.680 or 470.685.*]

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

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

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

23 (5) The director may cause to be instituted appropriate proceedings to foreclose liens for delin-
 24 quent loan payments, and shall pay the proceeds of any such foreclosure, less the director's expenses
 25 incurred in foreclosing, into the Small Scale Local Energy Project Administration and Bond Sinking
 26 Fund if the loan was issued from the Small Scale Local Energy Project Loan Fund[, *or into the En-*
 27 *ergy Project Bond Loan Fund if the loan was from the Energy Project Bond Loan Fund*]. In a fore-
 28 closure proceeding the director may bid on property offered for sale in the proceedings and may
 29 acquire title to the property on behalf of the state.

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

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

37 **SECTION 22.** ORS 470.180 is amended to read:

38 470.180. In addition to any other remedy available to the [*State Department of Energy*] **Oregon**
 39 **Business Development Department**, if a municipal corporation entitled by law to share in the
 40 apportionment of any state revenues or funds defaults on any payments due to the State of Oregon
 41 under a loan contract entered into under ORS 470.150, the [*State Department of Energy*] **Oregon**
 42 **Business Development Department** may certify that fact to the Oregon Department of Adminis-
 43 trative Services and the Oregon Department of Administrative Services shall withhold payment of
 44 any revenues or funds in the State Treasury to which the municipal corporation is entitled, in an
 45 amount not to exceed the balance owing on the loan, until the [*State Department of Energy*] **Oregon**

1 **Business Development Department** certifies that the default has been remedied.

2 **SECTION 23.** ORS 470.190 is amended to read:

3 470.190. If an applicant fails to comply with a contract entered into with the Director of the
4 [State Department of Energy] **Oregon Business Development Department** for development and
5 repayment as provided in ORS 470.150 [or 470.645], the director, in addition to remedies provided in
6 ORS 470.170 and 470.180, may seek other appropriate legal remedies to secure the loan and may
7 contract as provided in ORS 470.150 with any other person for continuance of development and for
8 repayment of moneys from the Small Scale Local Energy Project Loan Fund [or from the Energy
9 Project Bond Loan Fund] used therefor and interest thereon.

10 **SECTION 24.** ORS 470.200 is amended to read:

11 470.200. If any small scale local energy project is refinanced or an additional grant or loan in-
12 tended to finance the project development is obtained from other sources after the execution of the
13 loan from the state, all such funds shall be used to repay the state unless the Director of the [State
14 Department of Energy] **Oregon Business Development Department** finds that repayment of the
15 state from the additional grant or loan would be contrary to public interest.

16 **SECTION 25.** ORS 470.210 is amended to read:

17 470.210. (1) Notwithstanding any other provision of law, a municipal corporation may enter into
18 a loan contract with the [State Department of Energy] **Oregon Business Development Department**
19 to finance a small scale local energy project.

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

25 **SECTION 26.** ORS 470.230 is amended to read:

26 470.230. Except as provided in ORS 470.270, all moneys obtained from the sale of general obli-
27 gation bonds under ORS 470.220 to 470.290 and Article XI-J of the Oregon Constitution shall be
28 credited by the State Treasurer to the Small Scale Local Energy Project Loan Fund. Those moneys
29 shall be used only for the purposes stated in Article XI-J of the Oregon Constitution, including
30 payment of the costs of issuing the bonds and of obtaining credit enhancement for the bonds, and
31 making payments of interest on bonds issued pursuant to the provisions of ORS 470.220 to 470.290
32 if there are insufficient funds in the Small Scale Local Energy Project Administration and Bond
33 Sinking Fund to make the payments referred to in ORS 470.300 (1). Moneys loaned to municipal
34 corporations but withheld by the [State Department of Energy] **Oregon Business Development**
35 **Department** for security or to pay for future project costs may remain in the loan fund. Pending
36 the use of the moneys in the loan fund for the proper purposes, the moneys may be invested in the
37 manner provided by law.

38 **SECTION 27.** ORS 470.270 is amended to read:

39 470.270. (1) After consultation with the State Treasurer, the Director of the [State Department
40 of Energy] **Oregon Business Development Department** may issue general obligation refunding
41 bonds for the purpose of refunding outstanding bonds issued under ORS 470.220 to 470.290 and Ar-
42 ticle XI-J of the Oregon Constitution. The refunding bonds may be sold in the same manner as other
43 bonds are sold under ORS 470.220 to 470.290. All moneys obtained from the sale of refunding bonds
44 shall be credited by the State Treasurer to the Small Scale Local Energy Project Administration and
45 Bond Sinking Fund. The refunding bonds may be issued to refund bonds previously issued for re-

1 funding purposes. Pending the use of moneys obtained from the sale of refunding bonds for proper
2 purposes, such moneys may be invested in the manner provided by law.

3 (2) Notwithstanding any provision of ORS 470.150, if the [*State Department of Energy*] **Oregon**
4 **Business Development Department** issues taxable refunding bonds at a lower interest rate to re-
5 fund outstanding general obligation bonds, and is unable to allow loan recipients to receive a por-
6 tion of the interest savings, the director shall allow the loan recipient to prepay the outstanding
7 loan balance upon the request of the recipient. The director shall respond to such a request within
8 30 days after receiving the request by specifying the outstanding principal balance after applying
9 reserves held by the state for the borrower and the prepayment premium as listed in the bond doc-
10 ument, loan document or bond purchase agreement.

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

23 **SECTION 28.** ORS 470.300 is amended to read:

24 470.300. (1) There hereby is created the Small Scale Local Energy Project Administration and
25 Bond Sinking Fund, separate and distinct from the General Fund, to provide for payment of:

26 (a) Administrative expenses of the [*State Department of Energy and the Director of the State De-*
27 *partment of Energy*] **Oregon Business Development Department and the Director of the Oregon**
28 **Business Development Department** in processing applications, investigating potential small scale
29 local energy projects and proposed loans and servicing and collecting outstanding loans made from
30 the Small Scale Local Energy Project Loan Fund, if the expense is not paid directly by the applicant.

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

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

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

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

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

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

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

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

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

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

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

4 (g) Moneys transferred from the loan fund.

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

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

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

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

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

17 **SECTION 29.** ORS 470.310 is amended to read:

18 470.310. (1) If there are insufficient funds in the Small Scale Local Energy Project Adminis-
19 tration and Bond Sinking Fund to make the payments referred to in ORS 470.300 (1), the Director
20 of the [*State Department of Energy*] **Oregon Business Development Department** may request the
21 funds necessary for such payments from the Legislative Assembly or the Emergency Board.

22 (2) When the director determines that moneys in sufficient amount are available in the sinking
23 fund, the State Treasurer shall reimburse the General Fund without interest, in an amount equal to
24 the amount allocated by the Legislative Assembly or the Emergency Board pursuant to subsection
25 (1) of this section. The moneys used to reimburse the General Fund under this subsection shall not
26 be considered a budget item on which a limitation is otherwise fixed by law, but shall be in addition
27 to any specific appropriations or amounts authorized to be expended from continually appropriated
28 moneys.

29 **SECTION 30.** ORS 470.810 is amended to read:

30 470.810. (1) The State Department of Energy shall establish the clean energy deployment pro-
31 gram to provide grants and loans to support energy efficiency or clean energy projects in this state.
32 The department shall establish criteria for qualifications of the projects by rule.

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

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

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

43 (3) The department may contract for the implementation of the clean energy deployment pro-
44 gram [*in all or parts of this state with a sustainable energy project manager as defined in ORS*
45 *470.050*].

1 **SECTION 31.** ORS 470.815 is amended to read:

2 470.815. (1) School districts that participate in the clean energy deployment program established
3 in ORS 470.810 may finance projects to:

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

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

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

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

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

15 (a) Paying directly for the projects;

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

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

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

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

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

25 (c) Issuing general obligation bonds, subject to the bond election requirements under ORS
26 328.210; or

27 (d) Using any other source of moneys.

28 **SECTION 32.** ORS 223.680 is amended to read:

29 223.680. (1) As used in this section:

30 (a) “Local government” means cities and counties.

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

33 (c) “Utilities improvements” means improvements to qualifying real property for any of the fol-
34 lowing purposes:

35 (A) Energy efficiency.

36 (B) Renewable energy.

37 (C) Energy storage.

38 (D) Smart electric vehicle charging stations.

39 (E) Water efficiency.

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

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

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

45 (B) The [*State Department of Energy*] **Oregon Business Development Department** for a loan

1 issued under subsection (10) of this section to a local government that establishes a program in co-
2 operation with a local government described in subparagraph (A) of this paragraph.

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

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

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

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

9 (3) Before establishing a program under this section, the local government shall provide notice
10 to utilities that distribute electric energy, natural gas or water within the areas in which the local
11 government will operate the program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (c) Enforce a lien and collect an assessment authorized by this section as provided in ORS
7 223.505 to 223.650.

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

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

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

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

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

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

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

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

27 **SECTION 33.** ORS 757.247 is amended to read:

28 757.247. (1) The Public Utility Commission may authorize a public utility, upon application of the
29 utility, to file and place into effect a tariff schedule establishing rates or charges for the cost of
30 energy resource measures provided to an individual property owner or customer pursuant to an
31 agreement entered into between the individual property owner or customer and the public utility.
32 Energy resource measures provided under this section may include:

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

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

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

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

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

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

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

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

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

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

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

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

15 (5) A public utility may use moneys obtained through a rate established under ORS 757.603 (2)(a)
16 to provide a renewable energy generation facility to a property owner or customer under this sec-
17 tion. A public utility may not charge interest to a property owner or customer for a renewable en-
18 ergy generation facility acquired with moneys obtained through a rate established under ORS
19 757.603 (2)(a).

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

22
23 **(Transfer of Moneys and Appropriation)**
24

25 **SECTION 34. (1) The following funds are abolished on the operative date specified in**
26 **section 40 of this 2019 Act:**

27 **(a) The Energy Project Supplemental Fund;**

28 **(b) The Jobs, Energy and Schools Fund;**

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

30 **(d) The Energy Revenue Bond Repayment Fund.**

31 **(2) Any moneys remaining in the funds specified in subsection (1) of this section on the**
32 **operative date specified in section 40 of this 2019 Act that are unexpended, unobligated and**
33 **not subject to any conditions shall be transferred to the Small Scale Local Energy Project**
34 **Loan Fund created by Article XI-J of the Oregon Constitution.**

35 **SECTION 35. There is appropriated to the Oregon Business Development Department, for**
36 **the biennium beginning July 1, 2019, out of the General Fund, the amount of \$_____ for**
37 **the purpose of carrying out the provisions of sections 1 to 7 of this 2019 Act, the amendments**
38 **to statutes by sections 8 to 33 of this 2019 Act and the repeal of ORS 470.100 by section 39**
39 **of this 2019 Act.**

40
41 **(Report)**
42

43 **SECTION 36. The Oregon Business Development Department, in consultation with the**
44 **State Department of Energy, shall report to the appropriate interim committees of the**
45 **Legislative Assembly no later than September 15, 2020, on the estimated cost of continuing**

1 to manage the loan portfolio, including an estimate of ongoing transaction costs, for loans
 2 for small scale local energy projects under ORS chapter 470 for the next eight years.

3 **SECTION 37.** Section 36 of this 2019 Act is repealed on January 2, 2021.

4
 5 **AUDIT**

6
 7 **SECTION 38.** The State Department of Energy shall contract with an independent third
 8 party to conduct an audit, including a forensic audit, of all activities of the department re-
 9 lated to the issuance of loans for small scale local energy projects under ORS chapter 470
 10 to determine compliance with the provisions of ORS 223.680, 291.445, 470.050, 470.060, 470.070,
 11 470.080, 470.090, 470.100, 470.110, 470.120, 470.130, 470.135, 470.140, 470.145, 470.150, 470.160,
 12 470.170, 470.180, 470.190, 470.200, 470.210, 470.230, 470.270, 470.300, 470.310, 470.810 and 470.815,
 13 all as in effect immediately before the operative date specified in section 40 of this 2019 Act.
 14 The audit required under this section shall be at the expense of the department. The auditor
 15 shall prepare a report of the results of the audit and make the report available to the De-
 16 partment of Justice.

17
 18 **REPEALS**

19
 20 **SECTION 39.** ORS 470.100, 470.500, 470.505, 470.510, 470.515, 470.520, 470.525, 470.530,
 21 470.535, 470.540, 470.545, 470.550, 470.555, 470.560, 470.565, 470.570, 470.575, 470.580, 470.585,
 22 470.590, 470.595, 470.600, 470.605, 470.610, 470.615, 470.620, 470.630, 470.635, 470.640, 470.645,
 23 470.650, 470.655, 470.660, 470.665, 470.670, 470.675, 470.680, 470.685, 470.690, 470.695, 470.700,
 24 470.710, 470.715, 470.720, 701.108 and 701.119 are repealed.

25
 26 **OPERATIVE DATE**

27
 28 **SECTION 40.** (1) Sections 1 to 7 of this 2019 Act, the amendments to statutes by sections
 29 8 to 35 of this 2019 Act and the repeal of statutes by section 41 of this 2019 Act become op-
 30 erative on January 1, 2020.

31 (2) The Oregon Business Development Department, the Director of the Oregon Business
 32 Development Department, the State Department of Energy and the Director of the State
 33 Department of Energy may take any action before the operative date specified in subsection
 34 (1) of this section that is necessary to enable the Oregon Business Development Department,
 35 the Director of the Oregon Business Development Department, the State Department of
 36 Energy and the Director of the State Department of Energy to exercise, on and after the
 37 operative date specified in subsection (1) of this section, all the duties, functions and powers
 38 conferred on the departments and directors by sections 1 to 7 of this 2019 Act, the amend-
 39 ments to statutes by sections 8 to 33 of this 2019 Act and the repeal of statutes by section
 40 39 of this 2019 Act.

41
 42 **UNIT CAPTIONS**

43
 44 **SECTION 41.** The unit captions used in this 2019 Act are provided only for the conven-
 45 ience of the reader and do not become part of the statutory law of this state or express any

1 **legislative intent in the enactment of this 2019 Act.**

2

3

EMERGENCY CLAUSE

4

5 **SECTION 42. This 2019 Act being necessary for the immediate preservation of the public**
6 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
7 **on its passage.**

8
