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

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

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

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

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

(a) “Biomass” has the meaning given that term in ORS 315.141.
(b) “Biomass energy producer” means a person that uses biomass to produce energy.
(c) “Electric utility” has the meaning given that term in ORS 757.600.
(d) “Qualifying western juniper biomass” means biomass derived from western juniper that has been removed from an area identified by the Oregon Watershed Enhancement Board by rule under subsection (4) of this section.

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

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

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

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

(b) Areas identified by the board under this subsection shall include areas identified by a grant recipient as meeting the criteria described in section 1, chapter LC 2481 of this state where the removal of western juniper will benefit water resources and ecological health.

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

(A) Certifying that western juniper biomass has been removed from riparian areas identified by the board pursuant to subsection (4) of this section;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.763, on
income of the shareholder of an S corporation, there shall be taken into account the shareholder's
pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
capture or recovery shall be passed through to shareholders in pro rata shares as determined in the manner prescribed under section 1377(a) of the Internal Revenue Code.

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

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

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

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

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

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

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