

# House Bill 3003

Sponsored by Representative HELM; Representative OWENS (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**.

Creates income or corporate excise tax credit for electric utility that purchases electricity produced using a fuel source that is at least 50 percent qualifying western juniper biomass.  
Applies to tax years beginning on or after January 1, 2024, and before January 1, 2030.  
Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to a tax credit for energy produced using western juniper biomass; creating new provisions;  
3 amending ORS 314.772 and 318.031; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **"Biomass" has the meaning given that term in ORS 315.141.**

8 (b) **"Biomass energy producer" means a person that uses biomass to produce energy.**

9 (c) **"Electric utility" has the meaning given that term in ORS 757.600.**

10 (d) **"Qualifying western juniper biomass" means biomass derived from western juniper**  
11 **that has been removed from an area identified by the Oregon Watershed Enhancement Board**  
12 **by rule under subsection (4) of this section.**

13 (2)(a) **A credit against taxes that are otherwise due under ORS chapter 316 or, if the**  
14 **taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer that is an**  
15 **electric utility that purchases electricity produced using a fuel source that is at least 50**  
16 **percent qualifying western juniper biomass.**

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

19 (3) **The credit allowed under this section shall be equal to\_\_\_\_\_ per kilowatt hour of**  
20 **electricity produced using at least 50 percent qualifying western juniper biomass.**

21 (4)(a) **The Oregon Watershed Enhancement Board shall, by rule, identify riparian areas**  
22 **of this state where the removal of western juniper will benefit water resources and ecological**  
23 **health.**

24 (b) **Areas identified by the board under this subsection shall include areas identified by**  
25 **a grant recipient as meeting the criteria described in section 1, chapter \_\_\_\_\_, Oregon**  
26 **Laws 2023 (Enrolled House Bill \_\_\_\_\_)(LC 2481).**

27 (5)(a) **The State Department of Energy shall establish by rule procedures for:**

28 (A) **Certifying that western juniper biomass has been removed from riparian areas iden-**  
29 **tified by the board pursuant to subsection (4) of this section;**

30 (B) **Requiring that qualified western juniper biomass collectors provide copies of 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 **certifications under this subsection to the biomass energy producers that purchase qualifying**  
 2 **western juniper biomass;**

3 **(C) Verifying that electricity purchased by a taxpayer has been produced using biomass**  
 4 **that is at least 50 percent qualifying western juniper biomass certified under this section;**  
 5 **and**

6 **(D) Certifying the amount of the credit allowed to a taxpayer under this section.**

7 **(b) The department may charge and collect a fee from western juniper biomass collectors**  
 8 **for certification under this subsection. The fee may not exceed the cost to the department**  
 9 **of issuing certifications.**

10 **(c) The department may charge and collect a fee from taxpayers for certification of**  
 11 **credits under this section. The fee may not exceed the cost to the department of issuing**  
 12 **certifications.**

13 **(6) The credit allowed under this section shall be claimed on a form prescribed by the**  
 14 **Department of Revenue that contains the information required by the department.**

15 **(7) A taxpayer shall maintain the written documentation of the amount certified for the**  
 16 **tax credit under this section in its records for a period of at least five years after the tax**  
 17 **year in which the credit is claimed and provide the written documentation to the Department**  
 18 **of Revenue upon request.**

19 **(8) The Department of Revenue may require that the State Department of Energy pro-**  
 20 **vide information about the certification issued under this section, if required by ORS 315.058.**

21 **(9) The credit allowed under this section may not exceed the tax liability of the taxpayer**  
 22 **for the tax year.**

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

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

33 **(12) A person that has earned a tax credit under this section may transfer the credit to**  
 34 **a taxpayer subject to tax under ORS chapter 316, 317 or 318. The transfer must comply with**  
 35 **ORS 315.056.**

36 **SECTION 3.** ORS 314.772, as amended by section 11, chapter 34, Oregon Laws 2022, and section  
 37 15, chapter 115, Oregon Laws 2022, is amended to read:

38 314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits allowed or allowable to a  
 39 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The  
 40 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
 41 allowable to the shareholders of the S corporation.

42 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.763, on  
 43 income of the shareholder of an S corporation, there shall be taken into account the shareholder's  
 44 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but  
 45 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-

1 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the  
2 manner prescribed under section 1377(a) of the Internal Revenue Code.

3 (3) The character of any item included in a shareholder's pro rata share under subsection (2)  
4 of this section shall be determined as if such item were realized directly from the source from which  
5 realized by the corporation, or incurred in the same manner as incurred by the corporation.

6 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax  
7 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS  
8 316.117, then that provision shall apply to the nonresident shareholder.

9 (5) As used in this section, "business tax credit" means the following credits: ORS 315.104  
10 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141  
11 (biomass production for biofuel), ORS 315.156 (crop gleanings), ORS 315.164 and 315.169 (agriculture  
12 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS  
13 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee  
14 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution  
15 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy  
16 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-  
17 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-  
18 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),  
19 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS  
20 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS  
21 315.593 (short line railroads), ORS 315.640 (university venture development funds), ORS 315.643  
22 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for Cultural Development Account  
23 contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone  
24 facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research  
25 expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774,  
26 Oregon Laws 2013 (alternative fuel vehicle contributions), section 2, chapter 34, Oregon Laws 2022  
27 (small forest option), and section 8, chapter 115, Oregon Laws 2022 (agricultural overtime pay), **and**  
28 **section 2 of this 2023 Act (western juniper biomass energy production).**

29 **SECTION 4.** ORS 318.031, as amended by section 12, chapter 34, Oregon Laws 2022, and section  
30 16, chapter 115, Oregon Laws 2022, is amended to read:

31 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter  
32 317 shall be administered as uniformly as possible (allowance being made for the difference in im-  
33 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-  
34 corporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,  
35 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523, 315.533, 315.593 and  
36 315.643 and section 2, chapter 34, Oregon Laws 2022, and section 8, chapter 115, Oregon Laws 2022,  
37 **and section 2 of this 2023 Act** (all only to the extent applicable to a corporation) and ORS chapter  
38 317.

39 **SECTION 5. Section 2 of this 2023 Act applies to tax years beginning on or after January**  
40 **1, 2024, and before January 1, 2030.**

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