

Requested by Representative HELM

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3004**

1 In line 2 of the printed bill, after “energy” insert “; creating new pro-  
2 visions; amending ORS 314.772 and 318.031; and prescribing an effective  
3 date”.

4 Delete lines 4 through 8 and insert:

5 **“SECTION 1. Sections 2 and 3 of this 2023 Act are added to and  
6 made a part of ORS chapter 315.**

7 **“SECTION 2. As used in this section and section 3 of this 2023 Act:  
8 “(1) ‘Electric utility’ has the meaning given that term in ORS  
9 757.600.**

10 **“(2) ‘Eligible generation facility’ means a facility that:**

11 **“(a)(A) Generates only nonemitting electricity derived from solar  
12 or wind energy; or**

13 **“(B) Provides energy storage; and**

14 **“(b) Is:**

15 **“(A) Owned in whole by a person or persons that are not an electric  
16 utility, an electric utility holding company, an affiliated interest or  
17 any combination thereof;**

18 **“(B) Sited in Oregon;**

19 **“(C) First placed in service on or after January 1, 2025; and**

20 **“(D) Covered by an interconnection agreement, entered into on or  
21 after January 1, 2024, with:**

1       “(i) The Bonneville Power Administration; or

2       “(ii) An electric utility.

3       “(3) ‘Interconnection agreement’ means a contract, between an  
4 owner or operator of a transmission or distribution system and a per-  
5 son that owns an eligible generation facility, that governs the inter-  
6 connection of an eligible generation facility to a transmission or  
7 distribution system.

8       “(4) ‘Nonemitting electricity’ has the meaning given that term in  
9 ORS 469A.400.

10       “(5) ‘Placed in service’ means the date on which an eligible gener-  
11 ation facility is ready and available to generate nonemitting electricity  
12 or provide energy storage.

13       “SECTION 3. (1) A credit against taxes that are otherwise due under  
14 ORS chapter 316 or, if the taxpayer is a corporation, under ORS  
15 chapter 317 or 318 is allowed to a taxpayer that owns an eligible gen-  
16 eration facility during the tax year.

17       “(2) The credit under this section shall, except as provided in sub-  
18 section (3) of this section, equal the amount paid during the tax year  
19 by the owner of an eligible generation facility for transmission ser-  
20 vices, calculated as the sum of the amounts paid by the owner of the  
21 eligible generation facility to:

22       “(a) The Bonneville Power Administration or, to an electric utility,  
23 for transmission services for up to 600 megawatts of the eligible gen-  
24 eration facility’s nameplate capacity; and

25       “(b) Parties not described in paragraph (a) of this subsection.

26       “(3) The credit allowed under this section may not exceed:

27       “(a) For the tax year in which the eligible generation facility is first  
28 placed in service, and for each of the four subsequent consecutive tax  
29 years, the tax liability of the taxpayer for the tax year; and

30       “(b) For each of the 15 consecutive tax years following the final

1 year described in paragraph (a) of this subsection, 75 percent of the  
2 tax liability of the taxpayer for the tax year.

3 “(4) Prior to claiming the credit allowed under this section, a tax-  
4 payer is required to receive written certification from the State De-  
5 partment of Energy that the taxpayer is the owner of an eligible  
6 generation facility.

7 “(5) Any tax credit otherwise allowable under this section that is  
8 not used by the taxpayer in a particular tax year may be carried for-  
9 ward and offset against the taxpayer’s tax liability for the next suc-  
10 ceeding tax year. Any credit remaining unused in the next succeeding  
11 tax year may be carried forward and used in the second succeeding tax  
12 year, and likewise any credit not used in that second succeeding tax  
13 year may be carried forward and used in the third succeeding tax year  
14 but may not be carried forward for any tax year thereafter.

15 “(6) If a change in the tax year of the taxpayer occurs as described  
16 in ORS 314.085, or if the Department of Revenue terminates the  
17 taxpayer’s tax year under ORS 314.440, the credit allowed under this  
18 section shall be prorated or computed in a manner consistent with  
19 ORS 314.085.

20 “(7) The Department of Revenue shall adopt rules for the purposes  
21 of this section, including policies and procedures for verifying taxpayer  
22 eligibility for the credit allowed under this section.

23 “(8) The State Department of Energy shall provide information to  
24 the Department of Revenue about all taxpayers that are eligible for a  
25 tax credit under this section, if required by ORS 315.058.

26 “SECTION 4. ORS 314.772, as amended by section 11, chapter 34, Oregon  
27 Laws 2022, and section 15, chapter 115, Oregon Laws 2022, is amended to  
28 read:

29 “314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits al-  
30 lowed or allowable to a C corporation for purposes of ORS chapter 317 or

1 318 shall not be allowed to an S corporation. The business tax credits al-  
2 lowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
3 allowable to the shareholders of the S corporation.

4 “(2) In determining the tax imposed under ORS chapter 316, as provided  
5 under ORS 314.763, on income of the shareholder of an S corporation, there  
6 shall be taken into account the shareholder’s pro rata share of business tax  
7 credit (or item thereof) that would be allowed to the corporation (but for  
8 subsection (1) of this section) or recapture or recovery thereof. The credit (or  
9 item thereof), recapture or recovery shall be passed through to shareholders  
10 in pro rata shares as determined in the manner prescribed under section  
11 1377(a) of the Internal Revenue Code.

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

16 “(4) If the shareholder is a nonresident and there is a requirement appli-  
17 cable for the business tax credit that in the case of a nonresident the credit  
18 be allowed in the proportion provided in ORS 316.117, then that provision  
19 shall apply to the nonresident shareholder.

20 “(5) As used in this section, ‘business tax credit’ means the following  
21 credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish  
22 screening, by-pass devices, fishways), ORS 315.141 (biomass production for  
23 biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture  
24 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent  
25 care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (con-  
26 tributions for child care), ORS 315.237 (employee and dependent scholar-  
27 ships), ORS 315.271 (individual development accounts), ORS 315.304  
28 (pollution control facility), ORS 315.326 (renewable energy development con-  
29 tributions), ORS 315.331 (energy conservation projects), ORS 315.336 (trans-  
30 portation projects), ORS 315.341 (renewable energy resource equipment

1 manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation fa-  
2 cilities), ORS 315.506 (tribal taxes on reservation enterprise zones and res-  
3 ervation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514  
4 (film production development contributions), ORS 315.523 (employee training  
5 programs), ORS 315.533 (low income community jobs initiative), ORS 315.593  
6 (short line railroads), ORS 315.640 (university venture development funds),  
7 ORS 315.643 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for  
8 Cultural Development Account contributions), ORS 317.097 (loans for af-  
9 fordable housing), ORS 317.124 (long term enterprise zone facilities), ORS  
10 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-  
11 search expenses) and ORS 317.154 (alternative qualified research expenses)  
12 and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle con-  
13 tributions), section 2, chapter 34, Oregon Laws 2022 (small forest option), and  
14 section 8, chapter 115, Oregon Laws 2022 (agricultural overtime pay), **and**  
15 **section 3 of this 2023 Act (eligible generation facilities).**

16 **“SECTION 5.** ORS 318.031, as amended by section 12, chapter 34, Oregon  
17 Laws 2022, and section 16, chapter 115, Oregon Laws 2022, is amended to  
18 read:

19 “318.031. It being the intention of the Legislative Assembly that this  
20 chapter and ORS chapter 317 shall be administered as uniformly as possible  
21 (allowance being made for the difference in imposition of the taxes), ORS  
22 305.140 and 305.150, ORS chapter 314 and the following sections are incor-  
23 porated into and made a part of this chapter: ORS 315.104, 315.141, 315.156,  
24 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506,  
25 315.507, 315.523, 315.533, 315.593 and 315.643 and section 2, chapter 34, Oregon  
26 Laws 2022, and section 8, chapter 115, Oregon Laws 2022, **and section 3 of**  
27 **this 2023 Act** (all only to the extent applicable to a corporation) and ORS  
28 chapter 317.

29 **“SECTION 6. Section 3 of this 2023 Act applies:**

30 **“(1) Notwithstanding ORS 315.037, to all tax years beginning on or**

1 after January 1, 2025; and

2 “(2) To eligible generation facilities first placed in service on or af-  
3 ter January 1, 2025, and before January 1, 2031.

4 “SECTION 7. This 2023 Act takes effect on the 91st day after the  
5 date on which the 2023 regular session of the Eighty-second Legislative  
6 Assembly adjourns sine die.”.

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