

HOUSE AMENDMENTS TO HOUSE BILL 2685

By COMMITTEE ON AGRICULTURE, LAND USE, NATURAL RESOURCES, AND
WATER

April 4

1 On page 1 of the printed bill, line 2, after “315.141” insert “, 315.144”.

2 Delete lines 5 through 30 and delete pages 2 through 4 and insert:

3 “**SECTION 1.** Section 6, chapter 739, Oregon Laws 2007, as amended by section 5, chapter 590,
4 Oregon Laws 2007, section 18, chapter 913, Oregon Laws 2009, section 2, chapter 730, Oregon Laws
5 2011, section 11, chapter 29, Oregon Laws 2016, and section 12, chapter 610, Oregon Laws 2017, is
6 amended to read:

7 “**Sec. 6.** (1) ORS 315.141, 315.144 and 469B.403 apply to tax credits for tax years beginning on
8 or after January 1, 2007, and before January 1, 2018[.], **and to tax years beginning on or after**
9 **January 1, 2024, and before January 1, 2030.**

10 “(2) Notwithstanding subsection (1) of this section, a tax credit is not allowed for wheat grain
11 (other than nongrain wheat material) for tax years beginning before January 1, 2009, or on or after
12 January 1, 2018.

13 “**SECTION 2.** ORS 315.141 is amended to read:

14 “315.141. (1) As used in this section:

15 “(a) ‘Agricultural producer’ means a person that produces biomass in Oregon that is used, in
16 Oregon, as biofuel or to produce biofuel **or biochar.**

17 “(b) ‘**Biochar**’ means **biomass that has been carbonized or charred from untreated plant**
18 **or animal material.**

19 “(c) ‘**Biochar producer**’ means **a person that through activities in Oregon alters the**
20 **physical makeup of biomass to convert it into biochar that is intended for purposes that in-**
21 **clude use as a soil amendment, use in agricultural applications or use in the reclamation of**
22 **contaminated land and water.**

23 “[*b*] (d) ‘Biofuel’ means liquid, gaseous or solid fuels, derived from biomass, that have been
24 converted into a processed fuel ready for use as energy by a biofuel producer’s customers or for
25 direct biomass energy use at the biofuel producer’s site.

26 “[*c*] (e) ‘Biofuel producer’ means a person that through activities in Oregon:

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

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

29 “(C) Uses biomass in Oregon to produce energy.

30 “[*d*] (f) ‘Biomass’ means organic matter that is available on a renewable or recurring basis and
31 that is derived from:

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

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

35 “(C) Agricultural residues;

1 “(D) *Offal and tallow from animal rendering*;

2 “(E) *Food wastes collected as provided under ORS chapter 459 or 459A*;

3 “(F) (D) Wood debris collected as provided under ORS chapter 459 or 459A; **or**

4 “(G) *Wastewater solids*; or]

5 “(H) (E) Crops grown solely to be used for energy.

6 “(e) (g) ‘Biomass’ does not mean wood that has been treated with creosote, pentachlorophenol,

7 inorganic arsenic or other inorganic chemical compounds or waste, other than matter described in

8 paragraph [(d)] (f) of this subsection.

9 “(f) (h) ‘Biomass collector’ means a person that collects biomass in Oregon to be used, in

10 Oregon, as biofuel or to produce biofuel **or biochar**.

11 “(g) (i) ‘Canola’ means plants of the genus Brassica:

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

13 and

14 “(B) That have a high erucic acid content suitable for industrial uses or a low erucic acid con-

15 tent suitable for edible oils.

16 “(h) ‘Oilseed processor’ means a person that receives agricultural oilseeds and separates them into

17 meal and oil by mechanical or chemical means.]

18 “(i) (j) ‘Willamette Valley’ means Clackamas, Linn, Marion, Multnomah, Polk, Washington and

19 Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast

20 Range.

21 “(2) The [Director of the State Department of Energy] **State Forester** may adopt rules to define

22 criteria, only as the criteria apply to organic biomass, to determine additional characteristics of

23 biomass for purposes of this section.

24 “(3)(a) An agricultural producer or biomass collector shall be allowed a credit against the taxes

25 that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS

26 chapter 317 or 318 for:

27 “(A) The production of biomass in Oregon that is used, in Oregon, as biofuel or to produce

28 biofuel **or biochar**; or

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

30 **or biochar**.

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

32 under subsection (5) of this section.

33 “(c) A taxpayer may be allowed a credit under this section for more than one of the roles de-

34 fined in subsection (1) of this section, but a biofuel producer **or biochar producer** that is not also

35 an agricultural producer or a biomass collector may not claim a credit under this section.

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

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

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

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

40 “(4) The amount of the credit shall equal the amount certified under subsection (5) of this sec-

41 tion.

42 “(5)(a) The State [Department of Energy] **Forestry Department** may establish by rule proce-

43 dures and criteria for determining the amount of the tax credit to be certified under this section,

44 consistent with ORS 469B.403. **For mixed loads containing biomass and other wood products,**

45 **the department shall establish by rule criteria to determine and certify the amount of credit**

1 **allowed for that portion of the load consisting of biomass.** The department shall provide written
2 certification to taxpayers that are eligible to claim the credit under this section.

3 “(b) The State [*Department of Energy*] **Forestry Department** may charge and collect a fee from
4 taxpayers for certification of credits under this section. The fee may not exceed the cost to the de-
5 partment of determining the amount of certified cost.

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

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

12 “(8) The credit shall be claimed on a form prescribed by the Department of Revenue that con-
13 tains the information required by the department.

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

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

22 “(a) A nonresident shall be allowed the credit under this section in the proportion provided in
23 ORS 316.117.

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

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

30 “(11) The [*Director of the State Department of Energy*] **State Forester** may order the suspension
31 or revocation of a certification issued under this section, as provided in ORS 315.061.

32 “**SECTION 3.** ORS 315.144 is amended to read:

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

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

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

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

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

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

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

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

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

6 “**SECTION 4.** ORS 469B.403 is amended to read:

7 “469B.403. To be eligible for the tax credit under ORS 315.141, the biomass must be produced
8 or collected in Oregon as a feedstock for **biochar**, bioenergy or biofuel production in Oregon. The
9 credit [*rates for biomass are:*] **rate for biomass is \$10 per bone dry ton.**

10 “[*(1) For oilseed crops, \$0.05 per pound.*]

11 “[*(2) For grain crops, including but not limited to wheat, barley and triticale, \$0.90 per bushel.*]

12 “[*(3) For virgin oil or alcohol delivered for production in Oregon from Oregon-based feedstock,*
13 *\$0.10 per gallon.*]

14 “[*(4) For used cooking oil or waste grease, \$0.10 per gallon.*]

15 “[*(5) For wastewater biosolids, \$10.00 per wet ton.*]

16 “[*(6) For woody biomass collected from nursery, orchard, agricultural, forest or rangeland property*
17 *in Oregon, including but not limited to prunings, thinning, plantation rotations, log landing or slash*
18 *resulting from harvest or forest health stewardship, \$10.00 per bone dry ton.*]

19 “[*(7) For grass, wheat, straw or other vegetative biomass from agricultural crops, \$10.00 per bone*
20 *dry ton.*]

21 “[*(8) For animal manure or rendering offal, \$3.50 per wet ton.*]

22 “**SECTION 5.** The amendments to ORS 315.141, 315.144 and 469B.403 by sections 2 to 4 of
23 this 2023 Act apply to tax years beginning on or after January 1, 2024, and before January
24 1, 2030.

25 “**SECTION 6.** This 2023 Act takes effect on the 91st day after the date on which the 2023
26 regular session of the Eighty-second Legislative Assembly adjourns sine die.”.